



Posted: Friday, March 03, 2017

NOTICE AND CALL OF A REGULAR MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a regular meeting on
WEDNESDAY, MARCH 08, 2017 at 6:00 PM
In the Trinidad Town Hall, 409 Trinity Street, Trinidad, CA

CLOSED SESSION BEGINS AT 5:00PM

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ADJOURN TO CLOSED SESSION**
 1. *Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957*
- IV. **RECONVENE TO OPEN SESSION – Closed session report**
- V. **APPROVAL OF AGENDA**
- VI. **APPROVAL OF MINUTES – February 08, 2017 cc2**
- VII. **COUNCIL MEMBER REPORTS, COMMITTEE ASSIGNMENTS**
- VIII. **STAFF REPORTS – See Consent agenda for City Manager Staff Activities Report for February 2017**
- IX. **ITEMS FROM THE FLOOR**

(Three (3) minute limit per Speaker unless Council approves request for extended time.)
- X. **CONSENT AGENDA**
 1. Financial Status Reports for January 2017.
 2. Water Treatment Filter Emergency Repair Project Update.
 3. Short Term Rental (STR) Ordinance Update and Proposed Coastal Commission Hearing Process
 4. Van Wycke Trail Grant Project Update.
 5. Winter Storm Damage Assessment and Recommendations
 6. Measure Z Funding Applications
 7. Authorize City Manager to Sign Project Agreement for Stormwater Grant Phase II
 8. Update on Ocean Avenue Encroachments
 9. Agreement for Services with Streamline Planning Consultants for Ocean Protection Council LID Grant Project
 10. Trinidad Head Cellular Site Lease Agreement Update
 11. City Manager's Staff Activities Report – February 2017
- XI. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Discussion/Decision regarding Councilmember Signatures on Citizen STR Petition
 2. Discussion/Decision regarding Draft Noise Ordinance 2017-01
 3. Discussion/Decision regarding Trail Committee Proposal
- XII. **FUTURE AGENDA ITEMS**
- XIII. **ADJOURNMENT**

APPROVAL OF MINUTES FOR:

FEBRUARY 08, 2017, CC

Supporting Documentation follows with: 0 PAGES

MINUTES WERE NOT AVAILABLE AT THE PUBLICATION DEADLINE. THEY WILL BE POSTED AS AN ADDENDUM TO THIS PACKET ONLINE BY MONDAY, MARCH 06, AND DISTRIBUTED TO COUNCIL PRIOR TO THE MEETING.



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

1. Financial Status Reports for January 2017.

~~FINANCIALS WERE NOT AVAILABLE AT THE PUBLICATION DEADLINE. THEY WILL BE POSTED AS AN ADDENDUM TO THIS PACKET ONLINE BY MONDAY, MARCH 06, AND DISTRIBUTED TO COUNCIL PRIOR TO THE MEETING.~~



CONSENT AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

2. Water Treatment Filter Emergency Repair Project Update.

CONSENT AGENDA ITEM

Wednesday, March 08, 2017

Item: Water Filter Emergency Repair Project – Update

Background: Both filters have been rebuilt. One is online, the second is undergoing final water quality testing before bringing it online. There are three filters in all, the third was rebuilt in recent years as well. With two filters operating well and the third almost online, the emergency that prompted this action is resolved.

The City Council approved a Resolution in December authorizing emergency action to initiate these repairs. As part of the state code governing such emergency action, staff are required to provide an update at each meeting until the project is complete and the emergency is resolved. This should be the final update.

Recommended Action: Accept Repair Update.



CONSENT AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 4 PAGES

3. Short Term Rental (STR) Ordinance Update and Proposed Coastal Commission Hearing Process

CONSENT AGENDA ITEM

Wednesday, March 08, 2017

Item: STR Ordinance Update and Letter to Coastal Commission Staff

Background: The City's revised STR Ordinance does not go into effect until it is certified by the California Coastal Commission (Commission). The current City moratorium on accepting new STR licenses expires at the end of June, and City staff are operating under direction to make best efforts to have the new rules in place prior to that expiration. Staff recommend the Council receive the following update on the Commission timing and options, and consider submitting a letter to the CCC. An approach for managing existing STRs through this transition is also discussed.

Commission timing and Options.

Since submitting the adopted ordinance in November, Staff has received and responded to three separate rounds of requests for additional information from Commission staff. We finally received notice that our application was deemed complete by Commission staff in February. Commission staff have informed us that they plan to bring this item before the Commission at their June meeting (June 7-9) in Eureka. This decision has been explained to City staff as primarily a function of Commission meeting schedule and staff travel restrictions. The April Commission meeting is cancelled, and the May meeting is in San Diego. Hearing the item in Eureka also provides a much greater opportunity for local participation.

Staff are working under direction from the Council to make best efforts to have the new ordinance in effect prior to the expiration of the current moratorium on new STR Licenses, which occurs at the end of this June. As described in the attached memo from City Planner Trever Parker, a June CCC meeting date makes that difficult. The path City staff sees as most likely to achieve that goal is laid out in Trever's memo, and depends on the Commission staff providing us with all changes they plan to recommend by mid-April, the City then moving quickly to adopt a revised version of the ordinance with those changes, and the Commission then approving it with no further changes.

The City will know more after we hear from Coastal staff about the extent, if any, of the changes they think are needed to the Ordinance. Staff will keep the Council and community updated.

At their March meeting, the Commission will consider giving itself a time extension on this item. This is a routine action on their part, without which they are required to hear the item within 60 days of February 15th (when they deemed our application complete). With no April meeting, this would require them to be acting on it at their March meeting. As much as the City wants this done soon, staff sees the time extension as unavoidable, and does not see any benefit to opposing it.

Staff thinks a brief letter from the City to North Coast District Manager Bob Merrill emphasizing the importance of the time constraints to the City, and requesting their assistance with the strategy outlined in Trever's memo, is appropriate. A draft is attached for the Council's consideration. Similar letters from the community encouraging the Commission to expedite this matter have garnered considerable community support in recent weeks.

Effect on Existing STRs

The final form of the revised STR Ordinance may not be clear until at least the June Commission meeting. Meanwhile existing STRs are already managing bookings for this summer. We do not know exactly when the new Ordinance will take effect, and even what the final Ordinance details may be after Coastal Commission input.

Staff's current thinking is that the City should consider extending existing STR licenses, under the existing rules, through August or September, and start the license renewal process under the new rules basically as soon as the final Ordinance is certified by the Commission. This would avoid wasted effort on staff and the operator's part processing license renewals under the old rules by July 1, when they would need total revision almost immediately, and it would provide reasonable certainty to operators about this summer's operations.

Recommended Action: Accept update, consider approving letter to CCC staff, and provide any necessary direction to Staff.

Attachments:

March 2 City Planner Memo
Draft Letter.



MEMORANDUM

TO: Dan Berman, City Manager
FROM: Trever Parker, City Planner
DATE: March 2, 2017
RE: STR Ordinance Certification Timing Considerations

Coastal Commission staff plans on bringing the City's STR ordinance to the Coastal Commission for public hearing at their June 7-9 meeting in Eureka. If the Coastal Commission approves the ordinance as submitted, it would be certified at that meeting and go into effect almost immediately. It is more likely that they will approve the ordinance with suggested modifications. In this scenario the ordinance would not go into effect until the City Council adopts a revised version of the ordinance with the suggested modifications via a first and second reading, and the ordinance returns to the Coastal Commission for final certification. That could happen as soon as the Commission's July meeting if the City moves quickly to hold a first and second reading of this revised ordinance.

City staff have been exploring options as to how best to approach this situation. One option would be for the City to preemptively adopt Coastal Commission staff's suggested modifications prior to the June meeting and resubmit the revised ordinance so that it could be certified at the June Coastal Commission meeting.

I spoke with Bob Merrill today about the tight timing and various deadlines that would have to be met to implement that option. Coastal Commission staff are scheduled to meet to discuss the City's STR ordinance on March 16. After that meeting, we will have a better idea if their staff is going to recommend modifications to the ordinance or adoption as is. If modifications will be suggested, then Coastal Commission staff would do their best to provide the City with a list of those changes by early to mid-April. City staff would have a chance at that point to try to convince Coastal Commission staff that the changes are not necessary. Failing that, the City Council could potentially have a first reading of a revised STR ordinance, incorporating Coastal Commission staff's recommendations, at the second regular April meeting on the 26th. The first reading could then occur at the regular meeting of May 10. At the same time, the Council would adopt a Resolution of Withdrawal of the existing

ordinance and new Resolution of Submittal for the revised ordinance. Then the revised ordinance could potentially be heard and certified at the June Coastal Commission meeting.

There are a lot of "ifs" in this scenario. Another hearing before the Trinidad City Council could open up consideration of other changes to the ordinance. Coastal Commission staff mail out their packets to the Commission on May 19 for the June meeting. Therefore, they will have to be working on their staff report before the revised ordinance is fully adopted by the City Council. If changes are made to the ordinance other than those suggested by Coastal Commission staff, then they would not have time to evaluate those before the June meeting, and it likely would not be heard. In addition, even if all this gets done, the City revises the ordinance, and Coastal Commission staff recommend approval and certification as is, the Commission can decide to make their own changes at the June hearing. This is still a possibility even if Coastal Commission staff do not end up recommending any changes to the existing ordinance. Therefore, it is recommended that the City Council and City staff also consider a "Plan B" in case the ordinance is not certified in June and does not go into effect before expiration of the moratorium.



CONSENT AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 7 PAGES

4. Van Wycke Trail Grant Project Update.



EXHIBIT 22-X
REQUEST FOR PROJECT SCOPE CHANGE (LOCAL ATP PROJECTS)

To: Brett Gronemeyer
District Local Assistance Engineer
Caltrans, Office of Local Assistance
1656 Union Street
Eureka, CA 95501

Date: January 10, 2017

PPNO: 2405a
Federal PROJECT #: ATPL-5145(014)
ATP ID #: ATP01-01-008R

Project Name (Per CTC programming): City of Trinidad - Van Wycke Bicycle and Pedestrian Connectivity Project

Approved Project Description (As submitted in Application):

Install 8' wide paved bicycle lane (path), concrete sidewalks and curbs, detectable warning surfaces, gravel pedestrian trail, split rail fencing, crosswalk, striping, and directional and interpretive signs to create a safe pedestrian and bicycle route.

Approved Project Limits (As submitted in Application):

From the intersection of Ocean Ave and Wagner St along Ocean Ave, Van Wycke Street Trail, Van Wycke Street and Edwards Ave, to the intersection of Lighthouse Road and Van Wycke Street.

Dear Mr. Gronemeyer:

City of Trinidad - Van Wycke Bicycle and Pedestrian Connectivity Project is a funded ATP project intended to improve multimodal connectivity and creates a safer transportation environment through modifications to a shared road and enhancing bicycle and pedestrian facilities. Upon commencement of the project, including more detailed site and cost investigations, discussions with permitting agencies, and public meetings it has become apparent that an alternative approach that achieves the same goals should be considered.

Consistent with the California Transportation Commission's (CTC) "Policy on Project Amendments and Advance Project Allocations", adopted on August 18, 2016, we request that Caltrans consider and the CTC approve the proposed Project Amendments as documented below:

Required Elements (per CTC's Project Amendment Policy):

1. An explanation of the proposed scope change;

The proposed minor scope change is as follows:

- The failed section of Van Wycke trail would be reconstructed as a pedestrian only pathway/trail, instead of a shared use facility.
- Bicycle connectivity between upper Edwards Street and Lower Edwards Street would be achieved with the following improvements:
 - A class III bicycle route for westbound Edwards Street (downhill direction)
 - A combination of Class II bike lanes and Class III bike routes on Van Wycke Street, Galindo Street, and Edwards Street (uphill direction)

2. The reason for the proposed scope change;

The proposed scope change addresses community concerns regarding safety, permitting, right of way, and aesthetic issues.

Safety concerns arise because upper Van Wycke street is quite steep, so bicyclists coming down hill into the rebuilt trail are likely to be moving very fast, posing a hazard to pedestrians. The original scope's paved 8-foot wide shared used path raises permitting concerns (the project is located in the California Coastal Zone) as it would be significantly wider than the historic unpaved pedestrian trail, in an area of significant cultural resources. A wider trail also poses additional right of way challenges, as the trail is already immediately adjacent to neighboring private property and will require ROW agreements or acquisitions. Finally, the trail that currently exists between upper Van Wycke Street and Lower Van Wycke Street/the harbor is a rustic footpath emblematic of the town's rural roots and small-town culture. Residents desire to maintain these aesthetic characteristics, which are not generally compatible with standardized road improvement design approaches.

The proposed scope change addresses all of these issues. It would repair the trail for safe pedestrian use and improve bicycling facilities on Edwards Street, Lighthouse Road, Galindo Street, and lower Van Wycke Streets. Bicyclists can also walk their bikes through the Van Wycke trail under this scenario.

3. The impact the proposed scope change would have on the overall cost of the project;

Changes in project costs are not anticipated or proposed.

The original project has \$714,000 in ATP grant funding and \$8,000 in matching City of Trinidad funding, a total of \$722,000. Of this, \$700,000 is for design and planning phases (PA&ED, PS&E, R/W) and construction, and \$22,0000 is for non-infrastructure related outreach and education projects.

- Cost for retaining structures for the trail would be minimally decreased by the decrease in design width of the trail.

- Cost for additional striping and signage for Class II and Class III bike facilities would result in some minor cost increases.

4. An estimate of the impact the proposed scope change would have on the potential of the project to increase walking and bicycling as compared to the benefits identified in the project application (increase or decrease in benefit);

The ATP application notes that “there is no continuous non-motorized route that connects the central area of the City to the waterfront” which acts as a barrier to non-motorized movement despite the otherwise favorable setting for walking or bicycling.

The original proposed project addressed “increase walking and bicycling” by proposing facilities to connect parts of the city that currently cannot be reached by pedestrians or bicyclists without sharing the road shoulder with motorists. It observes that the project removes a barrier to mobility, including installation of ADA compliant curb ramps, a crosswalk, a sidewalk, establishing a bike route, and reestablishing the Van Wycke Street Trail.

The requested scope changes maintains all the project’s potential benefits for pedestrian use by completing improvements to the Van Wycke Street Trail, and implementing the sidewalk and crosswalk as previously proposed. It creates connectivity for bicycles through a combination of an improved Class II bike lanes and Class III bike routes. The scope change results in additional bicycle facility improvements on existing streets compared to the original project, and still allows cyclists to walk their bike through the repaired trail.

The requested scope change is proposed because it retains the original project’s goals of connectivity, which, by removing a barrier to movement, will increase both walking and bicycling.

5. An estimate of the impact the proposed scope change would have on the potential of the project to increase the safety of pedestrians and bicyclists as compared to the benefits identified in the project application (increase or decrease in benefit);

The ATP application notes that the “project focuses on providing a safe alternative route for non-motorized users to minimize the potential for pedestrian and/or bicycle injuries.”

The original proposed project addressed “increase the safety” by creating facilities that increase driver awareness of pedestrians, such as a high visibility patterned crosswalk, reducing conflict between pedestrians and motorists through installation of sidewalks and a separate trail (the improved Van Wycke Trail), and reduced conflict with bicyclists by also directing some bicycle traffic to the Van Wycke Trail.

The requested scope change provides the same level of safety (or better) for pedestrians. It provides a safer bicycle route than the current condition through a combination of an improved Class III bike, partial route realignment, and a striped Class II bike lane. Bicyclists also have the option of walking bicycles along the Van Wycke Trail, providing more options for safe movement. Other improvements, such as the ADA compliant curb ramps, high visibility patterned crosswalk and sidewalk on Edwards Street remain in this scope revision.

The proposed scope change also eliminates a potential safety conflict between bicyclists and pedestrians on the Van Wycke trail section by designating the trail for pedestrians only. There were concerns by the public that bicycles traveling in the downhill direction at higher speeds on Van Wycke trail could pose a safety risk to pedestrians.

The proposed scope change should have no negative effects on the safety of walking or bicycling compared to the original concept. Both proposals provide improved facilities for walking and bicycling.

6. An explanation of the methodology used to develop the aforementioned estimates; and
Bicycle and pedestrian counts were performed to support the original grant application. The proposed project elements were based upon observations related to these counts as well as other City of Trinidad staff observations. The requested scope change relies on this same methodology and observations, but provides another way of accommodating bicyclists to better address community needs.

7. For projects programmed in the Metropolitan Planning Organization (MPO) component, evidence of MPO approval and the MPO rationale for their approval.

N/A – Project funded in the small Urban and Rural component

Required revisions to the Project's Description and/or Limits:

The proposed Project Amendments documented above will require the following changes to the Project's Description and/or Limits: <<Insert "N/A" if not applicable>>

Proposed changes to the Project Description: Install pedestrian trail, walkways/sidewalks, curbs, detectable warning surfaces, split rail fencing, crosswalk, Class II and Class III bicycle facilities, striping, and directional and interpretive signs to create a safe pedestrian and bicycle route.

Proposed changes to the Project Limits:

Van Wycke Street (including Van Wycle trail), Galindo Street and Edwards Street from the intersection with Ocean Ave and Wagner Street to intersection of Bay Street.

For Federally Funded Projects: <<Insert "N/A" if not applicable>>

Proposed changes to the FTIP/FSTIP Description: N/A

Proposed changes to the FTIP/FSTIP Limits: N/A

Project Delivery Status:

The following is a side-by-side comparison of the original project schedule and the current project schedule. The explanations for each milestone date change is listed below:

Anticipated CTC Allocation Dates (at the time of Application Submittal for funding):

PA&ED: 7/8/16 PS&E: 8/25/17 R/W: 8/25/17 CON: 1/29/19 CON-NI:
1/29/19

Actual/New Anticipated CTC Allocation Dates (at the time of this request):

PA&ED: 8/17/16 PS&E: 8/25/17 R/W: 8/25/17 CON: 1/29/19 CON-NI:
1/29/19

Explanation for milestone changes: << Only list/explain the milestones that have changed>>

PA&ED: There was no CTC meeting in July 2016

Local Agency Certification:

This Request for Scope Change has been prepared in accordance with the *Procedures for Administering Local Projects in the Active Transportation Program (ATP)*. I certify that the information provided in the document is accurate and correct. I understand that if the required information has not been provided this form will be returned and the request may be delayed. Please advise us as soon as the scope change has been approved. You may direct any questions to

Daniel Berman at 707 498 4937

(name)

(phone number)

Signature:

Daniel Berman

Title:

City Manager

Date:

1-13-17

Agency/Commission:

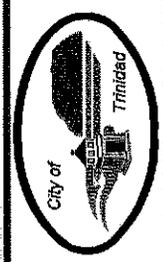
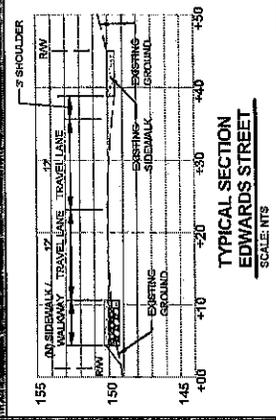
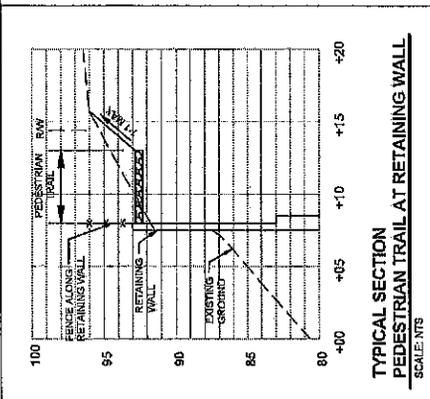
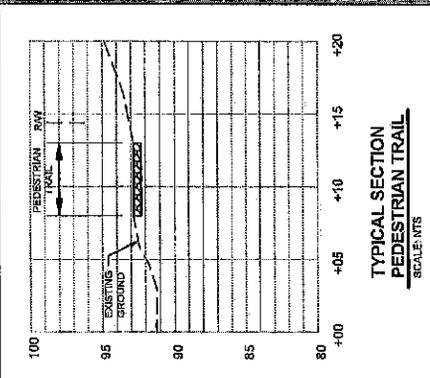
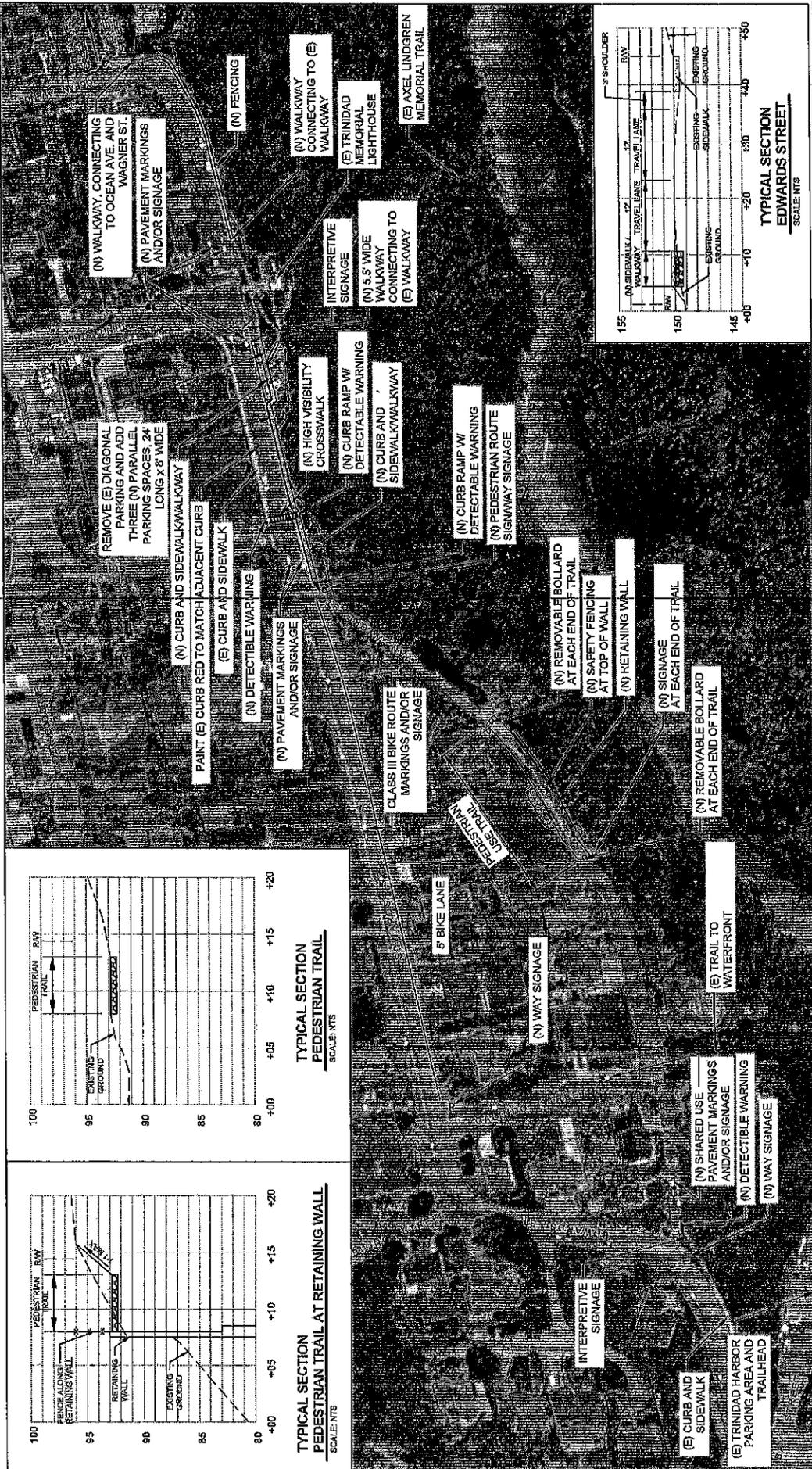
City of Trinidad

Attachments:

- Updated Figure 2
- Routing Figure

Distribution:

- (1) Original -DLAE
- (2) Copy -Division of Local Assistance, Headquarters ATP Program Manager
- (3) Copy -MPO/RTPA/County Transportation Commission



**VAN WYCKE BICYCLE AND PEDESTRIAN
CONNECTIVITY PROJECT
PROPOSED SCOPE CHANGE
CITY OF TRINIDAD**

Job Number 10106307001
Revision 1
Date JAN 2017

Figure 2a

Proposed Scope Change – Bike/Ped. Routing





CONSENT AGENDA ITEM 5

SUPPORTING DOCUMENTATION FOLLOWS WITH: 11 PAGES

5. Winter Storm Damage Assessment and Recommendations

CONSENT AGENDA ITEM

Wednesday, March 08, 2017

Item: Winter Storm Damage Assessments and Recommendations

Background: This winter's barrage of high rainfall storms have caused damage at a number of sites in Trinidad. Josh Wolf of GHD recently toured two of these sites and his memos and recommendations are attached. He will be present at the meeting to discuss as needed. One set of storms in January has been declared a state and federal disaster, the County is pursuing the same declaration for a second set of storms in February. This opens the door for us to apply for state and federal funding for these projects and staff intend to do so.

At Scenic Dr. –

Staff concur with the recommendations in the attached memo. Our Public Works Director is coordinating an onsite meeting with a qualified contractor and GHD to finalize the plans and estimate costs. There is potential for the current situation to get much worse if not repaired properly.

At Van Wycke Trail

The concern here is for the utilities, and the potential for the storm drain line that runs underground through the slide to fail and pour water into the slide area. The line is being videoed as recommended, the results will be available by the meeting.

, stormwater drains along Scenic Drive near Salty's, and the Van Wycke Trail, and their memos and recommendations are attached.

and their findings and recommendations are attached. affected a number of sites in Trinidad, existing exacerbated existing problems Following our last Council discussion on this item, the City submitted a request to Caltrans to modify the project so that the trail connecting the paved sections of Van Wycke Street is pedestrian only rather than a shared multi-use trail. That request was approved by Caltrans. The request and associated figures are attached. The exact trail width and surface was not specified in our request; staff expects a five-foot width, with a hard pack surface to allow wheelchairs or small motorized mobility scooters.

Staff recently provided an overview and walk through of the project with Coastal Commission staff. They encouraged a) further geotechnical assessment of the project as a whole, b) working with the neighbors to shift the trail alignment as far upslope as possible, and c) that the CEQA analysis include the alternative option of closing the trail

and routing improved pedestrian facilities down Edwards St. This project will be permitted by the City, and would go to the Commission for review if appealed.

Council directed staff to minimize work on the project until we received an answer from Caltrans. With this positive response from Caltrans, Staff recommends that we resume work on this project.

Staff recommendation – resume work on this project, with next steps to include:

Survey of trail section

Further Geotech investigation - focused on trail section, but covering whole project effect on coastal bluff.

Community engagement in the Project Design work, including community meeting(s)

Attachments: Submittal to Caltrans, including two figures.

Response from Caltrans.



Perched down-drain outlet into Parker Creek – The outlet of the down-drain is perched 2-3' above the channel. The outlet pipe appeared to be intact with no visible holes in pipe and no visible signs of piping (drainage flowing on the outside of the pipe). The channel at the outlet is composed of bare ground, rocks, wood, logs, concrete rubble and other material. Only limit erosion was observed at outfall. See Photo 4.



Figure 1 – Approximate locations of site observations

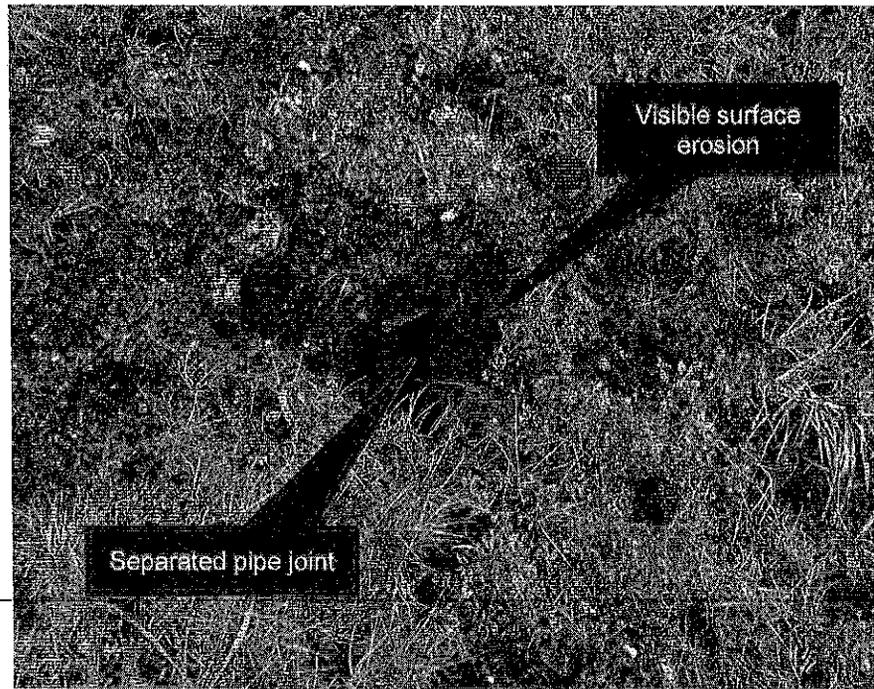


Photo 1 – Separated joint in road shoulder with surface erosion visible.

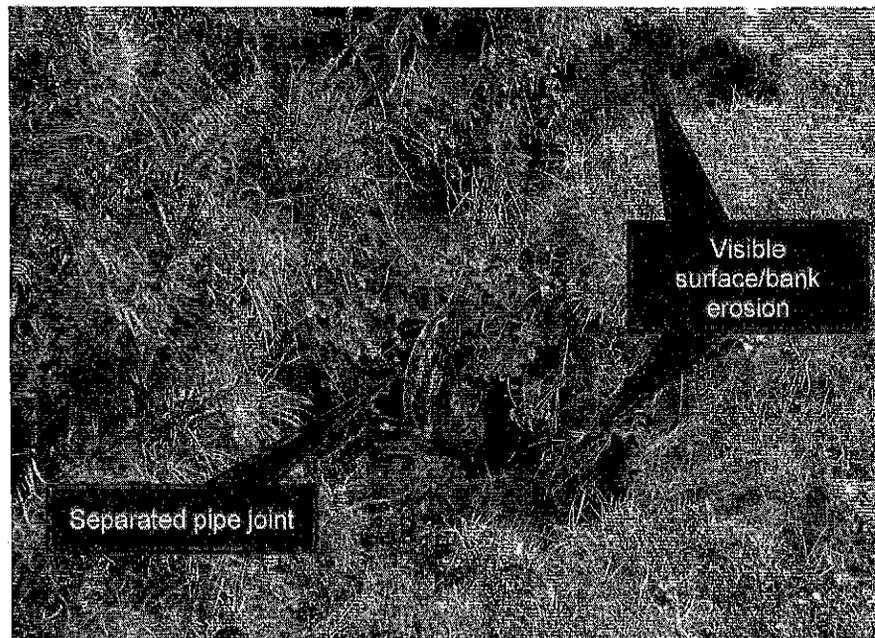


Photo 2 – Separated joint at top of down-drain with visible surface erosion visible.

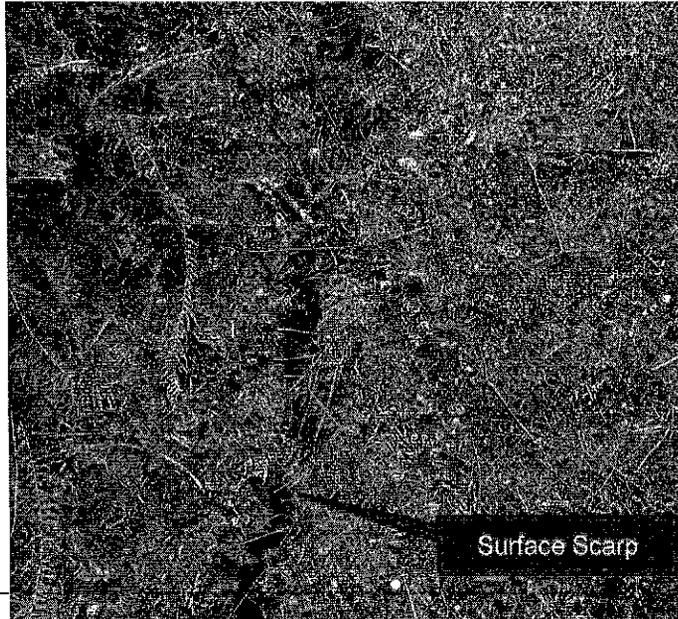


Photo 3 – Visible scarp above Parker Creek embankment just off edge of road shoulder.



Photo 4 – Perched down-drain outfall into Parker Creek.



3. Recommendations

The condition of the storm drain inlet, pipes, down-drain, joints and embankment pose an immediate and serious risk to the integrity of entire drainage system and Scenic Drive. Ongoing degradation of the storm drainage facilities could lead to a failure of the down-drain and roadway embankment at Parker Creek, which could lead to damage (potentially severe) to Scenic Drive.

In order to reduce the risk of failure and protect the roadway, we recommend the City immediately secure a licensed contractor to make the following emergency repairs:

- Install new concrete inlet (type G1 or similar) at the upstream joint separation (in road shoulder). Connect separated sections of pipe with chain or cable to prevent/limit further separation.
- Repair downstream joint separation (CMP or rubber collar). Connect separated sections of pipe with chain or cable to prevent/limit further separation.
- Construct AC dike (extruded or hand-formed) to divert all surface runoff (to the extent practical) into new inlet and pave area between new AC dike and roadway (4" AB and 2" AC).
- Repair or replace driveway culvert at Saunders Shopping Center (this work may be the responsibility of the property owner and not the City).
- If Sanders driveway cross-culvert is too deep to surface drain to new inlet, then it should be connected with a new storm drain pipe (12" min.).
- Replace wooden lid on ditch inlet (east side of Scenic Drive) and regrade ditch as required.

If the City is unable to secure a contractor quickly, then we suggest the following temporary improvements be made to prevent further erosion and degradation of existing drainage facilities:

- Install 6" HDPE down-drain over embankment – secure in place with rope and T-posts (two 6" down-drains preferred for additional capacity).
- Construct a temporarily inlet using plastic/visqueen and sandbags to divert surface water into new 6" down-drain inlet(s) and prevent water from entering the separated storm drain joints or from flowing over the hillside.

We also suggest that a representative from GHD be present during repairs to help guide the work. It's possible that additional or different improvements will be necessary based on the current condition of the facilities at the time work is completed or unforeseen circumstances.

Following the completion of the work above, and following the winter wet season, the City should consider conducting a site analysis to identify any additional repairs or improvements necessary to Scenic Drive within the City Limits.



Memorandum

March 2, 2017

To: Dan Berman, Trinidad City Manager Ref. No.: 01063-07-001

From: Josh Wolf, PE Tel: 707.443.8326

cc: Steve Allen, PE

Subject: Storm Damage – Van Wycke Trail

1. Introduction

On February 14, 2017, GHD staff conducted an initial site review of storm damage on Van Wycke Trail. This memorandum summarized the site observations and recommended corrective actions.

2. Site Observations

The following summarizes the primary site observations (see Figure 1 for approximate locations):

Wooden Retaining Wall – There appears to be active ground movement in the vicinity of the existing wooden retaining wall which continues to degrade and fail. The concrete dead-man anchors were exposed and appeared to be providing little to no structural support for the retaining wall.

Storm Drain - A small amount of storm water was observed entering the inlet side of the storm drain system, however the outlet side was dry (no flow). This is likely indicative of a break or leak in the pipe. A portion of the storm drain is visible (section east of wooden retaining wall) and appears to be encased in concrete.

Utility Pedestal – There is an existing utility pedestal just north of the retaining wall which appears to be for cable television (CATV). The location, alignment and condition of the underground CATV facilities are unknown.

Water Main – There is a City water main which parallels the Van Wycke trail alignment although the exact location is unknown. According to Trinidad Public Works staff the water main has been isolated from the water distribution system by closing the gate valves located on either end of the Van Wycke trail.

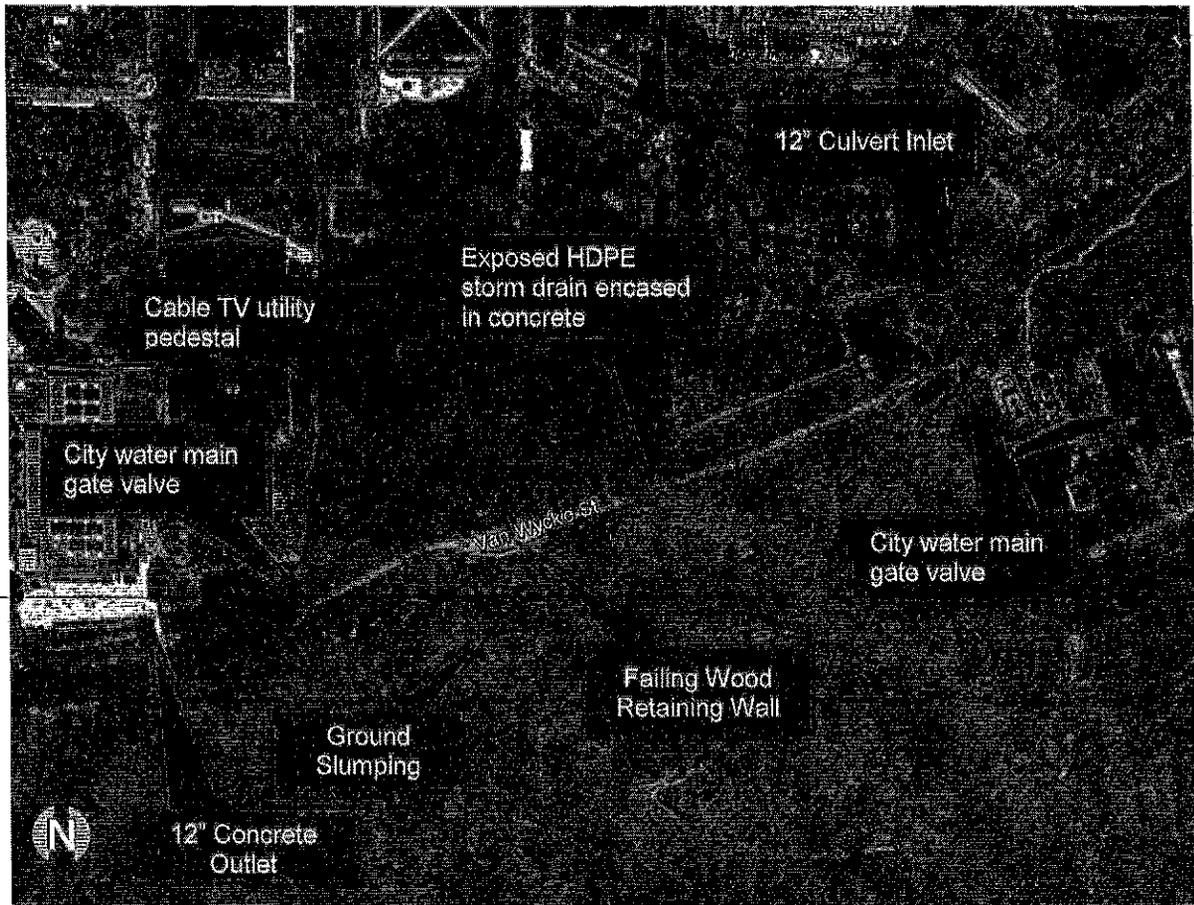


Figure 1 – Approximate locations of site observations

3. Recommendations

The condition of the wooden retaining wall and embankment potentially poses a serious risk to the integrity of City's drainage system and water main, and the CATV facilities. Ongoing slumping of the bluff could lead to complete or sudden failure of the retaining wall, which could damage and/or expose the existing water main, CATV facilities and storm drain pipe.

Water Main

Although the City's water main is at risk of failure in the event of bluff failure, the magnitude of risk is relatively small since the portion of pipe that bisects the failure area has been valved –off and the pipe is no longer used to distribute water. If the slope does fail, portions of the water main may be pulled apart at their joints but as long as the valves are fully closed, failure of the water main should have little to no impact to water service bluff stability.



CATV

The importance of the CATV facilities near the Van Wycke failure area is unknown since it is not a City owned facility. The owner of the CATV facility should be notified that their facilities are potentially at risk so that they may take necessary steps to protect their facilities should they so choose.

Storm Drain

Failure of the storm drain pipe could result in storm water discharging onto the exposed bluff which could lead to accelerated bluff instability. In order to reduce the risk of failure and be better prepared to respond to a potential failure, we recommend the following actions listed below be taken. We suggest that a representative from GHD be present during any repairs to help guide the work. It's possible that additional or different improvements will be necessary based on the current condition of the facilities at the time work is completed or unforeseen circumstances.

Determine Storm Drain Pipe Condition and Repair as Required

The storm drain pipe should be videoed as soon as possible to determine the pipe condition and whether the joints are still intact or if there is separation and/or leaking. It's our understanding that the City has initiated this work which is scheduled to be completed on 3/2/17.

- If the video of the pipe shows broken or separated joints, then the joints should be repaired/sealed or the storm drain system bypassed.
 - If the joints aren't too displaced, then the storm drain could be slip-lined by inserting a smaller pipe (e.g. continuous solid wall HDPE 6") into the existing 12" pipe (and sealed on the inlet side) to prevent or limit leaks.
 - If the joints are too displaced to insert a smaller storm drain pipe, then the storm drain could potentially be bypassed with a surface mounted storm drain pipe, anchored to the ground with T-posts, rope, sand bags, etc. There are some challenges to bypassing the pipe (e.g. intercepting storm water, maintaining continuous pipe slope, right-of-way limitations, maintaining access to driveways, etc.) so the feasibility and extent of the bypass will depend on the severity and location of pipe failures identified.

Preemptively Secure Pipe to Ground

If the pipe/joints are found to be in good condition from the video investigation, then the City may elect to preemptively secure the pipe to the ground as a preventative measure to reduce the likelihood of pipe failure in the event of ongoing or sudden ground movement. The City should hand dig or probe near the trail failure/slumping to determine the approximate location of the storm pipe and whether it's encased in concrete. If the pipe is not encased in concrete, then the City could choose to anchor the storm drain pipe to the ground above the visible failure area. This could potentially be done with ropes and T-Posts embedded/secured into the ground above the pipe. If the storm drain pipe is encased in concrete then it may be impractical to adequately secure it to the ground.



Prepare to Respond to an Emergency Situation

If the storm drain pipe joints are found to be in good condition with no signs of leaking, then the City should still be prepared to secure or bypass the storm drain pipe in the event the slope continues to slump or suddenly gives away. The exact approach taken to secure or bypass the pipe will depend on the nature and extent of the slope failure and actual risk or impact to City utilities. Potential action may include the following:

- Secure the pipe to the stable upslope ground.
- Bypass the pipe using a surface mounted storm drain.
- Install a temporary downdrain to convey stormwater to the bottom of the bluff (to the beach).

The City should obtain the following materials (at a minimum) and have them on-hand in the event that immediate action needs to be taken to secure or bypass their utilities: storm drain pipe, T-posts, rope, sand bags, and visqueen.

The area should be monitored daily and during storm events and immediate action should be taken to secure the storm drain pipe and water main in the event of bank/wall failure.

Engage City Attorney

The City Attorney should be engaged to determine whether the City should take any specific action to reduce or eliminate potential risk or liability to the City.



CONSENT AGENDA ITEM 6

SUPPORTING DOCUMENTATION FOLLOWS WITH: 8 PAGES

6. Measure Z Funding Applications

CONSENT AGENDA ITEM

Wednesday, March 08, 2017

Item: Measure Z 2017 application and Reallocation of 2016 Funds

Background:

Last year's award: The City was awarded ~\$75,000 in Measure Z funds in 2016 to support an additional half time deputy dedicated to Trinidad. The Sheriff's Office has not been able to fill this position, and indicated they expect to have the staffing in the fall of 2017. In recent conversations with County staff, it became clear that the City could not carry these fund forward to that point, but would have to either lose them, or propose an alternative use. Staff submitted the attached reallocation request to the County – it should be before the Board of Supervisors on Tuesday March 7th. The funding would go towards our existing law enforcement contract, and would allow us to hire additional extra shifts to cover more of the time when our full-time Trinidad Deputy is not on duty.

Application for 2017 Funds: Staff have submitted an application very similar to last year, where we are requesting funds for an additional full time deputy. Last year we were awarded half of the requested funds.

These two proposals needed to be submitted in mid-February, so staff are requesting 'after-the-fact' approvals from the Council.

Recommended Action: Approve the 2016 Reallocation Request, and the 2017 Measure Z Application.

Attachments:

2016 Measure Z Reallocation Request

2017 Measure Z Funding Request



February 15, 2017

Humboldt County Board of Supervisors
825 5th Street
Eureka, Ca 95501

Dear Board of Supervisors,

The City of Trinidad was awarded Measure Z funding in 2016 to support an additional ½ time Deputy Sheriff. Unfortunately, staffing shortages have not allowed the HCSO to fill that position in this fiscal year.

In order to put these funds to use in a timely manner, consistent with the intent of the original allocation, the City would like to propose the following alternative use of the 2016 Measure Z Funds allocated to the City of Trinidad:

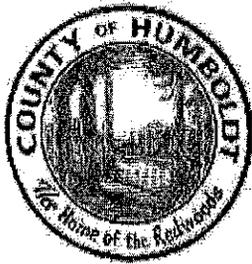
Utilize the allocated \$75,317 in Measure Z Funding to pay for a portion of the City's current and upcoming public safety contract with the Humboldt County Sheriff's Office. The funds will support additional deputy shifts in Trinidad to cover days and times that the supplemental deputy would have been available. Under this proposal, the Measure Z funds will directly support deputy time in Trinidad, consistent with our original proposal and with the intent of Measure Z.

The City of Trinidad has the support of the Sheriff's Office for this approach. We are looking forward to putting these funds to use to improve public safety in the City of Trinidad and the surrounding unincorporated community.

Thank you for considering this request. If you have any questions, please contact me at 707-498-4937 or citymanager@trinidad.ca.gov.

Sincerely,

Daniel Berman
City Manager



CITIZENS' ADVISORY COMMITTEE ON *MEASURE Z* EXPENDITURES

(Advisory Committee will make recommendations to the Humboldt County Board of Supervisors as to expenditure of funds derived from *Measure Z*.)

APPLICATION FOR FUNDING

Agency Name: City of Trinidad

Mailing Address: 409 Trinity St, Trinidad CA 95570

Contact Person: Daniel Berman

Title: City Manager

Telephone: 707-498-4937

E-mail address: citymanager@trinidad.ca.gov

1. AMOUNT OF MEASURE Z FUNDING REQUESTED FOR FY 2017-18: \$ 162,685

2. ENTITY TYPE -- Please check appropriate box.

- a. Humboldt County Department
- b. Contract Service Provider to Humboldt County
- c. Local Government Entity
- d. Private Service Provider
- e. Non-Profit Service Provider
- f. Other

3. Please provide brief description of proposal for which you are seeking funding.

The City of Trinidad is requesting funding to support a full time law enforcement position. Trinidad contracts with the Humboldt County Sheriff's Office for law enforcement services, and that contract currently supports one full time deputy sheriff, who works four days a week. This request would support a second deputy, so that we would have a dedicated peace officer in the Trinidad area seven days a week. Trinidad, and our deputy, serve as the hub for the greater Trinidad area from Westhaven to Patrick's Point. Having an assigned peace officer centered in Trinidad would benefit not just the City but the surrounding area as well, and would relieve demands on the McKinleyville Sheriff's station.

4. *Measure Z* funding is scheduled to "sunset" in 2020. How are you developing a plan for sustainability, including diversification of funding sources, in order for your proposal to carry on without reliance on future *Measure Z* funds?

Trinidad, like the County and other local Cities, will need to continue to make tough budgeting decisions about how to allocate our general fund revenue, and how much to spend on public safety. The City's voter approved sales tax was just renewed, insuring that we can at least sustain our one locally funded deputy for the foreseeable future. Transient occupancy tax has been an increasing revenue source for the City, and the City can consider increasing our TOT rate, as some other local cities have done.

If we are successful in this application and the community experiences the benefits of having a second deputy, it may increase community support for allocating greater funding to public safety, and for the measures necessary to pay for that increased funding. We will continue to aggressively pursue outside grant funding, but those opportunities, including this *Measure Z* funding, will always be of limited duration.

The City is in discussions with the Trinidad Rancheria about the potential to share some public safety costs in the future, and that could help sustain an additional deputy beyond the *Measure Z* funding. The City used to contract for 1.5 Deputies (i.e. one full time and one half time) but the HCSO had logistical challenges with that arrangement and advised us we need to work in whole numbers. However a deputy that was split between the City and the Rancheria, or between the City and the contract city of Blue Lake seems like an option worth revisiting with HCSO.

5. If this request is for the continuation, or expansion, of an existing program/service, what is the current source of funding for that program/service?

Trinidad currently relies on local general fund revenue, and the state COPS program to support one full time deputy and one additional 8 hr shift per week. These revenue sources are basically stable. We receive a fixed minimum COPS allocation, with no CPI adjustment, so that source is slowly falling in real dollar terms. Our GF revenue is composed primarily of a property and sales tax, transient occupancy tax, and a voter approved add onto our city sales tax. GF revenue is variable, but has been increasing slightly faster than inflation in recent years, helped by the recovery of property values and increasing tourism.

6. If you are awarded *Measure Z* funds, how will you use them to leverage additional grants, contributions, or community support?

The City will continue to pursue grant funding for public safety from all available sources. Community organizations including the Lions Club and Trinidad Memorial Civic Club have consistently supported our public safety efforts with both donations and volunteerism. The Trinidad Rancheria is interested in increasing their law enforcement efforts, possibly in partnership with the City. Having two deputies would also facilitate a stronger connection to Trinidad Elementary School, across the street from our deputy's office in Trinidad.

7. Will this proposal require new or expanded activity on the part of another entity to be fully functional and effective? If so, please describe.

This proposal puts another sheriff's deputy on the street, and therefore relies on the HCSO recruitment and training process to add someone to their ranks, either for this position or to replace whoever takes it. This could mean the position may not be filled right away, depending on the time required to bring another deputy into the HCSO.

ATTACHMENTS—Please include the following with your application

Proposal Narrative: Brief description of your request for *Measure Z* funds – Please explain how it is an essential service or for public safety. (one page maximum)

Prior Year Results: If your request is a continuation of a program funded with *Measure Z* in prior fiscal years, please provide the results of implementation. (one page maximum)

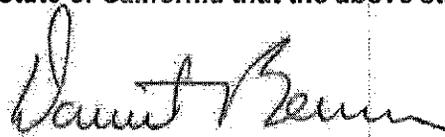
Program Budget

I declare under penalty of perjury under the laws of the State of California that the above statements and all attachments are true and correct

DATE:

2-16-17

SIGNATURE:



SUBMIT THIS APPLICATION TO:

Humboldt County Citizens' Advisory Committee on *Measure Z* Expenditures
c/o County Administrative Office
825 Fifth Street, Suite 111
Eureka, CA 95501-1153.

City of Trinidad
Project Narrative
Measure Z Funding Proposal

The City of Trinidad is requesting Measure Z funding to support one (1) full time deputy sheriff position as part of our contract for law enforcement services with the Humboldt County Sheriff's Office (HCSO). The City-HCSO contract currently supports one full time deputy, with a four day a week schedule. The City supplements that position with one additional eight hour shift per week, but we are still left with no dedicated Trinidad-based law enforcement two days a week, and very limited coverage at night.

The City is very pleased with our deputy and with our partnership with HCSO. However we are struggling, like the rest of the County, with challenges related to recent statewide Public Safety Re-Alignment, where repeat offenders for a range of property crimes appear to be back on the street almost immediately upon arrest. Our problems with limited coverage are magnified when our one deputy has required training, or medical or other leave, and we are left with almost no dedicated coverage for one to two weeks at a time.

It is important to emphasize that Trinidad's contract deputy, by agreement between the City and HCSO, effectively serves the 'Greater Trinidad Area' from Westhaven to Patrick's Point, which is otherwise covered from the McKinleyville Sheriff's Station. While the City itself is small, having an additional deputy headquartered in Trinidad will significantly benefit public safety in the surrounding unincorporated areas. Having dedicated deputies for our area makes an enormous difference in their knowledge of the people, the problems, and their ability to work on more complex long term investigations, as opposed to steadily varying shift coverage from McKinleyville.

The 'Greater Trinidad Area' suffers from our share of criminal activity, including a recent bar fight stabbing just outside City Limits, ongoing organized drug dealing activity, the recovery of multiple stolen firearms (from the large Pacific Outfitters theft last year) from a house one block from our City offices, repeated robberies with weapons at our gas station, and steady property crime including repeated thefts at our City Water Plant, and smash and grab robberies of parked cars both in and out of the City.

The City has discussed this proposal with HCSO representatives, and we believe that this request would benefit the greater Trinidad area community and HCSO as well as the City itself. The requested funding would be passed through entirely to HCSO for the deputy position. The City would provide, at our own cost, the necessary office space, computer, and other costs associated with supporting this deputy, as we do in our current contract. The City would of course work cooperatively with HCSO to make this proposal successful and feasible from their perspective.

Funding for additional front line law enforcement officers is exactly what the voters were envisioning in supporting Measure Z and this proposal would do exactly that, to the benefit of a significant area of the County.

On behalf of the City of Trinidad, thank you for your consideration of this proposal.

City of Trinidad
Prior Year Results
2017 Measure Z Funding Proposal

The City of Trinidad requested funds in 2016 for one (1) full time deputy sheriff position as part of our contract for law enforcement services with the Humboldt County Sheriff's Office (HCSO). We were awarded half of our request, with the intent of sharing a full time deputy between Trinidad and Blue Lake. Unfortunately the Sheriff's Office was not able to spare a deputy to fill this position in 2016. As a result the funds have not yet been put to use. As a result of recent hires, and new recruits making their way through the Academy, the Sheriff's Office expects that they will have deputies available in the fall of 2017.

To put the 2016 allocated funds to work, the City has requested that the Board of Supervisors approve an alternative proposal, where the funds would be available to support and supplement our existing contract with the Sheriff's Office. Specifically this would allow the City to supplement our one full time deputy with up to 3 additional eight hour shifts per week to cover days (and nights) where we currently have no local coverage. We expect the Board of Supervisors to consider this request in the next few weeks (by early March 2017).

Budget
City of Trinidad Measure Z request - 2017

Date: 2/15/17

Descriptions	Amounts
A. Personnel Costs	
Title: One Deputy Sheriff Salary and Benefits This is the expected contract rate for 1 FTE Deputy Sheriff. Our contract is up for Calculation: renewal and final costs are not set. The City will cover any difference if need be. This is the entire Measure Z request - the City will cover all other costs.	162,685.00
Duties Description:	
Total Personnel:	
	162,685.00
B. Operational Costs (Rent, Utilities, Phones, etc.)	
Title: Rent	
Description: Rent for office space (Provided by City)	\$9,000
Title: Utilities: phone (Provided by City)	
Description:	\$3,500
Title: Desktop Computer (Provided by City)	
Description:	\$850
Total Operating Costs:	
	\$13,350
C. Consumables/Supplies (Supplies and Consumables should be separate)	
Title: Office consumables - paper, ink, misc office supplies	
Description:	\$1,000
Title:	
Description:	
Title:	
Description:	
Title:	
Description:	
Total	
	\$1,000.00
TOTAL MEASURE Z Request	
	\$162,685.00
Total City Contribution	
	14,350.00
TOTAL COST	
	\$177,035.00



CONSENT AGENDA ITEM 7

SUPPORTING DOCUMENTATION FOLLOWS WITH: 7 PAGES

7. Authorize City Manager to Sign Project Agreement for Stormwater Grant Phase II

CONSENT AGENDA ITEM

Date: March 8, 2017

Item: AUTHORIZING THE CITY MANAGER TO ENTER INTO A STORM WATER PROJECT GRANT AGREEMENT

Summary:

In December 2016, the City was notified by the State Water Resources Control Board that the City's proposed Storm Water Management Improvement Project (Project) was awarded \$3.66 million in Proposition 1 Storm Water Grant Program funding. The City Council approved submittal of the funding application on June 8, 2016. The Project will construct stormwater infrastructure that will eliminate our direct stormwater discharge to Trinidad Bay by infiltrating and treating the storm water runoff.

The total project cost is budgeted at \$4,067,152, with the City responsible for 10% of the project costs, approximately \$407,000, as local match. As discussed when the Council approved the application, staff strongly recommends going forward with this project, and believes it would be ultimately much more expensive to turn down the state grant funding. The action before the Council now is to consider a resolution authorizing the City Manager to enter into the grant agreement with the funder. A final decision on how to finance the City's share of the project will return to Council, an outline of which is included below. Staff recommends approval of the attached resolution.

Background:

The California Ocean Plan prohibits polluted discharges into the Trinidad Bay Area of Special Biological Significance (ASBS). Because a portion of the City's storm water drainage system discharges runoff into the ASBS, the City is highly regulated through the Phase II MS4 Stormwater program with Special Conditions for ASBS Discharges, and is expected to work towards elimination of this pollution source. Maintaining this permit, and conducting the extensive water quality and biological monitoring required, has cost over \$265,000 in the last five years. Much of this cost has been covered by State grants to date. The Trinidad Rancheria and HSU Marine Lab, who also discharge to the Bay and are dealing with the same mandate, have shared in the monitoring costs.

Since receiving the 2005 Notice of Prohibition of Waste Discharge to the ASBS, the City has worked collaboratively with the other ASBS dischargers, the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the HSU Marine lab as well as other stakeholders to prioritize and implement projects to reduce or eliminate discharges into the ASBS. These efforts include the Rancheria's Pier Replacement Project, completed in 2013 and the City's Stormwater Management Improvement Project, completed for the upper area of the City in 2015. The remaining lower areas of the storm water drainage system still discharge into the ASBS. The City's application for \$4 million to the Proposition 1 Storm Water Grant Program (SWGPP) was successful and the State Water Resources Control Board's (SWRCB) awarded funding to construct improvements that will eliminate the direct discharge of City storm water to the ASBS.

The SWGP funding requires the City to provide a minimum 10% of the total project costs as local match. This is a significant challenge for a small City such as Trinidad. However, by eliminating the discharge, the City would no longer be regulated through MS4 permit coverage. In other words the ongoing costs of maintaining this permit, including all the reporting and monitoring, will end with this project.

City staff and the City Engineer GHD have researched match financing options and budget implications of completing the Storm Water Project to eliminate the discharge into the ASBS.

Prop 1 Stormwater Grant Program Match Financing Options

The grant requires the City to provide 10% of the total project cost as matching funds, or ~\$407,000. Staff estimates that we can claim ~\$83,000 in eligible general fund expenses for stormwater compliance through the grant end date. Those are funds we need to spend in any case, and have been or will be in our General Fund budgets. That leaves a remaining balance of ~\$323,000 for the City to come up with. The basic options are to borrow the money as a low interest loan, draw it down from the general fund reserves, or some combination of the two.

The two primary loan programs the City could access include the Clean Water State Revolving Fund Expanded Use Program and USDA Rural Development Water & Waste Disposal Loan and Grant Program. Grant terms range from 20 – 40 years with interest rates of 1.5% – 3%. Either of these two programs would be a good choice for match funds. Loan payments for financing the full amount are estimated to be in the range of \$13,000 to \$21,000 per year, depending on the final interest rate and loan term.

Storm Water Project Match							
Details							
	Fiscal Years						
City Budget Implications	14-15	15-16	16-17	17-18	18-19	19-20	Total
General Fund - Committed MS4 Expenditures	8,000	12,000	19,000	15,000	14,500	14,500	\$83,000
Loan	Payment details below						\$323,715
	Total Match provided						\$406,715

Loan to fund improvements to Storm Water System			
		loan term	Annual Payment
loan amount	\$323,715		
Annual Loan costs paid by general fund	%		
USDA	2.5%	40	(\$12,896)
USDA	2.5%	30	(\$15,466)
USDA	2.5%	20	(\$20,765)
CWSRF	1.50%	30	(\$13,479)
CWSRF	1.50%	20	(\$18,855)

If the Council chooses not to pursue the Storm Water Project at this time, and the discharge is not eliminated, the City would become out of compliance with the ASBS Special Protections and MS4 Permit in 2018. At a minimum, we would need to renew our permit for another five years, and fund expensive chemical and biological monitoring of the discharge and the receiving waters of Trinidad Bay. Based on the past permit term, expenses to the City would be approximately \$325,000 for the 2019-2024 permit term, averaging \$65,000 annually, including Permit fees, monitoring, and staff time. Thus we would be paying more than if we went ahead with the project, but would not benefit from the required infrastructure improvements. We would also be at ongoing risk of Water Board enforcement actions if any of the monitoring tests showed any pollution.

During the current permit term, a large percentage of the total compliance costs, approximately \$268,000, were reimbursed by Prop 84 ASBS and Prop 50 Watershed Coordinator grant funds.

By entering into a grant agreement to complete the storm water improvements and eliminate the discharge into the ASBS, annual costs to the City from borrowing the match funding would range from \$13,000 - \$21,000. The annual costs to the City with continued discharges to the City could exceed \$55,000 annually for partial compliance with the storm water discharge permit, and leave us vulnerable to fines and potentially mandates to complete the Project at our own cost.

Staff Recommendation:

Adopt Resolution 2017-xx, authorizing the City Manager to enter into a Prop 1 SWGP Grant Agreement for the Storm Water Phase II Project to construct improvements to the Storm Water Management System that eliminate the storm water discharge into the ASBS.

Direct Staff to return by the May meeting with a final financing proposal.

Attachments:

- Resolution 2017-xx
- Project Summary
- Project Budget

City of Trinidad Storm Water Management Improvement Project Proposition 1 Storm Water Grant Program Implementation

Project Summary

The City of Trinidad Storm Water Management Improvement Project (Project) will construct low impact development (LID) and storm water green infrastructure improvements to eliminate storm water discharges into the Trinidad Head Area of Special Biological Significance (ASBS).

The Project includes the following components:

- Constructing green infrastructure and LID improvements to the storm water system to infiltrate the stormwater runoff and eliminate the storm water outfall into the ASBS. LID improvements are planned for the upper Harbor Parking lot and sections of Edwards, Ewing, Underwood, and Hector Streets.
- Collaborating with the Cher-Ae Heights Indian Community of the Trinidad Rancheria to enhance the upper harbor parking area to benefit Harbor operations and visitors.
- Addressing environmental justice issues by working with Tribal representatives, protecting local cultural resources, and consideration of bluff stability and saturation issues.
- Collaborating with the Humboldt State University to eliminate the Marine Lab's stormwater discharge into the ASBS by redirecting the flows into the City's proposed storm water infiltration facilities.
- Promoting adoption of rainwater capture and re-use on residential/private property to reduce potable (City) water use for outdoor irrigation. Residential adoption of rainwater re-use and reducing use of City supplied water decreases the quantity of water drawn from Luffenholtz Creek and benefits Trinidad Water customers, City residents, the Rancheria, and Westhaven.
- Collaborating with the Trinidad Bay Watershed Council and the North Coast Stormwater Coalition on education and outreach to inform the public about water quality protection and water conservation, including promotion of residential low impact development and rainwater re-use, ocean-friendly and water efficient landscaping techniques.

This multiple benefit storm water management project will provide benefits to the public and the community through improvement of ocean and beach water quality, promoting a healthier marine ecosystem, protection of coastal and marine resources, and enhancement of public use areas.

Prop 1 STORMWATER GRANT PROGRAM - BUDGET SUMMARY

Applicant: City of Trinidad

FAAST PIN: 36279

Project: Trinidad Storm Water Management Improvement Project

	Requested Grant	Local Match	Other Funding	Total	% Local Match
1. Direct Project Administration Costs	\$79,480	\$76,000	\$0	\$155,480	49%
Task 1.1 Funds Administration	\$29,450			\$29,450	
Task 1.2 Project Management/Coordination	\$13,500	\$76,000		\$89,500	
Task 1.3 Labor Compliance	\$36,480			\$36,480	
				\$0	
				\$0	
2. Planning/Design/Engineering/Environmental	\$280,858	\$0	\$0	\$280,858	0%
Task 2.1 Citywide LID Hydrogeologic Analysis	\$37,280			\$37,280	
Task 2.2: Project Design	\$166,680			\$166,680	
Task 2.3 CEQA, Permitting, and Supporting Studies	\$76,898			\$76,898	
				\$0	
				\$0	
3. Construction/Implementation	\$3,194,309	\$323,715	\$0	\$3,518,024	9%
Task 3.1 Bid Period Assistance	\$14,744			\$14,744	
Task 3.2 Construction	\$2,930,925	\$323,715		\$3,254,640	
Task 3.3 Construction Administration	\$248,640			\$248,640	
				\$0	
				\$0	
4. Monitoring/Performance	\$77,040	\$0	\$0	\$77,040	0%
Task 4.1 Project Planning and Management (Includes	\$9,960			\$9,960	
Task 4.2 Implement Monitoring Plan	\$40,800			\$40,800	
Task 4.3QA/QC, Data Management, Reporting	\$26,280			\$26,280	
				\$0	
				\$0	
5. Education/Outreach	\$28,800	\$7,000	\$0	\$35,800	20%
Task 5.1 Education and Outreach (E/O) Program	\$28,800	\$7,000		\$35,800	
				\$0	
				\$0	
Grand Total:	\$3,660,437	\$406,715	\$0	\$4,067,152	10%

OTRINIDAD CITY HALL
P.O. Box 390
409 Trinity Street
Trinidad, CA 95570

(707) 677-0223

Dwight Miller, Mayor
Gabriel Adams, City Clerk



RESOLUTION 2017-03

AUTHORIZING THE CITY MANAGER TO ENTER INTO A STORM WATER PROJECT GRANT AGREEMENT

WHEREAS on October 18, 2004, the California State Water Resources Control Board (State Water Board) notified the City of Trinidad to cease storm water and nonpoint source waste discharges into Trinidad Bay, which is designated as an Area of Special Biological Significance (ASBS); and

WHEREAS on January 26, 2005, the City requested an exception to the ASBS discharge prohibition; and

WHEREAS on March 20, 2012, the State Water Board adopted Resolution 2012-0012, approving City's request for an exception to the California Ocean Plan for the ASBS discharge prohibition with Special Protections for beneficial uses; and

WHEREAS to comply with the requirements of the Special Protections, the Storm Water Management Improvement Project (Project) was identified as a priority project in the Trinidad-Westhaven Integrated Coastal Watershed Management Plan and City of Trinidad ASBS Compliance Plan; and

WHEREAS, on June 8, 2016 the Council authorized staff to prepare and submit a funding proposal for the Project for a total project cost of approximately \$5 million, including a 10% funding match to be provided by the City; and

WHEREAS, on December 20, 2016, the California State Water Resources Control Board notified the City Manager that the City of Trinidad Storm Water Management Improvement Project has been approved for funding with a grant award of approximately \$4,030,502 with a 10% funding match of \$448,350 and total project cost of \$4,478,852; and

WHEREAS, the City of Trinidad will use grant and match funds to construct City infrastructure improvements to eliminate the City's high threat direct storm water discharge to the Trinidad Head ASBS and promote adoption of practices to reduce storm water pollution and conserve water. This multi-benefit storm water management project will address environmental habitat protection of the ASBS, provide increased infiltration and treatment of storm water runoff, and provide benefits to the public and the community through improved ocean and beach water quality, a healthier marine ecosystem, enhanced public use areas, and contributing to the sustainability of the local fisheries and coastal dependent community.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, AS FOLLOWS:

The CITY MANAGER (the "Authorized Representative") or designee is hereby authorized and directed to sign and file, for and on behalf of the City, a Financial Assistance Application for a assistance agreement from the State Water Resources Control Board for the planning, design, and construction of the Storm Water Management Improvement Project (the "Project").

This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

The Authorized Representative, or his/her designee, is designated to represent the City in carrying out the City's responsibilities under the assistance agreement, including certifying disbursement requests on behalf of the City and compliance with applicable requirements.

PASSED AND ADOPTED BY THE TRINIDAD CITY COUNCIL of Humboldt County of the State of California this 8th day of March, 2017.

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the held on March 8, 2017.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the Trinidad City Council by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Attest:

Gabriel Adams
Trinidad City Clerk

Dwight Miller
Mayor

DRAFT



CONSENT AGENDA ITEM 8

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

8. Update on Ocean Avenue Encroachments

CONSENT AGENDA ITEM

Wednesday, March 08, 2017

Item: Ocean Avenue Encroachments

Background:

The City has heard repeated requests for assistance from Ocean Avenue residents about limited parking, and about encroachments into the street resulting in parked cars partially blocking what should be the cleared roadway.

The two dramatic examples are at 407 Ocean St., and at 357 Ocean St.

At 407 Ocean, a full asphalt curb was constructed approximately six feet out into the City's Right of Way along the length of the property. The result is that when people park along that curb, their vehicle is well into what should be the clear roadway. It creates essentially a one lane area. The problem has been exacerbated by a high occupancy at the home for many years resulting in a large number of cars utilizing this 'in the road' parking.

This situation long predates the current owner. He has indicated that he is fine with the City reclaiming the right of way, at our cost. The larger rhododendrons at this site appear to be rooted behind the right of way line. They will suffer severe trimming, but may survive.

At 357 Ocean, an escalonia hedge is occupying what would otherwise be at least two parking places, and as above, cars that park adjacent to the hedge are in what should be the cleared roadway. Escalonia is a notoriously fast growing plant, and it has been expanding in every direction much faster than any trimming efforts. Public Works staff have had to create a tunnel into the hedge to access the water meter. Staff have not yet spoken with the owner. Photos indicate the hedge began after 2007, so this may be the responsibility of the current property owner, depending on when the property last changed hands.

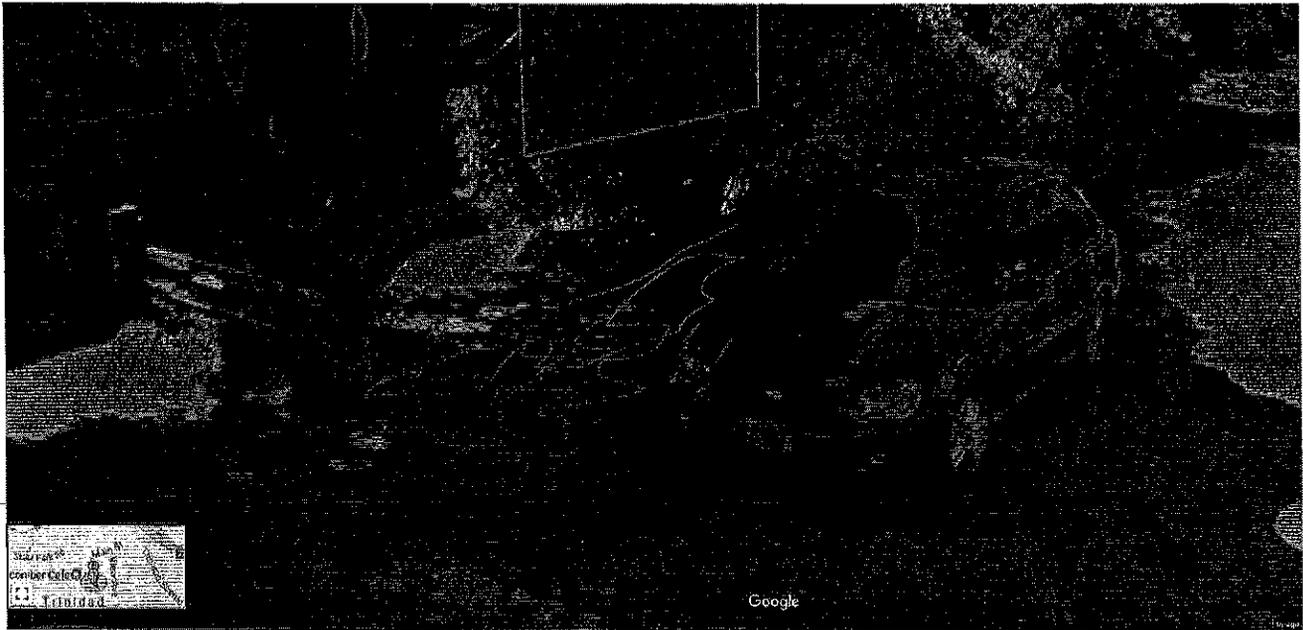
Staff proposal –

Staff are moving forward with further conversations with these property owners, and with getting cost estimates for removal of these encroachments, and installation of gravel to restore (or create) parking at each site that is consistent with the surrounding properties and does not obstruct the 'traveled way' of Ocean Ave. Staff will return to Council with costs for approval, unless they fall within current public works road budget allocations for the year. If costs are extensive, this project and its rank among city priorities will need to be considered in the context of next year's budget development.

Staff Recommendation: Provide direction as appropriate.

Attachments: Photos

407 Ocean



357 Ocean.





CONSENT AGENDA ITEM 9

SUPPORTING DOCUMENTATION FOLLOWS WITH: 4 PAGES

9. Agreement for Services with Streamline Planning Consultants for Ocean Protection Council LID Grant Project

CONSENT AGENDA ITEM

Date: March 8, 2017

Item: STREAMLINE PLANNING/SHN CONSULTANT SCOPE OF SERVICES FOR OCEAN PROTECTION COUNCIL CITYWIDE LID GRANT PROJECT.

Summary:

The City of Trinidad is beginning work on the Ocean Protection Council Grant funded Citywide Low Impact Development Planning and Construction Project (Citywide LID Project). Streamline Planning/SHN will provide city planner and qualified stormwater developer (QSD) services to assist the City with development of an LID policy guidance document and conducting several educational workshops. A consultant scope of services for \$9,200 is attached outlining the Streamline Planning tasks and budget for the Citywide LID Project.

Background:

On February 10, 2016, the City Council adopted Resolution 2016-01, approving the application for and execution of a grant agreement for the Citywide LID Project. The application was successful and the City entered into a grant agreement with the Ocean Protection Council (OPC) for the Citywide LID Project on October 25, 2016. The goal of the project is to reduce the quantity of polluted runoff discharging into Trinidad Bay through construction of low impact development (LID) improvements to the storm drainage system, conducting groundwater modeling, developing LID policy guidance to address bluff saturation and stability issues, and by promoting residential use of LID features and ocean friendly gardening techniques that improve water quality and reduce water use. The grant funded project construction includes 3 "shovel-ready" LID projects that were designed and permitted during the recently completed Stormwater Project Phase 1, but not constructed due to budget constraints. Under the Grant Project Work Plan, Streamline Planning /SHN will provide services for development of the LID Zoning and Restoration Policy, and assisting with outreach and education materials and activities, including the Ocean Friendly Gardening Guide and educational events. The Grant Project is scheduled to be completed in June 2018.

Agreement for Services with Streamline Planning /SHN for \$9,200 is attached. The cost for the contracted services will be reimbursed through the Ocean Protection Council Proposition 1 Program Grant Agreement No. P01-1-02.

Staff Recommendation:

1) Authorize City Manager to sign the scope of services with Streamline Planning/SHN.

Attachments:

- Streamline Planning/SHN Scope of Services for the Citywide LID Project.

Agreement for Services between City of Trinidad

and Streamline Planning Consultants, A Division of SHN Consulting Engineers & Geologists, Inc.

For

Assistance with the Trinidad Citywide LID Planning and Construction Project

Introduction

This agreement, dated March 8, 2017 is between the City of Trinidad (City) and Streamline Planning Consultants, a division of SHN Consulting Engineers & Geologists (SPC) to provide assistance with the Trinidad Citywide Low Impact Development Planning and Construction Project (Project) being funded by a Proposition 1 Ocean Protection Council (OPC) Grant Agreement No. P01-1-02. The agreement period begins January 1, 2017 and ends June 30, 2018. This agreement for services is based on a prime agreement between the City of Trinidad and Streamline Planning Consultants dated May 12, 2015. All provisions of the prime agreement apply to this agreement unless noted otherwise in this agreement.

The purpose of this Project is for planning and constructing Low Impact Development facilities, including development of LID policy guidance to identify preferable locations for future LID projects based on hydrologic modeling. This project will also construct a residential LID demonstration project, and promote residential use of LID features by implementing an incentive program and providing workshops about planning, installing and maintaining LID landscapes.

TERMS AND CONDITIONS

In addition to the terms and conditions outlined herein, the terms and conditions of this agreement shall be in accord with and encompass those terms and conditions set forth in the OPC Grant Agreement No. P01-1-02, attached hereto as Exhibit A.

SCOPE & DELIVERABLES

The scope of service is broken up into tasks as described below. These tasks align with those included in the City's Grant Agreement with OPC and the City's OPC Application package. The project consists of five main tasks, as described in the OPC Work Plan, attached hereto as Exhibit B.

SPC is the City's contract planner and has staff experienced with LID design, installation, and education assisting the City with Task 3.1 Ocean Friendly Gardening Guide; Task 4.1 LID Zoning and Restoration Policy Development and Implementation; and Task 5.3 Public Education and Outreach. The following narrative details responsibilities for each task.

Task 3.1 Ocean Friendly Gardening Guide

A guide will be developed to inform residents and professionals about how to plan, install and maintain Ocean Friendly gardens and landscapes. "Ocean Friendly Landscaping" is an approach to landscaping that prevents water pollution, reduces waste, conserves water, and creates and protects wildlife habitat. The Guide will supplement the existing Humboldt LID Stormwater Manual with ocean friendly gardening principles (including design, installation and maintenance) and information about soil preparation, plant selection, pest management and reducing water use.

GHD is the lead on this task. Under this task SPC (Trevor Parker and Sam Polly, QSD) will assist with development of the Ocean Friendly Gardening Guide. SPC will provide input at two project meetings and review/comment on the draft Ocean Friendly Gardening Guide.

Task 3.1 Services: Attend not more than two project meetings as requested to provide input. Review draft Ocean Friendly Gardening Guide.

Task 4.2 LID Zoning and Restoration Policy Development and Implementation

Increased infiltration of groundwater is a concern in select areas of the City where it could contribute to bluff instability. Under this task, policy will be developed about where increased infiltration should be encouraged vs. discouraged and to support appropriate siting of LID in the City. As a basis for the policy, GHD will utilize an existing hydrology/groundwater model to explore the potential effects of LID projects in various areas of the City. This model will be used to help answer questions regarding where LID projects would have the most benefit, and where LID projects would not be preferable. The modeling results will help inform the development of City policy regarding LID projects.

This task will codify or formalize the results of the LID planning effort. Overlay zones/maps will be created to designate areas where LID is and is not appropriate and be incorporated into the City's project application and development review procedures (building and planning). Policy will be developed that integrates the guidance developed for the Residential LID package into existing codes, including the stormwater and water efficient landscaping ordinances. It will also be determined whether LID guidance should be incorporated into the LCP, or whether it can be implemented as conditions of project approval. Develop and finalize a Low Impact Development (LID) zoning and restoration policy and update existing codes using the Infiltration Technical Memorandum developed in Task 4.1 Groundwater Modeling Technical Analysis.

Task 4.2 Services: SPC will develop draft and final LID Zoning and Restoration Policy.

Assumptions

- The groundwater modeling will be completed by GHD.
- GHD will provide a Final Infiltration Technical Memorandum
- Zoning and public policy issues will be addressed by the City and SPC.
- SPC is not responsible for creating map data/layers.

Task 5b: Public Outreach and Education

GHD is the lead on this task. SPC will assist with public events to provide educational workshops for implementing LID projects. These training events will be used to create enthusiasm and skill-building for residents to support each other in implementing LID projects. Two hands on workshops will be held to demonstrate proper design, installation, and maintenance of LID features and Ocean Friendly gardening. These workshops will be similar to Surfrider Foundation's "Hands On Workshops (HOW)" to provide opportunities for the training event to encourage implementation of residential projects. Demonstration residential LID features will be installed at the City Manager's Office Annex, and used for workshops for training residents in LID and Ocean Friendly Gardening design concepts and installation. An informational Ocean Friendly fair will be held. Project information will be disseminated at the Trinidad Fish Festival.

Task 5b Services

- Present draft LID Policies at TBWC, City Council & Planning Commission; coordination meeting. Assist with 2 LID workshops, the Ocean Friendly fair and tabling/LID tours at the Fish Festival.

Compensation

SPC will complete this scope of work on a not to exceed basis in accordance with the approved grant budget. Work will be completed and billed calendar quarterly on an hourly basis by task. The budget estimate is broken down as follows:

Task	Description	Schedule	Fee
Task 3	LID Guidance Ocean Friendly Garden Guide	April – May 2017	\$750
Task 4	LID Zoning and Restoration Policy	March – September 2017	\$3,500
Task 5	Public Outreach and Education	March 2017-June 2018	
Task 5.3.1	TBWC Meeting Presentation		\$300
Task 5.3.2	Meeting Updates & Presentations		\$400
Task 5.3.3	Workshop 1 - LID Design & Installation		\$1000
Task 5.3.4	Workshop 2 – Ocean Friendly Gardening & LID Maintenance Workshop		\$1000
Task 5.3.5	Workshop 3 - Ocean Friendly Fair		\$1750
Task 5.3.6	Fish Festival Tabling		<u>\$500</u>
	Total:		\$9,200

Agreed

 Daniel Berman
 Trinidad City Manager

Date

 Robert Brown
 Streamline Planning

Date

Please include the following project reference on all invoices: 522 OPC Citywide LID Project



CONSENT AGENDA ITEM 10

SUPPORTING DOCUMENTATION FOLLOWS WITH: 7 PAGES

10. Trinidad Head Cellular Site Lease Update

ACTION AGENDA ITEM

Wednesday, March 8th, 2017

Item: Trinidad Head Cellular Site Lease Update

Summary: At the regular meeting in February the City Council requested that Staff return in March with an update regarding the lease agreement status between the City and Verizon Wireless for the cellular facility site on Trinidad Head. To date, no formal notice from Verizon has been received regarding whether or not they plan to exercise the 5-year extension period beyond the April 17, 2017 expiration date.

The attached legal analysis/staff report was prepared in 2012, prompted by proposed site modifications requested by Verizon at that time. It contains a thorough summary of lease and addresses legal issues regarding the existence of the site. The information provided is relevant to understanding the lease and the City's options.

Staff Recommendation:

Staff defers to the City Attorney's advice, as written in the attached memo, regarding the 5-year extension option.

LAW OFFICES OF
PERLMAN & STUNICH LLP

RANDY S. PERLMAN

ANDREW J. STUNICH

1036 FIFTH STREET, SUITE E
EUREKA, CALIFORNIA 95501

Telephone: (707) 442-2927
Fax: (707) 443-2747
E-mail address: ajs@perلمانstunichlaw.com

MAILING ADDRESS:
P. O. Box 1248
Eureka, CA 95502

June 28, 2012

Trinidad City Council, Mayor and City Manager
409 Trinity Street
Trinidad, California 95570

* RE: DISCUSSION/ACTION AGENDA ITEM; STAFF REPORT FROM CITY ATTORNEY

* ITEM: MODIFICATIONS TO EXISTING VERIZON WIRELESS FACILITY ON
TRINIDAD HEAD

* BACKGROUND: Verizon has requested permission under its cell phone tower Leasehold with the City of Trinidad to make certain upgrades to its cell phone towers. Verizon seeks to make some minor changes inside the existing structure, replace three existing antennas with three new antennas of the same height and dimensions at the same locations, and replace a four foot dish with a three foot dish. I spoke with Verizon's attorney, Mr. Heard, on June 25, 2012. He advised that pursuant to the City Manager's request, a detailed work plan is being prepared to show exactly what will be done. His subsequent letter dated June 28, 2012 sets forth the exact details on page 2 (his letter is attached hereto). As can be seen, relatively minor modifications are proposed that will not make substantial changes to the Leasehold.

Note that when I use the term "substantial," I do so in the legal sense with the full understanding that many people view the matter emotionally or politically and on that basis anything done to the Leasehold is substantial. However, as an attorney, my focus must be on the law and, regardless as to my personal views, I must give sound, objective legal advice that focuses on what the law is and not what I believe it should be. Under an objective legal analysis, the proposed changes are far from substantial.

* HISTORICAL BACKGROUND OF THE LEASE: The original Lease was approved by the City Council on April 17, 1997, and has a term of twenty years, to expire in 2017, but there is an option to extend the Lease for five years. That option to extend does not require the City of Trinidad's consent. If the City wanted to challenge the five-year option, it would have to establish that the clause is ambiguous and means with the City of Trinidad's consent, but that would be an unusual interpretation and some documentary evidence would need to be found

establishing that was the intent at the time the agreement was signed. The Lease is for approximately 2,400 square feet of ground on Trinidad Head, where Verizon's predecessors in interest have installed and operate cellular communication equipment. Rent for the Ground Lease was originally set at \$250.00 per month. The Ground Lease was amended once, effective January 1, 2001, to approve specific sub-leases. The sublessees are (1) Ubiquitel Leasing Company, LCC (a Delaware corp.), and (2) Edge Wireless, LCC (an OR corp.). The Ground Lease amendment contains a provision that 30% of any sublease fees from these sublessees to the lessee will go to the City; this was scheduled to be \$780.00 per month beginning February 1, 2002, and was set to rise at a rate of 4% each year thereafter. I do not have a copy of the amendment, but observed it referred to in prior reports by past City Attorneys.

* ASSIGNMENT/TRANSFER ISSUES: In July and August of 2006, former City Attorney, Jeff Guttero, had communications with an attorney representing Cellco Partnership, which does business as ("dba") Verizon Wireless. These communications centered around the City's then perception that Cal-One had breached the Ground Lease in agreeing to an assignment of it to a third party without the City's consent. The response was that the transaction was not an assignment, but rather a transfer of ownership interests, and thus did not require the City's consent. Case law was provided to support the argument. I am informed the matter was dropped by the City at this point. I have reviewed the applicable Lease provisions and agree that there was nothing the City of Trinidad could do about the transfer. Besides, an objection would have to have been made based upon reasonable grounds and I believe the City of Trinidad would have been hard-pressed to find reasonable grounds to avoid an assignment. The alleged breaches of contract raised at the last City Council meeting relate to assignment without written consent. But read clause 10.01 of the Lease. We do not have enough information to know if the clause was violated because some transfers are allowed with no consent as Mr. Guttero observed when the matter was last considered. But even if we assume for sake of argument the clause was violated, California law holds that if a restriction on transfer of the tenant's (Lessee's) interest in a lease requires the landlord's consent for transfer but provides no standard for giving or withholding consent (this is the case in our Verizon contract), the restriction on transfer shall be construed to include an implied standard that the landlord's consent may not be unreasonably withheld.

Whether the landlord's consent has been unreasonably withheld in a particular case is a question of fact on which the tenant has the burden of proof. The tenant may satisfy the burden of proof by showing that, in response to the tenant's written request for a statement of reasons for withholding consent, the landlord has failed, within a reasonable time, to state in writing a reasonable objection to the transfer.

Those potential breaches were not the type of breaches that are "material" because consent could not have been lawfully withheld. Hence, the only relief available would have been the actual damages related to the breaches and there was no damage. Besides, the statute of limitations has

run for the first alleged breach (four years for breach of a written contract). Keep in mind that in California pursuant to Civil Code § 711: "Conditions restraining alienation, when repugnant to the interest created, are void."

In other words, California highly favors the right to assign interests such as the subject Lease contract where there is no harm to the other party. The second incident may not be an unlawful assignment. It appears the Verizon legal entity has been maintained, but even if there was an assignment it was not material given that consent for the assignment could not have been withheld. The Restatement of Contracts favors an interpretation that holds covenants to be independent. (Rest.2d. Contracts §227(1)). California law is in accord. Where covenants are independent and the obligations so unrelated, failure to perform one does not excuse performance of the other.

Finally, by accepting rent and not doing anything since the alleged breach of contract and appearing to have ratified the assignment, any rights to void the breaches, if in fact a breach occurred, was waived.

It follows that the claims made at the last Council meeting by members of the public that there are breaches of contract that give the City of Trinidad a legal way to avoid new requests from Verizon were inaccurate. Only material breaches of contract excuse further performance and breaches of contract that do no real harm are never deemed material.

* PROPOSED ACTION: I strongly recommend that the City of Trinidad give immediate written consent to Verizon for the proposed changes. I further recommend that any necessary permits be issued as soon as possible. Note that such permits must be issued as quickly as possible and ninety days is the maximum length of time to give prior final approval, but even 90 days can be held unreasonable if that much time is not needed. Here, we have had a considerable amount of time to evaluate the matter before a permit request has even been submitted and we must, therefore, act quickly as new laws mandate a fast response. The rest of this document will explain the basis for my recommendations.

The Coastal Commission's Position on Cell Towers on Trinidad Head Has Probably Changed Due To Changes In The Applicable Law

The coastal development permit for the 1997 Lease (and three subsequent "local permit actions" concerning it) were all approved by the City of Trinidad without appeal to the Commission; hence, there was no review of the issues by the Commission up to that time. That changed in October, 2006 when U.S. Cellular applied for a Coastal Development and Conditional Use Permit to install cellular antennae on Trinidad Head.

The Commission staff report on the appeal of U.S. Cellular's permit is informative about the inconsistency of cell towers with various provisions of the City's certified Local Coastal Program, Zoning Ordinance, and Land use Plan generally. The report takes particular notice of the City's 1997 (and subsequent) coastal development permitting activity regarding the cell tower and antennae.

The staff report for the U.S. Cellular hearing for February 16, 2007, states that it was not until this 2006 appeal of U.S. Cellular's application:

that staff fully analyzed the use limitations of the site and determined that the [Cal-One] cellular transmission facilities did not conform with the [City's] Open Space zoning district's requirement [...]. Notwithstanding the lack of factual evidence to support [the City's] approval [of Cal-One's requests in 1997 and subsequently] as conditionally permitted accessory structures [i.e., the antennae], the four preceding development permits are now legally vested.

Accordingly, it may well be that the City of Trinidad may have erred in approving each of the four coastal development permits now held by Verizon as the uses allowed by the City were inconsistent with various policies and laws at the local, state and federal levels at the time. However, the four preceding development permits are now legally vested, meaning that the permit holder cannot be denied the uses allowed in the permits despite the City's potential past error in approving them.

Since the issue last was presented to the Coastal Commission, the applicable laws have changed. Given that the laws have changed, the Coastal Commission may have no choice but to approve Verizon's pending requests if the matter reaches the Commission. President Obama signed HR 3630, the Middle Class Tax Relief and Job Creation Act of 2012, into law. In addition to extending unemployment benefits and tax cuts, the law amended the Telecommunications Act of 1996.

The applicable language of the new law is contained in Section 6409:

(a) FACILITY MODIFICATIONS.

(1) IN GENERAL. Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104-104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST. For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

The new law does not provide any guidance as to what constitutes a “modification” or a substantial change so that is a factual issue, but I would be hard-pressed to argue in court with any credibility that what is being requested here is anything other than within the ambit of the foregoing law.

Another fact that makes any desire to deny Verizon’s request untenable is that the removal or replacement of transmission equipment has often been administratively approved by local siting authorities where the number and size of antennas have not substantially changed. Hence, a denial here would be out of the ordinary.

I believe the foregoing new law applies to both the City of Trinidad giving consent under the Lease and allowing the permits to issue *because federal law supercedes the local rules and guidelines*. I could be wrong about the permits, but I suspect I am correct. There is no way to know for sure until a case with this same factual scenario is decided on appeal. The new law seems clear and unambiguous to me and I would be surprised if any loophole could be found. If there is some basis by which a permit might be denied, that should be left to the permit process by way of appeal to the Commission as to do otherwise risks expensive litigation.

**Denial of Verizon’s Request Would Result in Expensive
Litigation That The City of Trinidad Would Probably Lose**

Where a contract confers on one party a discretionary power affecting rights of the other party as is the case here wherein Verizon needs our written consent for the proposed changes, a legal duty is imposed to exercise that discretion in good faith and in accordance with fair dealing. Good faith relates to the nature of the contract. Maybe the contract should not have been made, but it was made and to withhold consent just because we think a past mistake was made by entering into the contract would not be commercially reasonable and the City will have breached the implied covenant of good faith and fair dealing.

The safest way to handle this matter is to give conditioned written approval dependent upon compliance with lease clause 5.05(d). If permits are denied based upon some matter unforeseeable at this time, that is not a lessor/lessee issue wherein a breach of contract is

involved as long as the matter is treated as a permit issue and not a written consent issue. That way the issue can be decided in a more favorable forum wherein we DO NOT risk having to pay Verizon's legal fees.

Moreover, we cannot demand higher rent as a condition to approving the requested changes as failure to agree to a higher Lease payment would not constitute commercially reasonable grounds under the circumstances before us.

CONCLUSION

The cell tower, antennae and supporting equipment, etc., are legally permitted and the Lease with the City runs until 2017 and probably until 2022 if the option to extend is exercised. It appears there is no legal basis to deny the requested upgrades and I strongly advise against doing so as I believe it would result in expensive litigation that could not be won. I also recommend a quick granting of the requested permit as it appears the new law would apply to that issue as well.

* Attachments: FCC Declaratory Ruling and Letter from Verizon's Counsel

Cordially,

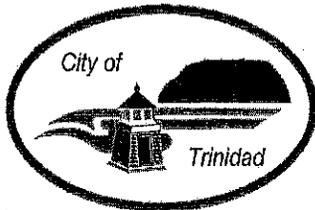
Andrew Stunich
City Attorney



CONSENT AGENDA ITEM 11

SUPPORTING DOCUMENTATION FOLLOWS WITH: **3 PAGES**

11. City Manager's Staff Activities Report – February 2017



*Dwight Miller, Mayor
Dan Berman, City Manager*

STAFF ACTIVITIES REPORT

February/March 2017

City Administration:

Law Enforcement Services. Our three year contract for law enforcement services with the Humboldt County Sheriff's Office (HCSO) expires this summer. We should have a draft contract to look at by the next meeting. The starting point will be the same staffing we have now of 1 FTE plus funds for an extra shift a week. Staff recommends the Public Safety Committee hold a focused Public Safety and Law Enforcement Services meeting as part of considering the new contract.

Deputy Mathison has the extra weekly shift filled, and we expect to increase those shifts with the Measure Z funding. The additional on-site coverage hours varies from week to week, and will not be announced to the public. In addition to on-site assignment, law enforcement will continue to respond 24 hours a day/7 days/week to calls for service.

Town Hall Improvements. Scott Baker is assisting the city with prioritizing the remaining ADA improvements. Parking, water fountain, and Zero Waste Humboldt is applying for a grant to install a water bottle filling station, likely also in Town Hall.

STR Ordinance

We have satisfied all the Coastal Commission staff's requests for information, and are waiting for their comments. See Consent Item

Tsurai Study Area Settlement and Land Transfer.

The Coastal Conservancy's approval is required for the land transfer to go forward. There are four party discussions underway to try and meet their requests for that approval. The draft settlement (as conditionally approved by Council in December 2016) has not been signed by either TAS or the City.

Planning

General Plan/LCP Update - Planning Commission is holding extra meetings to review General Plan Elements/Chapters. A stakeholder meeting on the Harbor Area Plan is scheduled for March. A detailed update memo was provided in the February 2017 meeting packet.

View Restoration Permit process for Van Wycke St.

The Planning Commission discussed this at their Feb 15th meeting. The applicants have some additional information to pull together before the next public hearing.

Auditor recommendation for non-interest bearing cash accounts.

Staff is soliciting investment proposals from the City's current banking partners Tri-Counties & Morgan Stanley, and reviewing other options with the County Treasury, LAIF, and Raymond James Investments. Cash assets are being moved from non-interest bearing accounts to LAIF in the meantime. Staff will be evaluating proposals and hopefully be able to make recommendations for review to the Council in April or May.

WATER SYSTEM

Install Streamflow Monitoring on Luffenholtz Creek (Water Fund)

This is under contract and will be installed this summer when flows drop.

Resolving Title at Water Plant The Water Plant was built on the old County road right of way, and that has never been cleaned up. Staff plan to propose this project in the budget and workplan for next year.

Asset Management System – (75% Water Fund) Asset Management software configured and installed at the Water Plant this month, and is already populated with data about many key components and maintenance of the Water Plant. Water Plant staff has started remote training on use of the asset management system, the mobile work orders to be used in the field, and the water quality compliance reporting module. The asset management system is a database that provides a catalog of asset inventory, creates maintenance schedules, and documentation of maintenance activities will help manage the water plant and public works infrastructure.

Capital Improvement Program (CIP) – (75% Water Fund) When it's up and running, the Asset Management Software will help staff develop long range plans for future replacement of critical assets and to prioritize our long term maintenance and replacement efforts.

Water Filter Replacements – (Water Fund) – This emergency action is 95% complete (see consent agenda)

GRANTS –

Van Wycke Trail – (Grant Funded) – Request for Scope Change approved by Caltrans – see Consent Agenda Item.

Clean Beaches Initiative OWTS Repair/Replacement Grant – The first round of repairs have been permitted and will be put out to bid as weather allows. Another round of outreach has started to invite OWTS owners in the priority areas of Parker, Luffenholtz and Joland Creeks to get their systems inspected and, if their system needs repairs, to apply to the Clean Beaches OWTS program for funding assistance.

ASBS Storm Water Management Improvement Project – The City's Grant proposal for Storm Water Grant Program funding was successful. See the Consent Agenda Item Authorizing the City Manager to enter into a Grant Agreement for the Storm Water Project.

Ocean Protection Council funded Citywide LID Planning and Construction Project – Work has begun on this project to construct storm water system improvements that were planned but not installed during phase 1 of the Storm Water Management Improvement project. Construction is planned for this summer on East, West, and Hector Streets. Additional tasks for this project include a LID hands-on workshops and demonstration project.



DISCUSSION AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 14 PAGES

1. Discussion/Decision regarding Councilmember Signatures on Citizen STR Petition

ACTION AGENDA ITEM

Wednesday, March 8th, 2017

Item: Councilmember Signatures on Citizen STR Petition

Summary:

Inspired by a neighbor's letter to the Coastal Commission encouraging them to move quickly on the City's STR Ordinance, Mayor Miller drafted a similar letter and invited his fellow residents to add their name to it. The original letter, and Mayor Miller's letter, are attached. In the end the letter had 49 signatures, including four current councilmembers.

Concerns and questions have been raised as to whether the Councilmember's actions in signing this letter represent a violation of the Brown Act, or other ethical standards for elected officials.

At the time of this staff report, the City Attorney has provided a preliminary response that he does not believe there is a Brown Act violation – he sees it as an exercise of each individual signatory's private free speech rights to petition their government. He is writing up a more formal letter and will be present for our discussion. The City has requested additional outside opinions, but none are complete as of this staff report. Nancy Diamond, an attorney with a long history of advising local municipalities, is preparing a memo as well. Her initial reaction, in conversations with the City Manager, is that there was probably not a violation of the Brown Act, but that elected officials should, as a best practice, more clearly identify when they are acting as a private citizen, and when as an elected official.

There are an abundance of quality resources available on the Brown Act, and other guidance for elected officials. A good place to start is found at the Institute for Local Government website, under their 'elected official orientation materials'.

<http://www.ca-ilg.org/newly-elected-officials-orientation-materials>

There are two separate expert trainings being held locally in the coming months for elected officials and staff related to public ethics laws and the Brown Act. There are also additional online resources and web-based trainings.

At a basic level, the Brown Act is about transparency -- it requires proper noticing of agendas, prevents action and discussion from occurring at public meetings on items not on the agenda, and prohibits a quorum of elected officials from discussing issues under their jurisdiction together outside of a properly noticed meeting.

Staff will distribute written opinions from attorneys or other experts on this matter as they become available prior to the meeting.

The normal remedy for a Brown Act Violation is that the decision made or action taken is rescinded or made void. If the Council approved a letter or a contract without properly noticing it on the agenda, for instance, that action would be nullified. In this case the equivalent might be the four councilmembers removing their name from the list of signatories.

Staff recommendation – Hold a civil discussion of the issues involved, consider the legal advice available as well as the public perception.

Attachments;

Dick Bruce letter

Group Letter

ABC's of Open Government (ILG publication)

ITEM No: TH 9B

Mr. Robert Merrill
North Coast District Manager
California Coastal Commission
1385 Eighth Street, Suite 130
Arcata, CA 95521

February 23, 2017

Subject: Extension of time limit for Commission action on City of Trinidad request for certification of Implementation Plan (IP) amendment to revise limits on short term rental residences for transient occupancy.

Dear Mr. Merrill:

My wife and I recently received a notice dated February 17, 2017 of a public hearing scheduled for March 9, 2017 to allow the Coastal Commission a time extension before considering the City of Trinidad's LCP Amendment NO. LCP-1-TRN-16-0065-1. Please accept the following comments for your consideration.

My wife and I are over 40 year residents of the City of Trinidad. Although now retired, we both owned and operated successful businesses in the City for many years. We are well aware of the importance of both tourism and an involved active citizenry in making Trinidad a vibrant and attractive community for both residents and visitors alike.

The City and a large number of concerned citizens have worked diligently for over a year to address legitimate concerns regarding short term rentals (STR-vacation rentals) and the problems that have arisen due to their proliferation. I have personally attended numerous committee, Planning Commission and City Council meetings regarding this issue. All sides have had ample opportunity to voice their feelings regarding the effect of STR's on the City and the City's LCP amendment has taken all of this into consideration. I fully support the amendment and ask that the Commission move forward as quickly as possible to approve the amendment.

Should the Commission grant itself a time extension for consideration of the City's LCP amendment, I urge that it be for no longer than the next regularly scheduled Commission meeting. The City of Trinidad and its residents deserve a decision before the onset of the summer tourism season.

Respectfully,



Richard Bruce
780 Underwood Drive
PO Box 1190
Trinidad, CA 95570

February 24, 2017

Robert Merrill
North Coast District Manager - California Coastal Commission
1385 Eighth Street, Suite 130
Arcata, CA 95521

We, the undersigned, are residents or homeowners of the city of Trinidad. We urge the staff of the Coastal Commission to respond to the urgency expressed by our fellow resident, Richard Bruce. (His letter follows).

Mr. Bruce asked for expedited review of Trinidad's Short Term Rental ordinance. We are now within 4 months of the end of a legal moratorium on new applications for STR permits. If our STR ordinance does not clear Coastal Commission review before June, our ability to "cap" new vacation rental permits will expire. We will likely receive many new applications for permits, and will have limited recourse to deny those applicants.

Our proposed STR ordinance, under review by Coastal Commission staff since November, is the result of years of work by many residents and of STR owners and managers. It represents a truly balanced approach, meeting the criteria requested by the Coastal Commission.

Thank you for responding to our urgent concerns.

<i>Dwight Miller (Mayor & City Councilor)</i>	<i>Julie Fulkerson (former City Councilor)</i>
<i>Laraine Cook</i>	<i>Cresta Schiefer</i>
<i>Steve Duscha</i>	<i>Mark Schiefer</i>
<i>Wanda Lee Graves</i>	<i>Jan West (Trinidad School Board Trustee)</i>
<i>Ann Pinske</i>	<i>Jack West (City Councilor)</i>
<i>Mike Pinske (former Planning Commissioner)</i>	<i>Kathleen Duncan</i>
<i>Susan Berresford</i>	<i>Chi-Wei Lin (former City Councilor)</i>
<i>Jay Gold</i>	<i>Jackie Hogan</i>
<i>David Winnett (former City Councilor)</i>	<i>Jim Calladine</i>
<i>Sharon Winnett</i>	<i>William Moir</i>
<i>Patricia Fleschner</i>	<i>Steve Ladwig (City Councilor)</i>
<i>Susan Tissot (former City Councilor)</i>	<i>Duane Torres</i>
<i>Brian Tissot</i>	<i>Guadalupe Torres</i>
<i>Marijane Beighley Poulton</i>	<i>Gary Wagner</i>
<i>Cliff Poulton (former Planning Commissioner)</i>	<i>Susan Wagner</i>
<i>Sandra Cuthbertson</i>	<i>Julian Morales</i>
<i>Jim Cuthbertson (former City Councilor)</i>	<i>Sharon Hunter</i>
<i>Jason Ritchie</i>	<i>James H. Baker (City Councilor)</i>
<i>Gail Kenny</i>	<i>Joan M. Baker</i>
<i>Maria C Bartlett (former City Councilor)</i>	<i>Lois Harrington</i>
<i>Tom Odom (former City Councilor)</i>	<i>Diane Stockness (Planning Commissioner)</i>
<i>Anne Odom (former City Councilor)</i>	<i>Glenn Stockness</i>
<i>Bryce Kenny</i>	<i>Andrea Pucci</i>



INSTITUTE FOR LOCAL GOVERNMENT

Promoting Good Government at the Local Level

The ABCs of Open Government Laws

The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government.

This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California's constitution by adopting Proposition 59 in 2004.¹

California's open government laws² require public officials to:

- A. Conduct meetings of public bodies openly, except for limited circumstances under which the law allows the public's business to be conducted privately in closed sessions.
- B. Allow the public to participate in meetings of public bodies through a public comment process.
- C. Allow inspection and copying of public records, except when non-disclosure is authorized by law.

This pamphlet summarizes these three requirements in general terms.

For Additional Information

For more information about these requirements and others relating to transparency, please see *Understanding the Basics of Public Service Ethics: Transparency Laws*, available at <http://www.ca-ilg.org/transparency>. Additional resources are also listed on the back of this pamphlet.

Local officials are also encouraged to consult with their agency attorneys for information about how these requirements apply in any given situation or more information about this area of the law.

Beyond Legal Minimums

It is important to note that the requirements discussed in this pamphlet are legal *minimums* for local government transparency in decision-making. Local agencies can provide for greater transparency.

In thinking about how an agency might provide for greater transparency, questions local agency officials might ponder include the following:

- 1) How can the agency make public information more readily available and easily understandable by the public in order to promote public trust and confidence in the agency and demonstrate the agency's commitment to transparency?
- 2) Are there kinds of information that are already publicly available in some form, but could be made available more conveniently to the public (for example, through voluntarily posting the information on the agency's website or including links on the agency's website to where information is available on other websites)?³
- 3) What kinds of information might be of interest to a cross-section of the public relating to the agency's operations and decision-making processes? Are there ways this information can be made available without individual members of the public having to ask for it?

Ongoing consideration of these kinds of questions enables a local agency's officials to engage in collective discussion and decision-making about ways in which their agency can set its sights higher than the minimum requirements of the law.

A. Conducting the Public's Business in Public

General Rules

- ❑ Elected and most appointed local-agency bodies – which include many advisory committees – must conduct their business in open and public meetings.⁴
- ❑ A “meeting” is any situation involving a majority of a public body in which agency business is transacted or discussed. In other words, a majority of the body cannot talk privately about a matter of agency business no matter how the communication occurs, whether by telephone or e-mail, or at a local coffee shop.⁵
- ❑ The public must be informed of 1) the time and place of and 2) the issues to be addressed at each meeting. In general, public officials may only discuss and act on items included on the posted agenda for a meeting. The agenda must be posted at least 72 hours in advance of a regular meeting and written in a way that informs people of what business will be discussed. Members of the public may request a copy of the agenda packet be mailed to them at the time the agenda is posted or upon distribution to the governing body. Many local agencies also post these materials on their websites and/or maintain e-mail lists to make agendas available.

Key Things to Know

- **Advisory Bodies.** Advisory bodies formally created by the governing body are subject to the open meeting laws. In some cases, committees of less than a quorum of the public body are also subject to these laws.⁶
- **Serial Meetings.** Avoid unintentionally creating a “serial” meeting—a series of communications that result in a majority of the body’s members discussing, deliberating, or taking action on a matter of agency business.

Example

If two members of a five-member public body consult outside of a public meeting (which is not in and of itself a violation) about a matter of agency business and then one of those individuals consults with a third member on the same issue, a majority of the body has consulted on that issue. Note the communication does not need to be in person and can occur through a third party. For example, sending or forwarding e-mail can be sufficient to create a serial meeting, as can a staff member’s polling the body’s members in a way that reveals the members’ positions to one another.⁷

- **Permissible Gatherings.** Not every gathering of members of a public body outside a noticed meeting violates the law. For example, a violation would not occur if a majority of the members attend the same educational conference or attend a meeting not organized by the local agency as long as members do not discuss among themselves agency business except as part of the gathering.⁸ Nor is attendance at a social or ceremonial event in itself a violation.⁹ The basic rule to keep in mind is a majority of the members cannot gather *and* discuss agency business except at an open and properly noticed meeting.
- **Closed Sessions.** The open meeting laws include provisions for private discussions under very limited circumstances (see “typical closed session issues”).¹⁰ The reasons for holding the closed session must be noted on the agenda and different disclosure requirements apply to different types of closed sessions.¹¹
- **Posting and Following the Agenda.** In general, public officials may only discuss and act on items included on the posted agenda for a meeting.¹² However, they or staff may briefly respond to questions or statements during public comments that are unrelated to the agenda items. Officials can also request staff to look into a matter or place a matter on the agenda for a subsequent meeting. Only under unexpected circumstances can matters that are not on the agenda be discussed or acted upon.
- **Taping or Recording of Meetings Is Allowed.** Anyone attending a meeting may photograph or record it with an audio or video recorder unless the governing body makes a finding that the noise, illumination, or obstruction of view will disrupt the meeting.¹³ Any meeting tape or film made by the local agency becomes a public record that must be made available to the public for at least 30 days.¹⁴

- **Sign-In Must Be Voluntary.** Members of the public cannot be required to register their name or satisfied any other condition for attendance. If an attendance list is used, it must clearly state that signing the list is voluntary.¹⁵

Open-Government-Is-Good-Politics Note

The media are highly vigilant in monitoring compliance with open government requirements—and quick to report on perceived violations.

TYPICAL CLOSED SESSION ISSUES

Local agency open meetings laws vary in terms of what kinds of closed sessions are allowed. (Consult with agency counsel concerning 1) whether a particular type of closed session is available to your agency, 2) under what circumstances, and 3) what disclosure requirements apply before and after the closed session. The following list is illustrative of common topics that a public agency may discuss in closed session.

Personnel. To consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee, or to hear complaints against an employee.¹⁶

Litigation. To confer with in-house or outside counsel with respect to actual or potential litigation.¹⁷

Real Estate Negotiations. To provide direction to the agency's negotiator on the price and terms of payment under which the agency will purchase, sell, exchange or lease real property.¹⁸

Labor Negotiations. To meet with the agency's labor negotiator regarding salaries and benefits and other matters within the scope of labor negotiations.¹⁹

Student Disciplinary Issues. (For school districts and community college districts) To consider discipline of a student if a public hearing would result in disclosure of prohibited information, after notifying the student (or parents in the case of minor students) and if they do not request a public hearing.²⁰

License Applicants with Criminal Records. To allow an agency to determine whether a would-be licensee with a criminal record is sufficiently rehabilitated to obtain the license.²¹

Public Security. To confer with designated law enforcement officials regarding threats to public facilities and services or the public's right to access those services and facilities.²²

Multi-jurisdictional Law Enforcement Agency. To discuss ongoing criminal investigations.²³

Hospital Peer Review and Trade Secrets. To discuss issues related to medical quality assurance or trade secrets.²⁴

Disclosure of Confidential Information Prohibited. The decision to disclose confidential information received in closed session is one that is generally made by the body as a whole, not individual members. Among the remedies for unlawful disclosure is referral to the grand jury, which has authority to remove officials for willful misconduct in office.

B. The Public's Right to Participate in Meetings

General Rules

- **Democracy in Action.** The public has a right to address the public body at any meeting. A public official's role is to both hear and evaluate these communications.
- **The Public's Right to be Heard.** Generally, every regular meeting agenda must provide an opportunity for the public to address the public body on any item within the body's jurisdiction.²⁵ If the issue of concern is one pending before the body, the opportunity must be provided before or during the body's consideration of that issue.²⁶

Key Things to Know

- **Anonymous Speech Must Be Permitted.** Members of the public cannot be required to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card, or identify themselves "for the record," but must respect a speaker's desire for anonymity.
- **Reasonable Time Limits May Be Imposed.** Local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner.²⁷ For example, some agencies impose a uniform time limit on each person providing public comments on an issue.
- **Dealing with Dissension.** The chair cannot stop speakers from expressing their opinions or their criticism of the body.²⁸ If an individual or group willfully interrupts a meeting and order cannot be restored, the room may be cleared.²⁹ Members of the media must be allowed to remain and only matters on the agenda can be discussed.³⁰

A Note on Civility in Public Discourse

For communities to be able to work through difficult issues, it's important that people be able to express differing opinions about what best serves the public's interests in a respectful and civil manner.

This includes focusing on the *merits* of one's position. Even if people disagree about what's best for the community in this situation, it doesn't mean that those holding different views are bad people. Treat others with the same respect as one would like to be treated. Questioning others' motives or intelligence, being hostile, engaging in name-calling or making threats undermines one's effectiveness.

No matter how passionate one is about an issue, the goal is to conduct oneself in a way that will add to one's credibility and standing as a thoughtful member of the community.

Consequences of Non-Compliance with Open Meeting Requirements

- **Nullification of Decision.** Many decisions that are not made according to the open meeting laws are voidable.³¹ After asking the agency to cure the violation, either the district attorney or any interested person may sue to have the action declared invalid.³²
- **Criminal Sanctions.** Additionally, members of the body who intentionally violate the open meeting laws may be guilty of a misdemeanor.³³ The penalty for a misdemeanor conviction is imprisonment in county jail for up to six months or a fine of up to \$1,000 or both.³⁴
- **Other Measures.** Either the district attorney or any interested person may sue to remedy past and prevent future violations of the open meeting laws.³⁵ Another remedy, under certain circumstances, is for a court to order that all closed sessions be tape-recorded.³⁶ Regulations of public participation beyond those allowed by applicable statutory and constitutional law can be a civil rights violation.
- **Attorneys' Fees and Costs.** Attorneys' fees and costs may be awarded to those who successfully challenge open meeting violations.³⁷

C. The Public's Right To Access Agency Documents and Records

General Rule

Public agencies must generally make their records available for inspection by the public.³⁸ Disclosure is the rule; withholding is the exception. In addition, there are a number of state laws that require affirmative disclosure of certain kinds of information (for example, by posting the information on the agency's website).³⁹

Key Things to Know

- **Agenda and Meeting Materials.** Copies of the agenda materials and other documents not exempt from disclosure distributed to the body must be available to the public.⁴⁰ Any nonexempt materials prepared by the local agency must be available for public inspection at the meeting. Materials prepared and distributed by some other person must be made available after the meeting.
- **Scope of Access.** The public has the right to see nonexempt materials that are created as part of the conduct of the people's business.⁴¹ These materials include any writing that was prepared, owned, used, or retained by a public agency.⁴² This can include documents, computer data, e-mails, facsimiles, and photographs.⁴³
- **Presumption and Exceptions.** Written materials are presumed to be a public record unless an exception applies.⁴⁴ There are a number of exceptions. For example, personnel records are typically exempt from disclosure because their release may violate an employee's privacy rights.

The public's right of access to public records is broadly construed and applies to many documents that public officials might otherwise assume are protected from disclosure.

Consequences of Violation

Anyone can sue the agency to enforce his or her right to access public records subject to disclosure.⁴⁵ If the agency loses or otherwise produces the records as the result of the lawsuit, it must pay costs and attorneys fees.⁴⁶

RESOURCES FOR FURTHER INFORMATION

California's open government laws are complex and extensive. Consult the following resources for more information on these laws:

- *Understanding the Basics of Public Service Ethics, Transparency Issues*, available at <http://www.aopa.org/transparency>. (Includes discussions of other kinds of disclosure laws, in addition to Open Meeting Law and Public Records Act.)
- *Open and Public TV: A User's Guide to the Ralph M. Brown Act, 2d Edition, 2010*. Available on the League of California Cities website at www.leagueofcities.org or by calling 916.658.2000.
- *The People's Business: A Guide to the California Public Records Act, 2008*. Available on the League of California Cities website at www.leagueofcities.org or by calling 916.658.2000.

Local officials should also consult their agency counsel with specific questions.

The Attorney General also offers guides on these laws; they are available from the Attorney General's website: <http://www.oag.ca.gov/publications/2009-10/ra-brown-vernal-09-brown-act-guide> (Brown Act Guide) and <http://www.oag.ca.gov/publications/1988-89/ra-brown-vernal-88-public-records-act> (Public Records Act).

References [to be included in online version, not in pamphlet]

¹ See Cal. Const. Art. I, § 3 (Proposition 59 on the 2004 ballot).

² See generally Cal. Gov't Code §§ 54950 and following (for cities, counties, special districts and school districts); Cal. Educ. Code § 72121 and following (for community college district governing boards).

³ See for example, local agency financial information made available on the State Controller's website: http://www.sco.ca.gov/ard_locrep_annual_financial.html. The State Controller is requesting information relating to local official compensation as well. See http://www.sco.ca.gov/eo_pressrel_controller_requires_salary_reporting.html.

⁴ See Cal. Gov't Code § 54952.2(a); Cal. Gov't Code § 54954.2(a).

⁵ Cal. Gov't Code § 54952.2(b); Cal. Educ. Code § 72121.

⁶ Cal. Gov't Code § 54952(b).

⁷ Cal. Gov't Code § 54952.2.

⁸ Cal. Gov't Code § 54952.2(c)(2).

⁹ Cal. Gov't Code § 54952.2(c)(5).

¹⁰ Cal. Educ. Code § 72122.

¹¹ Cal. Gov't Code § 54956.9.

¹² Cal. Gov't Code § 54954.2; Cal. Educ. Code § 72121.5.

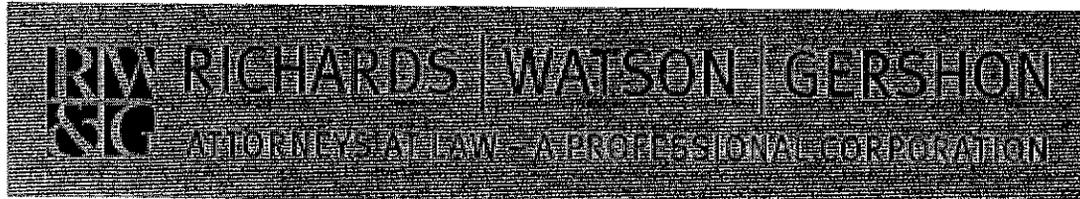
¹³ Cal. Gov't Code § 54953.5(a).

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- ¹⁴ Cal. Gov't Code § 54953.5(b).
- ¹⁵ Cal. Gov't Code § 54953.3.
- ¹⁶ Cal. Gov't Code § 54957(b).
- ¹⁷ Cal. Gov't Code § 54956.9.
- ¹⁸ Cal. Gov't Code § 54956.8.
- ¹⁹ Cal. Gov't Code §§ 3549.1 (school and community college districts), 54957.6 (other local agencies).
- ²⁰ Cal. Educ. Code §§ 35146, 72122.
- ²¹ Cal. Gov't Code § 54956.7.
- ²² Cal. Gov't Code § 54957.
- ²³ Cal. Gov't Code § 54957.8.
- ²⁴ Cal. Gov't Code §§ 37606, 37624.3; Cal. Health & Safety Code §§ 1461, 1462, 32106, 32155.
- ²⁵ Cal. Gov't Code § 54954.3(a); Cal. Educ Code § 72121.5.
- ²⁶ Cal. Gov't Code § 54954.3(a).
- ²⁷ Cal. Gov't Code § 54954.3(b); *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).
- ²⁸ Cal. Gov't Code §§ 54954.3(c), 54957.9; *Perry Educational Association v. Perry Local Educators' Association*, 460 U.S. 37, 46 (1983).
- ²⁹ Cal. Gov't Code § 54957.9.
- ³⁰ Cal. Gov't Code § 54957.9.
- ³¹ Cal. Gov't Code § 54960.1; Cal. Educ Code § 72121(b).
- ³² Cal. Gov't Code § 54960.1; Cal. Educ Code § 72121(b).
- ³³ Cal. Gov't Code § 54959.
- ³⁴ See Cal. Penal Code § 19.
- ³⁵ Cal. Gov't Code § 54960.
- ³⁶ Cal. Gov't Code § 54960.
- ³⁷ Cal. Gov't Code § 54960.5.
- ³⁸ See Cal. Gov't Code §§ 6250 and following.
- ³⁹ See for example, 2 Cal. Code Regs. § 18944.2(c)(3)(F) (relating to gifts to public agencies). Note the State Controller is seeking information relating to local official compensation as part of local agencies' annual financial reporting. See generally Cal. Gov't Code § 12463(a) (authorizing report); 53892 (describing contents of the report); see also http://www.sco.ca.gov/eo_pressrel_controller_requires_salary_reporting.html (press release relating to requirement of additional information relating to compensation).
- ⁴⁰ Cal. Gov't Code § 54957.5.
- ⁴¹ See generally Cal. Gov't Code §§ 6250 and following.
- ⁴² Cal. Gov't Code § 6252(d).
- ⁴³ Cal. Gov't Code § 6252(e).
- ⁴⁴ *State ex rel. Division of Industrial Safety v. Superior Court*, 43 Cal. App. 3d 778 (1974); *Cook v. Craig*, 55 Cal. App. 3d 773 (1976).

⁴⁵ Cal. Gov't Code § 6258.

⁴⁶ Cal. Gov't Code § 6259(d).

The Institute is able to make this resource available to local officials and others as a result of much appreciated financial support from:



The Institute is grateful for this firm's ongoing commitment to public service ethics and public service ethics education.

All final decisions regarding the content of this pamphlet were the Institute's.



DISCUSSION AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 8 PAGES

2. Discussion/Decision regarding Draft Noise Ordinance 2017-01

ACTION AGENDA ITEM

Wednesday, March 8th, 2017

Item: Noise Ordinance

Summary:

At the February Council meeting an ad-hoc Committee composed of Steve Ladwig & Dwight Miller was tasked with meeting with interested citizens to further revise the Ordinance.

They met with citizens Kathleen Lake, Pat Morales, and Sandra Cuthbertson in mid-February. Two other citizens expressed interest in attending but had schedule conflicts: Dorothy Cox and Jonna Kitchen. Our discussions compared language of the draft ordinance with written recommendations by citizens, and with comments by our lawyer Andrew Stunich. We discussed each section of the draft Noise Ordinance. On some sections, we agreed to add language, and others we came to general agreement about what was needed to make a stronger and enforceable ordinance.

On Sunday, Feb 26, the Committee (Steve, Dwight) met to summarize our recommendations. The Committee Notes have been written on the right side of a 2-column representation of the draft ordinance. (attached)

The Noise Committee is seeking the full council's input on the following points in particular, and intends to come back at the next meeting with a final draft for consideration and a first reading. discuss but not finalize the ordinance. The primary points of concern:

SECTION 8.06.020 - QUIET HOURS

... Council should decide the hours, with recommendations an hour less for Town Hall

SECTION 8.06.050 - PENALTY

... Council should recommend, and staff (planner & lawyer) get language written for infractions & administrative fines.

SECTION 8.06.060 - ENFORCEMENT

... This is the big one. We need to rewrite this section, with direction from the Council, to ensure that citizens can understand a simple step-by-step process for resolving noise complaints.

Staff Recommendation:

Provide direction on any edits or additions to the Draft Ordinance, especially the points above.

Draft – Trinidad Noise Ordinance –referenced by section

Council Committee Notes	
	<p>Draft from city staff (2/3/2017) ORDINANCE 2017-01</p> <p>AN ORDINANCE OF THE CITY OF TRINIDAD ADDING CHAPTER 8.06 TO TITLE 8 OF THE TRINIDAD MUNICIPAL CODE,</p> <p>GENERAL NOISE REGULATIONS</p> <p>WHEREAS, excessive noise can damage hearing and impact the character and quality of life for residents and visitors to the City of Trinidad; and</p> <p>WHEREAS, residents are entitled to the peaceful use and enjoyment of their property; and</p> <p>WHEREAS, the establishment of these noise standards will facilitate compliance and assist in the resolution of problems relating to excessive noise.</p> <p>WHEREAS, this Ordinance is enacted pursuant to the City's police power as granted broadly under Article XI, Section 7 of the California Constitution in order to promote the health, safety and welfare of Trinidad residents,</p> <p>NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRINIDAD DOES HEREBY ORDAIN AS FOLLOWS:</p> <p>That new Chapter 8.06 is added to Title 8 of the Trinidad Municipal Code, to read as follows:</p> <p>CHAPTER 8.06</p> <p>GENERAL NOISE REGULATIONS</p> <p>SECTION 8.06.010 PURPOSE AND FINDINGS In order to serve the public health, safety, and welfare of the residents and businesses within the City of Trinidad, the declared purpose of this chapter is to set explicit standards and hours related to noise for the purpose of protecting citizens and visitors to Trinidad from noise disturbances, and to facilitate resolution of such problems if they do arise.</p> <p><u>The City has determined that noise that unreasonably interferes with the quiet use and enjoyment of other property is deemed to be a serious detriment to the public health, safety, welfare, and quality of life of the residents, visitors, and businesses of the City."</u> (end section 8.06.10- PURPOSE AND FINDINGS)</p> <p>8.06.010 Council committee, after discussion with citizens about their recommendations and comments by our lawyer, decided to add language that lawyer Stunich suggested.</p>

SECTION 8.06.020 QUIET HOURS

Excessive noise can impact citizens at all hours, but is especially problematic at night. Therefore, the City of Trinidad hereby establishes the period from 10 p.m. to 8 a.m. as quiet hours. The general restriction against noise that unreasonably disturbs the quiet use and enjoyment of residents and visitors to Trinidad applies at all times, but the standard of 'unreasonably disturbs' shall be considered much more strictly during quiet hours.

(end section 8.06.20- QUIET HOURS)

8.06.020

Citizens' recommended:
Remove: 10p.m. to 8a.m.
Add: Daytime shall be considered 7:00 a.m. to 8:00 p.m., and nighttime shall be considered to be 8:00 p.m. to 7:00 a.m. Sunday through Thursday and 7:00 a.m. to 9:00 p.m. Friday and Saturday.

Lawyer Andrew Stunich comment:

The City can recommend longer quiet hours. The citizen recommendation of 8 p.m. to 7 p.m. and 9 p.m. to 7 a.m. on Friday and Saturday nights is probably enforceable. I have no recommendation as to whether it is or is not a good idea as that is purely a political question. The issue is best addressed, perhaps, by looking at the conduct they are trying to stop.

Council Committee recommends:

- 1) deleting last phrase of the Quiet Hours paragraph
- 2) that hours be decided by Council discussion and action.

SECTION 8.06.030 EXCESSIVE NOISE PROHIBITED

It shall be unlawful for any person to unreasonably make, continue or cause to be made or continued, within the limits of the City of Trinidad, any disturbing, excessive or offensive noise which causes discomfort or annoyance to any reasonable persons of normal sensitivity residing in the area.

The following acts, among others, are declared to be offensive, loud, disturbing, and unnecessary noises originating from residential properties or on public ways in violation of this section, but such enumeration shall not be deemed to be exclusive:

- (a) The using, operating, or permitting to be played, used, or operated of any ~~radio-receiving set, musical instrument, phonograph, stereo, television, or other machine or device~~ for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of neighboring residential inhabitants at any time with volume louder than is necessary for convenient hearing for the persons who are in the room, vehicle, or chamber in which such ~~machine or device~~ is operating and who are voluntary listeners. The operation of any such ~~set, instrument, phonograph, stereo, machine, or device~~ in such a manner as to be audible to a person of normal hearing sensitivity, more than ten (10) feet from said real property parcel on which the structure is located between the hours of 10:00 p.m. and 8:00 a.m.
- (b) The use or operation of a device for producing or reproducing sound ~~radio, tape player, tape recorder, record player, CD player, digital music player, smart phone, or similar sound device~~ in any vehicle on a street, which is audible to a person of normal hearing sensitivity, more than twenty-five (25) feet from said vehicle.
- (c) The use of power tools, lawn mowers, or other loud mechanical equipment during quiet hours such that it is

8.06.030

Committee recommends deleting some unnecessary phrases and adding "and (b)" to the end paragraph.

<p>audible to a person of normal hearing sensitivity more than ten (10) feet from the real property parcel on which the noise is being generated.</p>	<p>(d) Construction work or related activity between the hours of 7 p.m. and 7 a.m. on weekdays, or between 7 p.m. and 8 a.m. on Saturday and Sunday, unless other hours are specifically authorized by individual City Permit(s). As used in this section, "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property.</p> <p>(e) Any animal, poultry, or household pet which by any sound or cry should unreasonably disturb the peace of any neighborhood, or interfere with any person or prevent the reasonable enjoyment of life or property, as previously set forth in Chapter 6.05 of the Trinidad Municipal Code.</p> <p>(f) For other than noise sources identified in a-e above, the following noises shall be prohibited:</p> <ul style="list-style-type: none"> a. Plainly audible across property boundaries during quiet hours; b. Plainly audible through partitions common to two residences within a building; c. Plainly audible at a distance of 50 feet in any direction from the source of music or sound between the hours of 8:00 a.m. and 10:00 p.m.; or d. Plainly audible at a distance of 25 feet in any direction from the source of music or sound between the hours of 10:00 p.m. and 8:00 a.m.
<p>As used in subsections (a) and (b), 'person of normal hearing sensitivity' means a person who has a hearing threshold level of between zero (0) decibels and twenty-five (25) decibels HL averaged over the frequencies 500, 1000, and 2000 Hertz.</p> <p>(end section 8.06.30- EXCESSIVE NOISE PROHIBITED)</p>	

<p>8.06.040</p> <p>Committee recommends: (b)ii) clarifying our permit process and include Trinidad Beach. b)iii) lowering the hours at Town Hall by 1 hour, and adding a duration limit of 4 hours.</p>	<p>SECTION 8.06.040 EXEMPTIONS</p> <p>The following activities shall be exempt from the provisions of this Chapter:</p> <p>(a) Emergency Work. The provisions of this Chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.</p> <p>(b) Entertainment Events. The provisions of this Chapter shall not apply to those reasonable sounds emanating from:</p> <ul style="list-style-type: none"> i) school bands, school athletic and school entertainment events conducted between the hours of 8:00 a.m. and 10:00 p.m.; ii) entertainment events that have been specifically permitted by the City where those permits address noise, and iii) <u>amplified music at Trinidad Town Hall until 10:00p.m. on Friday and Saturday nights and 9:00p.m. all other nights, with a duration limit of 4 hours.</u>
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	<p>(c) Federal or State Preempted Activities. The provisions of this Chapter shall not apply to any activity the noise level of which is regulated by state or federal law.</p> <p>(d) Minor Maintenance to Residential Property. The provisions of this Chapter shall not apply to reasonable noise sources associated with minor maintenance to property used for residential purposes, provided the activities take place between the hours of 8:00 a.m. and 10:00 p.m. For the purposes of this Section, 'minor maintenance' means repair or construction work that does not require a permit from the City.</p> <p>(e) Public Health, Welfare and Safety Activities. The provisions of this Chapter shall not apply to construction maintenance and repair operations conducted by public agencies and/or utility companies or their contractors which are deemed necessary to serve the best interests of the public and to protect the public health, welfare and safety, including but not limited to, trash collection, street sweeping, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks, etc.</p> <p>(f) Reasonable noise sources associated with commercial and recreational fishing activity at any hours. (end section 8.06.40)</p>
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<p>SECTION 8.06.050 PENALTY Except as may otherwise be expressly provided, any person who violates any provision of this Ordinance is guilty of a misdemeanor and shall, upon conviction thereof, be punished in the manner provided in Section 1.08.010 of the Trinidad Municipal Code.</p>	<p>8.06.050 Council Committee recommends language that explicitly parses for Misdemeanor and Infraction, such as that suggested by citizens' recommendations (below). But lower the 2nd conviction fine to \$200 to be consistent with the GENERAL PENALTY Section 1.08.010 of the Trinidad Municipal Code, and of CA Government Code §§ 36900, 36901 and ADD an administrative fine that allows the City Manager to reduce Misdemeanor to Infraction or Administrative Fine, and to generate citations for those violations (like a speeding ticket) Citizens' recommended: A. Misdemeanor. 1. <i>Violation. Whenever in this code any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, such violation of this code or failure to comply with its requirements shall constitute a misdemeanor, unless expressly provided otherwise.</i> 2. <i>Punishment. Any person convicted of a misdemeanor under the provisions of this code, unless otherwise provided in this chapter, shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment.</i> B. Infraction. 1. <i>Reduction of Misdemeanor to Infraction by City Attorney. Any violation constituting a misdemeanor under this code may in the discretion of the City attorney be charged and prosecuted as an infraction.</i> 2. <i>Punishment. Any person convicted of an infraction under the provisions of this code, unless otherwise provided in this chapter, shall be punishable by a fine as follows: upon first conviction by a fine not exceeding</i></p>
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\$100.00, and for a second conviction within one year of the first conviction by a fine not exceeding \$250.00, and any subsequent conviction within one year from the first conviction by a fine not exceeding \$500.00

Lawyer Andrew Stunich comment:

There has been some interest expressed in administrative penalties for the Noise Ordinance. I have found that we could institute such a scheme. Cal.Gov.Code § 53069.4 sets forth the law regarding enactment of administrative fines and penalties: ...

As for adding an administrative civil penalty process, I have no opinion. It is purely a political decision. However, it cannot hurt to add it if you are not worried about too high of a level of citizen demands to utilize the process. I do recommend that the ordinance be clearly written that it is within the City's discretion to utilize the administrative process or to not utilize it. Administrative fines may be an effective way to punish and discourage one-time or short-term noise problems that are not ongoing where in the victims are not well positioned to vindicate their own rights in small claims court.

(end section 8.06.50-
PENALTY)

SECTION 8.06.060 ENFORCEMENT

All reasonable and available evidence shall be considered by City staff and/or Humboldt County Sheriff's Officers in evaluating whether this Ordinance has been violated, including but not limited to recordings or measurements of sound levels, and witness statements.

The City of Trinidad, its residents, and visitors may resolve violations of this Noise Ordinance by one or more of the following procedures.

ENFORCEMENT BY THE PUBLIC

Generally, as a first step, all persons who believe their quiet use and enjoyment of their property has been impacted by violations of this Noise Ordinance are encouraged to try and peaceably resolve the problem by calmly and politely discussing the matter with any other involved person(s) unless it is feared it would be unsafe or dangerous to do so. If peaceable discussions do not resolve the noise problem or are not practicable, the public is encouraged to call the Humboldt County Sheriff's Department to report violations and request assistance, and to file a complaint with the City of Trinidad.

If problems are ongoing, the public is encouraged to consider filing a claim against any liable parties in Small Claims Court. Small Claims Court Judges can award damages and issue an injunction barring any future violations where the Court deems it appropriate and if the requisite legal standards have been met. Assistance with procedures and paperwork for enforcement of small claims judgments is available through the County Self-Help Center at 707-269-1223. The foregoing small claims court services are provided solely by Humboldt County and the City of Trinidad does not participate in or have any control of the services provided.

ENFORCEMENT BY CITY OF TRINIDAD AND THE HUMBOLDT COUNTY SHERIFF'S DEPARTMENT

The City Manager is authorized to investigate Noise Ordinance violations or to delegate the investigation to others at the City Manager's sole discretion or when directed to do so by the City Council.

The City of Trinidad's contract with the Humboldt County Sheriff's Department also authorizes the Humboldt County Sheriff's Department to use its police powers authority to cite and/or arrest any person violating this

8.06.060

Council Committee recommends retaining the first paragraph, then rewriting the latter part of this section. After reviewing strong concerns by citizens' and suggestions by lawyer Stunich, we request procedures which are clear, explicit, and are not burdensome to the citizens who suffer from excessive noise. The following concepts should be rewritten in "ordinance" language, incorporating the draft language if it fits, but ensuring that these are clearly stated.

Steps for handling offensive noise:

- 1) talk to the offender, if that is comfortable
- 2) call the sheriff
- 3) file a complaint with the City as soon as possible, preferably from a simple form on the City's web page.
- 4) complaint feedback provided to complainants within 2 working days after filing.
- 5) notification of resolution of complaints sent to complainants within xxx working days.
- 6) If problems are ongoing, the public is encouraged to consider filing a claim against any liable parties in Small Claims Court.

In all cases, documentation is needed. Witness statements are required, and time-stamped digital noise recordings, with distance from source & other particulars, are very helpful.

Noise Ordinance.

The City Council may, upon recommendations by the City Manager or of its own volition, authorize the City Attorney to file an abatement action to enjoin any future violations of this Noise Ordinance and to seek redress of past violations. If the abatement action is successful as to any defendant, that defendant shall be liable for actual damages and a fine of \$2,500 as well as the City of Trinidad's costs to bring the action and attorney fees. Costs to bring the action shall include legal costs as well as all City of Trinidad staff time resulting from the violation(s).

(end section 8.06.60- ENFORCEMENT)

SECTION 8.07.070

SEVERABILITY

The City Council of the City of Trinidad hereby declares that should any section, paragraph, sentence, phrase, term or word of this Ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance independent of the elimination here from of any such portion as may be declared invalid.

(end section 8.06.70- SEVERABILITY)

(no suggestions for this section)



DISCUSSION AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

3. Discussion/Decision regarding Trail Committee Proposal

ACTION AGENDA ITEM
Wednesday, March 8th, 2017

Item: Trails Committee Charter

Summary:

At the February Council meeting an ad-hoc Committee of Councilmembers Susan Rotwein and Jack West was tasked with developing a charter for a standing Trails Committee to include composition of the group, purpose, and goals to bring back for full Council discussion.

That draft Charter is attached. It outlines the proposed role, duties, and composition of the Committee.

Staff Recommendation:

Receive public and Council input and discuss the draft Charter.

Direct staff to solicit applicants to the Trails Committee, with the subcommittee to review applications and provide recommendations at the April Meeting.

DRAFT

City of Trinidad Trails Committee Charter

Powers and Duties:

The primary function of the Trinidad Trails Committee is to advise the City Council, staff, and Planning Commission on matters relating to policies affecting trails in the City of Trinidad.

These duties include:

To serve in an advisory capacity to the Council, Commissions or City Staff, as appropriate, in matters relating to or affecting trails in the City of Trinidad; including

To make recommendations to City Staff on the management, maintenance, and repair of trails in the City of Trinidad;

To make recommendations during the environmental review process on projects that may involve or affect trails in the City of Trinidad; and

To provide a forum for community engagement, outreach, and education regarding trails.

Committee Composition and Meetings:

Meetings will be held quarterly, publicly noticed in accordance with the Brown Act, and open to all.

The membership of the Trails Committee shall be appointed by the City Council, and shall be composed of the following representatives:

1 City Council member (Chair of the Committee)

1 Planning Commissioner

2 general public representatives (Residents of Trinidad)

1 Tribal Representative of the Yurok Tribe

1 Tribal Representative of the Trinidad Rancheria

1 member representing the Visitor Services business community in Trinidad

The Public Works Director, or his designee, shall serve as primary staff liaison to the Trails Committee.