

**MINUTES OF THE SECOND REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**  
**WEDNESDAY, SEPTEMBER 26, 2012**

**I. CALL TO ORDER/ROLL CALL**

- Mayor Bhardwaj called the meeting to order at 7:00PM. Council members in attendance: Morgan, Miller, Bhardwaj, Fulkerson, Davies.
- City Staff in attendance: City Clerk Gabriel Adams, City Planner Trever Parker, City Attorney Andy Stunich.  
**City Manager Karen Suiker was absent.**

**II. PLEDGE OF ALLEGIANCE**

**III. ADJOURNMENT TO CLOSED SESSION - *Held and noticed as a separate, special meeting.***

1. Government Code section 54956.9(b)(3): Pending Litigation

**IV. RECONVENE TO OPEN SESSION - *Nothing to report.***

**V. APPROVAL OF AGENDA - *Approved by consensus.***

**VI. APPROVAL OF MINUTES - *No minutes to approve.***

**VII. COMMISSIONERS REPORTS - *No reports.***

**VIII. STAFF REPORTS - *No staff reports.***

**IX. ITEMS FROM THE FLOOR - *None.***

**X. CONSENT AGENDA - *No consent items.***

**XI. AGENDA ITEMS**

1. Discussion/Decision regarding Appeal of Planning Commission Approval of CDP #2012-04, Civic Club Lighthouse Landscaping Project.

City Planner Trever Parker explained that project before the Council is an after-the-fact Design Review and Coastal Development Permit to removed fencing, conduct landscaping (removal of sod and invasive blackberries) and terrace an existing slope to provide access to the Axel Lindgren Memorial Trail through the Memorial Lighthouse Civic Club property. Most of the work has already taken place.

The Planning Commission took action to conditionally approve the project at their regularly scheduled meeting on August 15, 2012. The Commission originally heard the project on June 20, 2012, but the item was continued twice in order to allow more time to respond to issues brought up by the Tsurai Ancestral Society. If the Council denies the appeal and upholds the PC decision tonight, the action will be appealable to the Coastal Commission. However, if the Council upholds the appeal - denying the Civic Club permit - it would not be appealable to the Coastal Commission. A simple denial of the project is not possible because the work has already been done.

Council questions included:

**Bhardwaj:** What needs to be done to complete the project?

**Charlie Netzow**, contractor for the project, explained that 4 of the 6 terraced steps are built, and some soil needs to be moved to finish. Maybe 6 to 8 hours worth of work total.

**Bhardwaj:** Is the site ok as-is to make it through the winter? **Netzow** explained that if the exposed soil was seeded and some gravel was added to the graded sections, then yes.

**Bhardwaj:** Is it legally required for all projects/improvements on the site to be permitted? **City Attorney Stunich** explained that *only* if the Council made a finding that the project was significant enough to support that level of permitting. **City Planner Parker** further noted that it wouldn't be legal to require the Civic Club to take responsibility for all the work that's been done around the bluff.

**Bhardwaj:** What would the cost be to the City if it was appealed to the Coastal Commission? **Parker** explained that it wouldn't cost the City much, but it could cost the Civic Club significantly.

**Bhardwaj:** Do we know for certain that work has been done on the Civic Club property only? If work has been done on City property, would General Plan Policy 69 be triggered? **Stunich** explained that maybe 6 inches – if any – of City property was disturbed. If it was significant, we could ask the Civic Club to remediate.

Public comment included:

**Charlie Netzow** – Trinidad Civic Club, Contractor

Thanked the Civic Club for selecting him to perform the work. Described the project as originally proposed, and how it changed just prior to construction. He explained that when they first consulted with the Tsurai, the Ancestral Society representative was in favor of re-routing the trail entrance as proposed – as recommended in the Management Plan. He admitted that he made a mistake by working too quickly, and the scope of the project grew. However, better communication would have avoided this situation. A sign should be installed at City Hall that says that projects must be cleared by the building inspector AND city planner. Proposed returning the soil that was removed, offered to attend mediation, or return the site to the way it was before he started work. Safe access to the ALMT is the priority.

**Bunny Subkis** – Trinidad Civic Club

The Civic Club wants to find a solution that is satisfactory to all. We agree with Charlie that safe access to the trail is our priority. The Club wants what is best for the community, and to be respectful of the culture and resources at the site. Please help us find a peaceful resolution tonight.

**Ralph Faust** – Tsurai Ancestral Society representative

There should not be any question of the Council's authority to deal with this issue tonight. The walkway ramp that accesses the site is on City property. There also shouldn't be any reason to discount our testimony as evidence. There is no question that there is evidence that the project occurred on City land. Mr. Netzow's project is a moving target. I agree with your City Planner that CEQA is a 3 part process. However, she found that the project was exempt. The Tsurai disagrees. We also disagree with your legal analysis. I encourage you to make this **your** process tonight, not the Coastal Commission's. This is sacred land. The project is half-baked and should be denied.

**Tom Odom** – Trinidad

There have been misunderstandings since the project started. No one meant any harm or disrespect. I'd like to see the lineal decedents develop a plan of their own for the trail entrance. The area to the west and east of the lighthouse is deteriorating. The City Planner did a wonderful job researching the past 10 year history of the site, and writing the staff report. The project should be approved as-is, but the Ancestral Society should be consulted.

**Robert McConnell** – Yurok Tribe

I'm a Historic Preservationist for the Yurok Tribe. I too have ancestral ties to this area. Although the Yurok Tribe wasn't included in the initial discussions, subsequent meetings occurred and solutions were discussed. The Tsurai did not attend. The Yurok Tribe is not included in the appeal. We support reaching a solution tonight – not threatening to appeal the project.

**Sungnome Madrone** – Fox Farm resident

I've heard a lot of good words from good people tonight. Netzow said he "wants to do whatever it takes to make it right." The Tsurai wants time to review and discuss the project. The idea of a survey is not simple, but should be done. If the property was transferred to the Tsurai years ago, a very different process would have been followed. This is a sacred site. Respect the Tsurai, deny the project. Then, come together and reach a new decision that everyone agrees to.

**Axel Lindgren** – Tsurai Ancestral Society Chairman

The Yurok Tribe was established around 1990. There were 60 villages in Yurok country. Tsurai is the southernmost boundary. 5 generations of my family have been dealing with the problem of having their land abused. It's about respect. This may seem petty to you, but it's a big deal to the Tsurai.

Council comments included:

**Fulkerson:** Everyone in this room cares. I've heard positive words like respect, mediation, conciliatory, etc. How can we move forward? Maybe there should be a sign at City Hall that says permits must be received from building and planning before construction begins, but there should also be one that says "call the Tsurai before working near the Management Plan area." We need to patch this up tonight and find a way to improve our relationships.

**Tom Davies:** This project is about steps... not gravel steps, but communication steps. Many of these conversations haven't happened in public. If they would have, we all would be on the same page. However, this Council can't meet and discuss things outside of the public meeting forum.

**Miller:** I went into this process as soon as I got a call from the City Manager about the problem. My first call was to a Tsurai member. I agreed to be a neutral mediator. As I discovered more information, I tried calling the Tsurai again. I didn't receive a return call. According to our staff, it's legal to support our Planning Commission's decision. I support their decision, but in no way does that mean I disrespect the Tsurai. Also, in my initial discussion with the Tsurai, they supported removing the fence. Charlie Netzow modified his plan to implement their recommendation. The current project does not reflect a lack of respect for our native people. This is a small issue, with HUGE emotions involved.

**Morgan:** We need better communication with the Tsurai. If the appeal is not upheld, they still have the opportunity to complete the project and perhaps come back with a new proposal to correct it.

**Bhardwaj:** I'm less confident than staff is with regards to what may happen if the project is appealed. I propose that we delay the decision one month, get a survey, and discuss the project with the Tsurai and other agencies. The Civic Club has agreed to modify the plans. The walkway to the lighthouse is not in good shape. If the decision is delayed, we have time to have an analysis done of the ramp, hang signs up in the office as recommended, and come up with a project that satisfies everyone. But, the Tsurai must be willing to talk with us. Not talking does no good for anyone.

**Fulkerson:** It makes sense to complete the project given the minimal amount of work that it will require, and the erosion control benefits. Asked the Tsurai if it seemed sensible – given the mistakes – to finish the project and handle the big picture issues separately? I'm concerned about the potential erosion issues if the project isn't finished.

**Sarah Lindgren** argued that yet it may seem simple and sensible, the Tsurai are concerned with the displaced soil, and the unknown impacts that this project may have on drainage and erosion. An environmental impact report will address our concerns.

**City Attorney Stunich** explained that the permit specifies that the soil is to be returned to the site.

**Miller:** I propose adding language to the proposed motion that states that the city supports the Trinidad Civic Club's intentions, and respects that the soil removed from the site is sacred to the Tsurai and should be returned as directed by the Ancestral Society.

*Motion (Miller/Fulkerson) that based on the application materials, information and findings included in the Staff Reports and supplements, public testimony, Geologist Lindberg's findings that the project improves slope stability, and the fact that the project advances the goals of the Tsurai Management Plan, the appeal is denied.*

*Furthermore, the Council hereby adopts the required Design Review findings, and approves the project as submitted and conditioned by the Planning Commission with the additional provision:*

*The Council respects that the soil removed from the Tsurai Study Area is sacred to the Ancestral Society, and supports returning it to the Study Area under the supervision and direction of the Ancestral Society.*

Additional Council discussion:

**Davies:** I'm concerned that the motion on the table is our decision, not the Tsurai's, and we're imposing our interpretation of their concern upon them. The soil is only part of the issue.

**Bhardwaj:** I propose that we postpone the decision to allow time to discuss this with the Tsurai.

**Motion as stated was approved 3-2. No – Bhardwaj, Davies.**

**XII. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS**

**XIII. ADJOURNMENT**

- Meeting ended at 9:15pm.

**Submitted by:**

**Approved by:**

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**Gabriel Adams**  
City Clerk

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**Kathy Bhardwaj**  
Mayor