

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, APRIL 12, 2006

I. CALL TO ORDER/ ROLL CALL

- Mayor Lin called the meeting to order at 7:30PM. Council members in attendance: Marlow, Bowman, Heyenga, Cuthbertson. **Mayor Lin absent.**
- City Staff in attendance: City Clerk, Gabriel Adams; City Attorney, Jeff Guttero; Police Chief Ken Thrailkill;

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION – No Closed Session

IV. RECONVENE TO OPEN SESSION

V. APPROVAL OF AGENDA

Motion (Heyenga/Bowman) to approve the agenda. Passed 4-0.

VI. APPROVAL OF MINUTES

February 23, 2006 scc

Motion (Heyenga/Cuthbertson) to approve the minutes as written. Passed 4-0.

March 08, 2006 cc

Motion (Heyenga/Marlow) to approve the minutes as corrected. Passed 4-0.

March 28, 2006 cc2

Motion (Heyenga/Cuthbertson) to approve the minutes as corrected. Passed 4-0.

VII. COMMISSIONERS REPORTS

Marlow – Parks and Recreation, Streets

Trails: The Hoopa Americorps declined the opportunity to perform repairs to ALMT. They referred the project to the Hoopa Tribal Civilian Community Corps who feel they can begin construction on May 22. Marlow stated he was hopeful that the work would be completed by Memorial Day.

Bowman – Police, Harbor

Harbor: Commercial salmon season has been cancelled. The recreational season dates are May 15 – July 4. The season will close on July 4 and re-open September 1 thru September 6.

Police: A special meeting was held at 3:00 today to discuss purchasing a new police vehicle for the department. The Council authorized the Police Chief to work with the Fleet Manager at Harper Ford and arrange purchasing a 2006 Ford Crown Victoria at the negotiated price. Moments after the decision was made, the department received a phone call from Harper Ford stating the 2006 model was sold out, but they agreed to sell a 2007 model for the same price. The purchase will be funded through a short-term loan from the Water Department that would later be paid back through Indian Gaming and COPS funds.

Heyenga – Fire, Planning

Planning: There will be no Planning Commission meeting this month. Next month the Museum Society will have an application for moving the Susan-Underwood house from Ewing to the Land Trust property behind the Chevron station.

Onsite Wastewater Treatment System Ordinance.

The Planning Commission is going through the ordinance and submitting comments to the Planning Department. When all comments are received and a final draft written, there will be a public hearing by the Planning Commission and their recommendations will be sent to the City Council.

Rezoning the 3.2 acres behind the Chevron station.

The City's decision to rezone the property from commercial to public/religious goes before the Coastal Commission in May. Coastal Commission staff has recommended approval.

IGCBC: The County Indian Gaming Benefit Committee once again preparing to award over \$190,000 to projects related to impacts of Indian gaming activities in the County. Grant applications are due to the County by May 15. Grants will be awarded by the Committee on June 7. The Committee consists of representatives from three cities within four miles of a casino, two tribal representatives, and two County representatives. Trinidad is one of the cities represented

Extras: *Management Plan Town Meeting May 2*

There will be a very important community meeting in Town Hall Tuesday, May 2 for a public introduction to the draft Management Plan for the City's 12.5 acres southern boundary. A representative from the California Coastal Conservancy will describe the proposal and what public input is being sought. The City, Yurok Tribe, Coastal Conservancy, and Tsurai Ancestral Society have worked on this draft for over two years.

Hearing on US Cellular pole application May 15

The hearing in US Cellular's application for a cellular communications pole on Trinidad Head is still scheduled for Monday, May 15.

Town Hall: The request for the \$12,000 final payment for the Town Hall foundation project was sent to the State Parks Department.

Lin – Water, Town Hall - **Absent**

Cuthbertson – Finance

Finance: Haider Ajina will present investment options to the Council tonight.

VIII. STAFF REPORTS

City Clerk/IWMC – Adams - Nothing to report

City Attorney – Guttero - Nothing to report

Police Chief – Thrailkill – Announced arrests, service calls, and statistics.

IX. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Steve Ruth - Trinidad

Regarding the length of Council meetings – It wasn't that long ago when the City Council met once a month. Because the meetings ran long, the Council decided to add a second meeting each month. City Council discussions are like gas – they expand to occupy all available space. Meetings that run until midnight discourage representative government. Perhaps we could have weekly Council meetings, or end the meetings at 10:30pm.

Richard Johnson – Trinidad

The Management Plan document should be available well in advance of the upcoming scheduled meeting to allow for thorough discussion. Heyenga agreed, but added that the primary reason for the meeting is to introduce the Team, the Plan, discuss the process, and inform the public of future hearings.

Cyndi Lindgren – TAS

Regarding the project to remove non-native vegetation at the Tsurai Monument – The TAS Chairman agreed to removing non-native vegetation without disturbing the soil. Marlow explained that he contacted the Chairman regarding re-routing the trail and re-vegetating the bank. Both Marlow and Lindgren agreed to contact the Hoopa Americorp and offer them the project. The official response from the Tsurai was only recently received. They confirmed that they do not want the re-vegetation at the top of the bluff to take place at this time.

X. CONSENT AGENDA

1. Authorize the City Clerk to buy back an unused cemetery plot as prescribed by City Ordinance No. 92-4. (City Clerk)

Motion (Heyenga/Cuthbertson) to approve the Consent Agenda. Passed 4-0.

XI. AGENDA ITEMS

1. Discussion/Questions/Decision for Haider Ajina, Smith Barney investment account manager. (Cuthbertson)
Cuthbertson introduced Haider Ajina, the City's Smith Barney money market account manager, and explained that he was invited to propose investment options for Council consideration.

Ajina explained that he has been managing the City's Smith Barney account for nearly 10 years. The account balance is currently \$800,000, and is currently drawing 4.25% interest. In order to determine what the best investment options are, the City must first identify its cash flow requirement. From there, a laddered bond portfolio can be designed that suits the City's needs.

LAIF is a State Fund that's used at no expense to the public. As of March 2006 it was earning 4.14%.

Questions for Clarification

Heyenga: Once we determine our cash flow requirement, what percentage of it should we invest? Haider stated that the amount to invest is completely dependent upon cash flow needs.

Bowman: Is there a penalty for early withdraw? Ajina noted that there is no penalty, but the guarantee disappears. If interest rates increase and you withdraw, you will lose money. If it's held until maturity date you will be paid interest. The value is whatever the market is at that time.

Marlow: Would you recommend a laddered proposal for the City? Ajina – Once I receive a number, I'll recommend 4-year bonds in 6-month increments so that every 6 months there will be money due. The City is not allowed to invest for more than a 4-year term. A bond is worth \$1000.

Cuthbertson: What is our Smith Barney Account balance? Ajina – about \$800,000.

Public comment included:

Steve Ruth – Trinidad: What are the advantages & disadvantages between bonds and cds? Ajina - You can invest \$200,000 or \$300,000 in a bond and have the full amount guaranteed, but with a cd you can only invest up to \$100,000 fully guaranteed.

Pat Morales – Trinidad: Has the City's Financial Advisor been consulted? Cuthbertson – She reviews the financial reports but does not give investment advice.

Council Discussion

Heyenga: How will we use this advice? What direction should we give staff?

Marlow: We should direct the Finance Commissioner to work with the CPA and draft a cash flow analysis.

By consensus, the Council agreed to direct Finance Commissioner Cuthbertson to work with CPA to determine the City's cash flow requirements and report back to the Council at a future meeting.

2. Discussion/Decision regarding resident request for conceptual approval to install a septic line under Berry Road. (Heyenga)

Rolf Rheinschmidt has submitted a proposal for a lot-line-adjustment, house, and septic system. The proposal involves a policy decision first from the Council before it goes to the Planning Commission, according to City Planner Trever Parker.

The map shows two parcels owned by Mr. Rheinschmidt, on either side of Berry Road. The parcel on the north will have a house and a primary leachfield. The request is to run a pipe under Berry Road to the property on the

south. This pipe would lead to a reserve leachfield area which would not be developed unless necessary. The pipe would be capped off until needed, if ever.

The lot merger will create one large parcel with Berry Road transecting it. Ms. Parker said there are no codes or ordinances prohibiting a dedicated public road from crossing such a lot. Nor does the County Health Department prohibit such pipes from crossing under a road, as long as the pipes are the proper size and strength. Parker's memo of September 22, 2005 gives an analysis of the proposal.

The issue before the Council is whether to approve the concept of a pipe under Berry Road leading to a reserve leachfield. A similar request for a septic line under a City easement was considered and approved some years ago. If the Council gives conceptual approval for the septic line, the applicant will take the entire project to the Planning Commission. That hearing will involve notices to the neighbors and, if the Planning Commission approves the project, conditions of approval will be included to deal with the strength of the pipe, lot merger, repair of Berry Road, and other issues.

Questions for clarification:

Bowman: The City Planner is ok with merging 2 lots with a road dividing it? Heyenga – she confirms that she is not aware of any restrictions that would prohibit this.

Public comment included:

Brad Twoomey – Trinidad

I used to own these parcels. There was an approved development plan for this property. Later, the property across the street became available. We would have proposed the same plan that Rheinschmidt submitted if we had known what we know now. It decreases the density of the property and is an improvement to the overall community design. Before Berry Road was developed it was one parcel with a road passing through. Rheinschmidt's proposal to merge is no different. The acreage is the only difference.

Council comments:

Cuthbertson: Brent Twoomey wanted to do this in the past, but he didn't plan to merge the lots. Merging the lots will legitimize the proposal.

Heyenga: Conceptual approval gives the applicant authorization to proceed the lengthy and costly process of merging the lots with the understanding that the City will allow the septic line as defined.

*Motion (Heyenga/Marlow) to give conceptual approval for a septic line under Berry Road from lot 515-331-049 to lot 515-331-042. **Passed 4-0.***

3. Continued discussion/decision regarding secondary trail signs during temporary closure of primary trail, the Axel Lindgren Memorial Trail. (Cuthbertson/ City Attorney)

City Attorney Guttero recalled the language of the March 08 (agenda item no. 2). The motion was to *direct the Trails Commissioner to consult with John Frame as per the 1994 Settlement Agreement and install signs directing trail users to Old Home Beach. Signs on Parker, Groth, and Old Wagon Road shall be identical in size and design, and more signs may be used to indicate the location and primary nature of the Parker Creek trail as a temporary, primary trail.*

As a result of that motion Guttero spoke with the Trail Commissioner. Marlow asked him to draft a consultation letter to Frame. In return, Guttero recommended that a similar letter be sent to the TAS and the Coastal Conservancy in order to hopefully anticipate problems that were avoidable through consultation.

During the process of drafting the letters, he recognized some legal obstacles that should be brought back to the Council. The language of the Judgment must be reconciled with the motion, and the following concerns should be addressed:

- Who consults with Frame? The motion is designed to be consistent with the 1994 Stipulated Judgment requiring consultation with Frame prior to marking the secondary trails. The Judgment specifically requires consultation between Frame and the "Design Review Committee", not the Trail Commissioner.
- The motion stated writing a consultation letter to "Frame". I recommend sending out a letter to the "TAS" and "Coastal Conservancy".

- The motion was intended to “temporarily” mark the secondary trails until the ALMT was re-opened. Judgment states that “permanent” signs require consultation. A distinction could be made that “temporary” signs do not need consultation – but we should make this a conscious decision.

Questions for clarification:

Marlow: According to the Judgment, do temporary signs require consultation? Guttero – it states that consultation applies when the ALMT is primary and the 3 others are secondary. The Judgment may not apply since the ALMT is temporarily closed and is no longer primary.

Public comment included:

Pat Morales – Trinidad

Has Barnum or Frame been contacted about these signs? Will there be anything in the Management Plan that addresses signage? Guttero – Barnum threatened litigation if the signs are posted. They feel that since no signs have been put up and no signs are necessary, and if signs are posted the City will be deviating from the Judgment. I advise consulting with the Conservancy because signs are of importance to the Management Plan Team.

Brad Twoomey – Trinidad

“No” signage = equal marking.

Council comments:

Heyenga: According to the Trail Commissioner, the ALMT should be repaired by May 28. Since the signs are temporary, they don’t require consultation. The Judgment also states that Frame must consult with the entire Design Review Committee. We were not aware of these details at the time the motion was made.

Bowman: It might not be worth it to post the signs for such a short period of time. We’ve been criticized for not following the agreement. We’re trying to follow through with our obligation and Frame is resisting.

Cuthbertson: We made our decision based on our understanding that the trail might be closed for an extended period of time. Since then we discovered it would be repaired faster than we anticipated. I agree with Bowman that it may not be worth having signs made and posted for such a short time.

Heyenga: Doing this reinforces their legal strategy that because there are no signs up now, we will not be able to put signs up later. Guttero – once we re-open the trail and the Management Plan is complete, we can put this strategy to the test.

*Motion (Marlow/Bowman) to withdraw the decision made on March 08 – Agenda Item No. 2, and postpone signing secondary trails until the ALMT is repaired. **Passed 4-0.***

4. Continued discussion/decision regarding tree-cutting on or above the Tsurai Study Area. (Cuthbertson)
Cuthbertson explained that he brought back this item for closure. He recently read a letter from John Frame explaining the incident and discussed it with him. Frame has been informed of the proper procedures to follow prior to removing trees. Cuthbertson also explained that the Coastal Conservancy was working on a survey that identifies the property line in question. Before we direct the City Engineer to hire Oscar Larson to survey the property corners, Cuthbertson asked whether the Council should consider waiting for the results of the Conservancy survey.

Questions for clarification:

Heyenga: The Conservancy has had the 12.5-Acre Study Area surveyed. We have not been informed whether or not the Conservancy survey will be definitive.

Public comment included:

Pat Morales – Trinidad

It is unfair that throughout the public process, no one from the City contacted Mr. Frame about the allegations that were made against him. The trees are gone and Frame explained why. Get over it.

Steve Ruth – Trinidad

If there’s reasonable doubt about the property line and the trees were less than 12”, the issue should be dropped.

Tom Odom - Trinidad

This is a matter of principal. This guy has been giving the City problems for over 12 years and is now ignoring the rules that we hold all other residents follow.

Council comments:

Bowman: Maybe we should send Frame a letter explaining what the City requires prior to cutting trees. We've already heard from our Attorney that if we make a big deal out of it we'll risk litigation. I wish it hadn't have happened, but we don't have enough evidence or money to pursue it.

Marlow: Is writing a letter a reasonable thing to do? Guttero – it would certainly indicate closure.

Cuthbertson: Why does the TAS raise objection when the City tries to maintain it's vegetation but not when Frame does? Cyndi Lindgren argued that indeed the TAS objected to Frame cutting the trees.

Heyenga: If the trails within the village site are important, we need to know where the boundary line is. If the State intends to solve the boundary line dispute, the City should encourage them to follow through. I'm not willing to spend \$2000 to find this out if the State is already in the process of doing so.

*Motion (Bowman/Heyenga) to send resident John Frame a letter, signed by the Commissioner of Planning, informing him of the proper procedures to follow prior to cutting or removing trees. **Passed 4-0***

5. Discussion/Decision regarding trimming/topping five or six alder trees on City Property. (Bowman)

Bowman explained that as the applicant he would explain the item and excuse himself from the discussion. The request is for permission to top/trim five or six alder trees that block the view from his home to the ocean. The trees are located near the trail that leads up from Old Home Beach to the junction of Wagner Street Trail and Parker Creek Trail. The trees are not in the Tsurai Study Area and are well away from the open space area that would trigger the implementation of Policy 69. A certified arborist attests to the fact that trimming/topping these trees will not adversely affect their health.

Heyenga noted that the Council received a letter from the TAS objecting Bowman's request until the Management Plan is completed.

Questions for clarification:

Marlow: If this is City property, shouldn't the City choose the arborist?

Guttero: Is it your position (Bowman) that the trees are not in the Study Area? Bowman – I can't say for certain, but they appear to be outside of the study area.

Public comment included:

Cyndi Lindgren – TAS

Urged Councilmember Bowman to reconsider his proposal based on the reasons stated in the April 10, 2006 letter from the TAS.

Steve Ruth – Trinidad

The City should honor the TAS request that vegetation management be postponed until the Coastal Conservancy survey & the Management Plan is completed. Why isn't the Planning Commission handling this request?

Tom Odom – Trinidad

You don't need a permit to trim trees. Bowman is asking permission because the trees are on City property. We're setting two different standards by allowing Frame to cut trees and denying Bowman – who is asking permission.

Council comments:

Heyenga: From the beginning, I've misused the phrase "Tsurai Study Area" (TSA). The TSA is not the 12.5 acres. The TSA was established as "part" of the 12.5 acres. In the TSA there are 2 separate zoning designations. Policy 69 only applies to development within the open space zoning designation.

Marlow: Heyenga's statement is irrelevant to this discussion.

Cuthbertson: What would we do if Bowman cut the trees without permission like Frame did? Would we crucify him? We should find a way to work this out.

Marlow: We don't even know where these trees are located. The evidence indicates they are within the Special Environment zone. If so, what restrictions apply?

Heyenga: Policy 69 states that SE lands may be developed provided that the State Historic Preservation Officer is consulted. I did not mention Bowman's name when speaking with Su Corbaley of the Coastal Conservancy because he's an applicant. There will be other residents who come to the City in the future for the same reason.

Marlow: What we do for Bowman will establish a precedent.

Heyenga: The applicant has followed the exact procedure established in the View & Vegetation Ordinance. If we had a vegetation management plan in place, it would also include the impact on the land. The Coastal Commission states that trimming trees does not constitute development. The primary concern is how the trimming will impact the land.

Marlow: Before allowing someone to cut trees that are on our property, that person should be able identify their exact location. Then, I would consider how the trimming would impact the trail and the view from where the trees are located.

Bowman: I am unable to identify where the trees are located, but the arborist can locate them.

Cuthbertson: Has anyone from the TAS located the trees? Cyndi Lindgren – No, the trees have not been marked or identified.

Heyenga: Each issue is judged on it's own merit. If the same criteria are applied to each applicant, are we able to come to different conclusions? Guttero – court judgment is limited to the facts applied to all cases. If an ordinance is applied equally, the Council has the right to use its discretion.

Cuthbertson: I read the Management Plan and did not find anything mentioned regarding vegetation management. Cyndi Lindgren – That is not accurate. The main purpose of the Management Plan is identify ways to preserve cultural and natural resources.

Guttero: It is important to remember that the Management Plan is not law.

Marlow: We should discuss drafting comprehensive guidelines for evaluating future requests.

*Motion (Heyenga/Cuthbertson) to approve topping 5 red alder trees on City property in the 12.5-Acre Study Area based on the findings that the trees will not be killed, that the project will not cause slope instability, that no adverse affects will occur to cultural resources. The applicant will obtain an encroachment permit and all fees associated in processing the permit. **Motion withdrawn for further discussion.***

Heyenga: The applicant followed the procedures outlined in the View & Vegetation Ordinance even though it does not apply to this area.

Marlow: I'm not comfortable, nor qualified, to conclude that no cultural resources are being disturbed. There are some obvious problems with the criteria proposed.

Heyenga: The red alder is not identified as a significant species, and there is no evidence that they are a cultural resource.

City Clerk Adams: Policy should be carefully considered and not be made on the fly. Whatever guidelines are agreed upon should be applicable to all residents. Is the Council prepared to stand behind these guidelines and ready to open them up to the public?

Motion (Heyenga/Cuthbertson) to continue this item until guidelines and procedures are developed for evaluating applicant initiated proposals for removing or trimming vegetation on City property.

Motion passed by the following vote:

3 Yes: Marlow, Cuthbertson, Heyenga.

1 Abstain: Bowman.

6. Discussion/Decision regarding restoration of the Van Wycke Trail. (Marlow)

Marlow explained that he spoke with the FEMA representative. She stated it was likely that the City would receive all the funding necessary to reconstruct the retaining wall. She thinks we might also get money to pay for a portion – or all – of the bridge. The priority is to fund construction that rehabilitates the trail back to its original condition. The retaining wall can only be looked at as a temporary solution. It lasted 10 years. The bridge would be a more permanent solution. Marlow asked the Council to approve – in concept – to proceed with reconstruction of the retaining wall. He would then work to bring forward a more detailed proposal.

Questions for clarification:

Heyenga: FEMA will pay \$7000 for the retaining wall? Marlow – FEMA does not know how long it will take, but they are confident that the project will qualify for full funding.

Public comment included:

Steve Ruth – Trinidad

Trail users ignore the signs and continue to use the trail. The private property owners are not complaining about the encroachment at this time. The Council should approve the repair and proceed with construction plans.

Richard Johnson – Trinidad

The retaining wall will be rebuilt? Where will this leave us? Marlow – FEMA will fund the retaining wall, but the bridge will cost more. At this time I'm not sure the Council wants to commit to the bridge. In their report, FEMA described the rationale for bridge construction. It will ultimately be up to FEMA to decide what level of funding is in their best interest to contribute.

Council comments:

Cuthbertson: Was an engineer consulted? Marlow – FEMA's landslide experts visited the site and will report to their supervisors on the nature of the soils. They will not recommend a solution.

Marlow: I need direction from the Council as to whether or not the City wishes to pursue a bridge as an option. I caution the Council to not wait for FEMA. It could take months for them to take action – with no guarantee. I don't want to spend anymore time on the bridge concept if the Council is not interested.

*Motion (Heyenga/Cuthbertson) to authorize the Trails Commissioner to proceed with plans for reconstructing retaining wall. A detailed proposal will be brought back to the Council for decision. **Passed 4-0.***

7. Continued Discussion/Decision to adopt a policy regarding a \$500 spending limit. (Heyenga)

Heyenga explained that for years Council members have operated under an "understood" policy of a \$500 spending limit without first obtaining Council approval. This draft proposal establishes a formal written policy on a spending limit.

It is the policy of the Trinidad City Council that a Councilmember, without prior Council approval, may authorize up to \$500 for work to be done or equipment to be purchased by employees under his supervision. The work/equipment must be covered by current budget line items. If the work/equipment exceeds \$500 or involves a project not covered by current budget line items, the work/equipment must be approved by a majority vote of the Council at a regular or special meeting.

Public comment included:

Richard Johnson – Trinidad

I'm amazed that you would want to limit yourselves with a policy such as this. Each Commissioner is capable of managing their department's budget and will be held accountable. You should have the responsibility and the where-

with-all to spend money within budgetary constraints. The \$500 limitation should be required when an item does not fall within the budget. Clear and concise line item descriptions should be developed to help avoid financial gridlock.

Steve Ruth – Trinidad

What will the City do in an emergency situation? If it's already in the budget, why limit yourselves?

Council comments:

Heyenga: This policy was handed down through previous Councils. The policy was originally instituted to control the spending habits of a former Councilmember.

Bowman: Regarding the Police Department, \$500 doesn't go very far. We should set up a detailed budget and allow the Chief manage the budget. The Finance Commissioner also keeps a close eye on expenditures. Managing every \$500 expenditure would be cumbersome.

Police Chief Thrailkill: My budget accounts for almost 60% of the City's annual budget. The Council is responsible to oversee the creation of the budget. The City's professional staff is responsible for managing the budget.

Cuthbertson: How many Council members actually look through the bills. Contracts must go through the Council for approval. Line items within a budget don't apply to this policy. This policy reinforces the concept that Commissioners have to pay close attention to their department expenditures.

No decision was made. Continued to a future meeting.

XII. ADJOURNMENT

- Council adjourned at 11:30 pm.

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Chi-Wei Lin
Mayor