

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, FEBRUARY 08, 2017

I. CALL TO ORDER

- Mayor Miller called the meeting to order at 6:00PM. Council members in attendance: West, Ladwig, Miller, Baker, Rotwein.
- City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams, City Attorney Andy Stunich.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION

1. Conference with legal counsel regarding active litigation. *Tsurai Ancestral Society vs. City of Trinidad. Pursuant to California Government Code section 54956.9 (a)*
2. *Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957*

IV. RECONVENE TO OPEN SESSION

No report. City Attorney was excused from the meeting.

V. APPROVAL OF AGENDA

Motion (West/Rotwein) to approve the agenda written. Passed unanimously.

VI. APPROVAL OF MINUTES – January 25, 2017 cc2

Motion (Ladwig/Rotwein) to approve the minutes as written. Passed unanimously.

VII. COUNCIL MEMBER REPORTS

Rotwein: Thanked resident Leslie Farrar for suggestion that each Councilmember have a .gov email account, and recognized City Staff for following through with that request. Announced her new email address: srotwein@trinidad.ca.gov

VIII. STAFF REPORTS:

City Manager Berman presented a report to the City Council at the meeting highlighting various accomplishments and project status for the month; *Arborist report regarding HSU Marine Lab tree recommends that trimming could be done as requested by residents. Police/County Law Enforcement Contract is up this year and will be on a future Council agenda. 20-year cell tower site agreement between the City and Verizon is up this April, but Verizon does have the opportunity for a 5-year extension.*

IX. ITEMS FROM THE FLOOR:

Dorothy Cox – Trinidad

Requested to be included in City discussions regarding Ocean Avenue traffic congestion problems. Summer is around the corner and we need to stay on this project till it is resolved. I'm happy to volunteer time to help. Also, the storm drain swales in front of my house aren't working properly. The drain grates don't get cleaned regularly and the water backs up. Councilmember Baker stated that he expects the Ocean Avenue congestion to be a future agenda item, hopefully in March.

Pat Morales – Trinidad

Distributed photos showing the view from her house with the view obstruction the tree caused. Quoted Councilmember Baker from the minutes insisting that his retaining wall reimbursement should be considered before the tree is addressed. His issue is on the agenda, mine is not. Why?

Kathleen Lake – Trinidad

Are you listening to the residents that frequently bring you problems and complaints? The Planning Commission is unaware of City ordinances that should be useful in updating the General Plan. Cited various accusations that the City has been ignoring her and insisted that action be taken immediately on her complaints.

Roland Johnson – Trinidad area resident

Long time Trinidad area resident, very concerned about the Memorial Lighthouse. It is threatened by slope failure. As a certified engineer geologist with over 45 years of experience, I can assure you that the property is threatened and should be a City priority.

Cyndi Lindgren – Trinidad area resident

Asked that the Council place the cell tower lease on the agenda for discussion and develop a strategy to remove the facility in the future. Read a letter from Friends of Trinidad Head, requesting the city deny the 5-year extension. Submitted the letter to the Clerk.

Kim Tays – Arcata

Read a letter written by the Yurok Tribe, objecting to the cell site lease extension. Submitted the letter to the Clerk.

Brad Twoomey – Trinidad

Explained there were at least 5 city ordinances that prohibit the cell site on Trinidad Head, and requested the City deny a lease extension.

X. CONSENT AGENDA

1. Financial Status Reports for December 2016.
2. Law Enforcement Report – January 2017
3. Proclamation in Recognition of Engineer's Week, February 19-25, 2017.
4. Resolution 2017-02; Updating Authorized Signatures for LAIF Investment Fund
5. Authorize Service Agreement with Precision Intermedia to Upgrade City Website.
6. Update/Renew Lease Agreement for City Office Building at 463 Trinity Street
7. Accept Report on Emergency Water Filter Repair Project.

Public comments included:

Kim Tays – Arcata

Regarding the website update, everything on the city's website should be searchable, and all document request responses should be sent in PDF's, not email message formats.

Zack Brown – Trinidad Rancheria

Clarified the authority the County Sheriff has to be on Tribal land.

Jim Cuthbertson – Trinidad

Someone should look into putting a mobile building up to save money.

Pat Morales – Trinidad

If an agreement was signed to replace the water filters, why is that item on the agenda? City Manager Berman clarified that progress on emergency agenda items must be subsequently reported on at regular meetings per government code.

*Motion (Rotwein/Baker) to approve the consent agenda as written. **Passed unanimously.***

XI. DISCUSSION/ACTION AGENDA:

1. Discussion/Decision regarding Acceptance of 2015-2016 Financial Report and Annual Audit, and Authorize the City Manager to Execute the 2016-2017 Engagement Letter.
City Manager Berman explained that the firm of Marcello and Company, Certified Public Accountants, has performed the fiscal and management audit for the City of Trinidad for the past several years. The principal in the firm, Ralph Marcello, CPA, has personally performed these audits and is very familiar with the City's practices and finances.

The 2016 Financial Report finds that the City conformed with generally accepted accounting principles, the financial statements are a fair and accurate representation of our financial position and activities over the prior year, and no audit findings or exceptions were identified. This is a clean audit report.

As a part of the annual audit, Mr. Marcello provides a list of recommendations to the City in a Management Letter. That letter is also attached and staff will discuss our plans to address these recommendations at our meeting.

Staff Notes on the Financial Statements:

- The City's General Fund cash balance increased during this audit year by approximately \$50,000, due primarily to Sales Tax and TOT revenue being higher than expected. However approximately \$45,000 in depreciation expense of capital assets was also recorded, for a total 'Change in Net Position' of positive \$5,000. (see pages 5 and 8-9 of the audit). The City ended the year with a total General Fund balance of ~\$1,355,000.
- The Water Fund cash balance increased during this audit year by ~\$48,000. This surplus is permanently dedicated to the long-term capital replacement, maintenance, and improvement of the Water System. For reference, the current Water Filter Replacement project cost of \$60,000 is roughly equal to the net 'surplus' of this year (~\$48,000) plus the \$15,000 that was transferred to the Reserve Fund in the previous year. The City ended the year with a Water Fund Cash Balance (Reserve) of ~\$940,000.
- The Cemetery Fund continues to slowly lose money, with a net negative of \$10,000 this year, as plot sales do not cover the annual maintenance expense of the cemetery. This annual deficit is slowly reducing a dedicated 'Cemetery Reserve Fund' that was at \$134,000 at the close of this audit period. The auditor recommends the City eventually incorporate the Cemetery income and expenses into the General Fund budget rather than maintain it as a separate enterprise fund. As cemeteries fill up, they transition from a 'business-type' activity that can be managed to break even, to something more similar (financially) to a City park, where maintenance activity needs to be paid with General Fund revenue. If this year's income and expense continue going forward, we have about ten years until the cemetery reserves are expended and this becomes a regular General Fund expense.

Mr. Marcello is willing to perform the audit for FY2016-17, and his proposed engagement letter is included for your consideration. Due to Mr. Marcello's knowledge of the city's financial practices and methods, he requires minimal support from the city's limited staff to support his audit efforts. His fees are unchanged from last year, and continue to include a 10% fee reduction based on his familiarity with our finances, and clean audit results to date.

There was no public comment.

Council comments included:

Miller: Met with auditor. He was very professional and informative, and he confirmed the City received a healthy report.

Rotwein: The auditor recommended various improvements regarding financial oversight; Investments, monthly presentations, and consultant billing statement review.

*Motion (West/Ladwig) to 1) accept the FY2015-16 Annual Financial Report and Audit; and 2) Authorize the City Manager to execute an Audit Engagement Letter to perform the FY2016-17 audit for \$16,200, prepare the draft financials for \$1,800 and reimburse for out of pocket costs at \$900. **Passed unanimously.***

2. Discussion and Possible First Reading of Noise Ordinance 2017-01

City Manager Berman explained that a revised version of the Noise Ordinance is presented for discussion and potential first reading. The City Attorney, City Manager, and Council members Miller and West met to review notes from the January 25th Council discussion and generated the current draft.

Highlighted changes:

1. Text related to Construction activities have been simplified, and only appear in one Section rather than in two. As currently drafted, reasonable construction noise is OK from 7 am to 7 pm on weekdays, and 8 am to 7 pm on weekends.
2. The already existing City Code re: nuisance noises from animals is repeated for clarity.
3. The Exemption for entertainment events is quite different. No exemption is provided for parties, bands, events, unless they have a specific City Permit that addresses noise.
4. As currently drafted, Town Hall would go quiet at 10 pm on weeknights, and 11 on Friday and Saturday nights.

5. Commercial and recreational fishing activities are exempt as long as the noise is 'reasonable' in the context of conducting those activities.
6. A new 'Enforcement' Section has been added by our Attorney, outlining the various remedies available to affected citizens and to the City.

Public comment included:

Dorothy Cox – Trinidad

Lived next door to Town Hall since 1977, and in all the years I can maybe only count less than 10 events that were bad. The Clerk occasionally warns us of big events, but we can't always tell if electronic music will be played. Please consider a 10:00pm curfew.

Steve Ruth – Trinidad

Appreciated Tom and Kathleen's written comments submitted to the City about this issue, and also appreciate that the City is taking it slow. The general weakness to any ordinance is enforcement. Violations don't mean much if they aren't enforced. What about loud music on a boat?

Kathleen Lake – Trinidad

Thanked the Council for the offer to work with us on this. We are very sensitive to noise, but without enforcement any ordinance is useless. Shared various personal examples of noise complaints, and suggested that all noise should end at 8:00pm, with quiet hours from 8:00pm to 7:00am.

Jim Cuthbertson – Trinidad

I live above the harbor and don't recall ever experiencing a noise problem there. What about barking dogs?

Zack Brown – Trinidad Rancheria

Can the Harbor area be exempt from this? **Rotwein** urged the Council to support the fishing related exemptions.

James Brown – Trinidad Rancheria

Thanked the Council for the exemption and stated it was a great step in maintaining positive relationships between governments.

City Manager Berman explained that he would discuss enforcement of City ordinances – not just County or State laws - with the Sheriff Deputy and Supervisors.

Council comments included:

West: Thanked Kathleen Lake for her suggestions. Would like to have other community members involved, but argued that 2 Council members should participate.

Ladwig: Volunteered to join the noise ordinance committee and help integrate Lake's suggestions into the existing draft ordinance.

Baker: Enforcement is key, and I believe we're on the right track.

Rotwein: The County Sheriff may not be familiar with City codes. This should be something addressed in the upcoming contract renewal. I'm in favor of forming a committee to help develop the final draft, but don't see the need for more than 1 Councilmember to be on it. Also in favor of assessing fines for violations.

Miller: I suggest a committee made up of 4 or 5 members, with 2 Council members on board.

*Motion (Rotwein/Ladwig) to establish a noise ordinance committee consisting of Ladwig, West, and 3 members of the public. Mayor Miller nominated residents Kathleen Lake and Dorothy Cox to the committee, and suggested a public notice be posted as soon as possible to recruit the final volunteer. **Passed unanimously.***

3. Assign Councilmember(s) to assist in creating Trinidad Trails Committee

City Manager Berman recommended that the Council appoint a standing Trails Committee to advise in trail related activities, repairs, etc. throughout Trinidad. He explained that if the concept is approved, he would return in March with a purpose, scope, and plan for committee membership.

Public comment included:

Dorothy Cox – Trinidad

Signs should be kept up at the Lighthouse Trail for safety reasons.

Steve Ruth – Trinidad

Trails committee idea is great. I'll volunteer to be on it.

Jim Cuthbertson – Trinidad

The Trinidad Head Trail committee was a disgrace.

Kim Tays – Arcata

I recently picked up a full canvas bag of dog poop and litter from Trinidad Head. The road was recently over cut too.

Council comments included:

West: I volunteer to lead the committee.

Rotwein: Volunteered to help draft the scope, structure, purpose, and membership profile of the committee for Council approval in March.

By consensus, the Council approved appointing West and Rotwein to develop the Trails Committee scope and structure and return with a full proposal in March.

4. Consider Claim by Jim Baker for Expenses Related to Retaining Wall Construction, and Request for Assistance Resolving Property Boundaries.

City Manager Berman explained that Jim Baker (as a citizen, not a Council Member) has two requests that require Council consideration. Staff believes he will need to recuse himself from the meeting for this discussion.

1. A request for \$1,499 as reimbursement for costs related to a small retaining wall that relates to a City Sidewalk project.
2. A request for assistance in resolving a property line issue. Jim's deeded parcel extends well over the sidewalks and into the street on the corner of Main and Trinity. He seeks to work with the City to clarify (perfect) the title issues involved, basically by giving that portion of his land that underlies the sidewalk and street back to the City.

Reimbursement Request: Staff agrees that the retaining wall was necessary, and that the costs are reasonable. It would certainly have cost more for the City to build the wall. The concern that staff has is in a precedent of paying for work that was undertaken without any commitment from the City. Given the scenario that occurred here, it would have been much better if Jim had either asked the City to build it, or submitted this request in advance of expending the funds rather than after the fact.

Claims against the City are decided on a case by case basis by the Council. Given the small sums involved, the fact that the City's effort to widen the sidewalk created the need for the wall, and the benefit the wall provides to the City in terms of aesthetics and keeping the walk clear, Staff thinks it would be reasonable for the Council to approve this claim. Jim has submitted detailed copies of all expenses.

Property Line Request: Staff recommend that the Council authorize staff to work with Jim to develop a more detailed proposal, with cost estimates, to resolve this property line issue. Staff would then return to Council for direction.

Baker provided the Council with additional background on the issue, listed city improvements on his property, listed conversations with City officials, and projects developed that led to the current status. Baker then recused himself from the meeting.

City Manager Berman recommended that the Council accept the land at minimal expense. He stated it would be nice to clean up the issue and allow Baker to write up the documents to minimize costs. The City has a right to use the road and has a right to maintain it so at this point, it's neutral on the issue.

Council comments included:

Ladwig: Accept Baker's offer to prepare the documents for the property line issue and include in a motion tonight. Regarding the retaining wall, it was a safety issue that he resolved for the city nicely.

Rotwein: I own a piece of property on Central Avenue in McKinleyville that extends to the center of the road. No City should be reimbursing a private citizen for work they've done on City property. He should have honored the process by asking for permission first, then worked with the City on the improvements. This is a slippery slope. Regarding Trinity/Main Street corner, the City should not incur costs either. He did an excellent job on the retaining wall, but as a City representative I disagree with his reimbursement request.

Miller suggested offering to pay \$50 for the document recording fees, but the other Council members disagreed.

*Motion (Rotwein/West) to offer to accept the property that extends into the Trinity Street right-of-way, but not to pay for it. **Passed 4-0.***

*Motion (Ladwig/West) to reimburse Baker \$1499 for expenses related to build a retaining wall extension. **Passed 3-1. No-Rotwein.***

XII. ADJOURNMENT

Meeting ended at 8:45pm

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Dwight Miller
Mayor