



Posted: Friday, March 17, 2017

NOTICE AND CALL OF THE SECOND REGULAR MONTHLY MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold the Second Regular Monthly meeting on

WEDNESDAY, MARCH 22, 2017 at 6:00 PM

In the Trinidad Town Hall, 409 Trinity Street, Trinidad, CA

NO CLOSED SESSION

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **APPROVAL OF AGENDA**
- IV. **ITEMS FROM THE FLOOR**
(Three (3) minute limit per Speaker unless Council approves request for extended time.)
- V. **CONSENT AGENDA**
 1. Authorize Staff to Apply for USDA and CWSRF Low Interest Loans for the Storm Water Phase II Project.
 2. Authorize Staff to Apply for Disaster Assistance Funding
 3. State Requirements for Recycled Materials in Street Repair Projects (PRC42700) – (Discussion)
 4. Authorize Public Release of Attorney Memos re: Brown Act and Citizen Petition
 5. Authorize Letter of Support for Last Chance Grade Repair
- VI. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Discussion/Decision regarding review of Environmental Assessment for the Trinidad Rancheria's Harbor Properties
 2. Discussion/Decision regarding Trail Committee Proposal
 3. Discussion of Draft Noise Ordinance
 4. Discussion/Decision regarding Building Permit Violations and Citywide Policies
- VII. **FUTURE AGENDA ITEMS**
- VIII. **ADJOURNMENT**



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 4 PAGES

1. Resolution 2017-04; Authorizing the City Manager to Apply for USDA and CWSRF Low Interest Loans on behalf of the City for the Storm Water Phase II Project.

CONSENT AGENDA ITEM

Date: March 22, 2017

Item: Resolution 2017-04; Authorizing the City Manager to Apply for USDA and CWSRF Low Interest Loans on behalf of the City for the Storm Water Phase II Project.

Staff Recommendation:

Adopt Resolution 2017-04, Authorizing the City Manager to Apply for Loan Funds from USDA and CWSRF for the Storm Water Phase II Project in an amount not to exceed \$350,000 to finance the 10% match required for the SWGP grant.

Summary:

On March 8, 2017, the City Council authorized execution of a grant agreement with the State Water Resources Control Board to fund the City's Storm Water Management Improvement Project (Project) under the Storm Water Grant Program (SWGP). The City will need to provide 10% of the total project cost as 'match' funding. The total project cost is budgeted at \$4,067,152, with grant funds of \$3,660,437, and a City contribution of approximately \$406,715. The Project will construct stormwater infrastructure that will eliminate our direct stormwater discharge to Trinidad Bay by infiltrating and treating the storm water runoff.

Staff are working on applications to two different low interest loan funding sources, and each require that the Council specifically authorize Staff to apply.

Staff will not finalize any loan agreement without returning to Council,

Background:

The SWGP funding requires the City to provide a minimum 10% match of the total project costs. 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. The ASBS Special Protections require the City to eliminate all polluted storm water discharges to the ASBS.

Match funding options identified by City staff and the City Engineer GHD include financing the match entirely with general fund reserves, or with partial loan funding either from USDA Rural Development Water and Environment Program (USDA) loan funding or Clean Water State Revolving Loan Fund (CWSRF). The USDA loan cost currently is approximately 2.5 percent with terms ranging from 20 – 40 years. Additionally, USDA may choose to offer partial grant funding in cases of financial hardship. This would be determined during the application review process. The CWSRF financing cost currently is approximately 1.5% for terms of 20 – 30 years. It would be worthwhile to submit applications for loans from both programs to determine the most

advantageous terms. Loan costs are estimated to be in the range of \$13,000 to \$21,000 per year, depending on the final interest rate and loan term.

The project cost is estimated at \$4,067,152, with match funds of \$406,715. City staff is has identified \$39,000 in general funds already committed or spent on stormwater compliance activities since November of 2014 (eligible match date), and an estimated \$44,000 in new general fund dollars for storm water compliance activities through 2020. Options for funding the remaining \$323,175 include general fund reserves, or applying for loan funding.

Staff is requesting the Council authorize the City Manager to submit loan applications, but any final loan agreement will return to the Council for discussion. A resolution for authorization to enter into a loan funding agreement would be presented to the Council after the details including terms are certain.

Attachments:

- Resolution 2017-04

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

(707) 677-0223

Dwight Miller, Mayor
Gabriel Adams, City Clerk



RESOLUTION 2017-04

AUTHORIZING THE CITY MANAGER TO APPLY FOR LOANS FROM THE USDA AND CWSRF FOR THE STORM WATER PHASE II PROJECT

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 March 8, 2017, the Council authorized the City manager to enter into a Prop 1 Storm Water Grant Program (SWGP) Grant Agreement with the California State Water Resources Control Board for funding the City of Trinidad Storm Water Management Improvement Project. The project SWGP grant funds will be approximately \$3,660,437 with a 10% funding match to be provided by the City of approximately \$406,715 and a total project cost of approximately \$4,067,152; 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; and

WHEREAS, the City Council has committed to securing a 10% funding match for the Project through General Funds, non-state grants and or loans, it is desirable for the City to prepare and submit applications to USDA Rural Development (RD) and/or to the Clean Water State Revolving Loan Fund in an amount not to exceed \$350,000 to be used as match funding for the Storm Water Management Improvement Project; and

WHEREAS, the USDA Rural Development Water and Environmental Program may have a higher interest rate but has a possibility of providing partial grant funding due to financial hardship, it is desirable for the City to apply to both the USDA and the CWSRF in order to secure the most economical source of match funding for the Project; and

WHEREAS, this resolution authorizes the submittal of applications for funding, but a final decision on entering into a loan agreement for this Project will return to the City Council for approval.

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

1. RESOLVED that Daniel Berman, City Manager, be assigned the Rural Development Representative-Signature-Certify security role on behalf of the City, who shall be responsible for entering an application,

completing electronic stages, submitting the application, providing signatures, and authorizing certifications for the application to the RD, an agency of the United States Department of Agriculture delivering Rural Development Programs.

2. RESOLVED that the City submit an application to borrow from the United States of America, acting through USDA Rural Development Water and Environmental Program, in an amount anticipated not to exceed \$350,000, to be used for the Storm Water Project, and such purposes as approved by Rural Development; and

3. RESOLVED that the

City Manager (the "Authorized Representative") be authorized to submit an application to borrow from the State Clean Water Revolving Loan Fund (CWSRF) for a loan in an amount anticipated not to exceed \$350,000 for the planning, design, and construction of the Project. This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application.

PASSED AND ADOPTED BY THE TRINIDAD CITY COUNCIL of Humboldt County of the State of California this 22nd 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 22, 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



CONSENT AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

1. Resolution 2017-05; Authorizing the City Manager to Apply for State and Federal Disaster Assistance Funding

CONSENT AGENDA ITEM

Date: March 22, 2017

Item: AUTHORIZING THE CITY MANAGER TO APPLY FOR STATE AND FEDERAL DISASTER ASSISTANCE FUNDING

Staff Recommendation:

Adopt Resolution 2017-05, Authorizing the City Manager to Apply for state and federal disaster assistance funding from the California Governor's Office of Emergency Services.

Summary:

State and Federal declarations of disaster have been made for two storm periods in January 2017. These high intensity storms caused damage to drainage facilities and hillslopes in the City of Trinidad. The attached resolution authorizing staff to apply for disaster relief are a required part of the project application packet. If the application is successful, state and federal disaster relief funds could cover up to 92% of eligible project costs.

Attachments:

- Resolution 2017-05

**DESIGNATION OF APPLICANT'S AGENT RESOLUTION
FOR NON-STATE AGENCIES**

BE IT RESOLVED BY THE City Council OF THE City of Trinidad
(Governing Body) (Name of Applicant)

THAT Daniel Berman, City Manager OR
(Title of Authorized Agent)

_____, OR
(Title of Authorized Agent)

(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the City of Trinidad, a public entity
(Name of Applicant)
established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the City of Trinidad, a public entity established under the laws of the State of California,
(Name of Applicant)
hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

- This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval below.
- This is a disaster specific resolution and is effective for only disaster number(s) _____

Passed and approved this _____ day of _____, 20____

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)

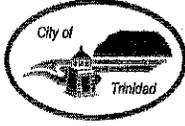
_____, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the City Council of the City of Trinidad
(Governing Body) (Name of Applicant)

on the _____ day of _____, 20____

(Signature)

(Title)



CONSENT AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 5 PAGES

3. State Requirements for Recycled Materials in Street Repair Projects (PRC42700) – (Discussion)

CONSENT AGENDA ITEM

Date: March 22, 2017

Item: DISCUSSION OF PUBLIC RESOURCES CODE 42700 REGARDING CALTRANS STANDARDS FOR RECYCLED MATERIALS IN ROAD WORK.

STAFF RECOMMENDATION:

Receive information on Public Resources Code 42700 regarding adoption of Department of Transportation Standards and accept this report as a discussion of why Trinidad should not adopt these standards.

EXECUTIVE SUMMARY:

The State of California has adopted requirements that the California Department of Transportation (Caltrans) modify their bid specifications involving the purchase of paving materials, base, subbase, and pervious backfill to include provisions for use of recycled materials such as recycled asphalt pavement, crushed concrete, crumb rubber from recycled tires, glass and other materials.

The requirements are quite extensive and include targets for how many tons of various materials that Caltrans shall use in their projects as well as developing a means to determine whether use of those materials is cost effective.

Under Section 42704.5, local agencies, including the City of Trinidad, are required to either adopt the standards developed by the Caltrans, **or to discuss at a regularly scheduled meeting why the standards are not being adopted.** A copy of the applicable code section is below. Staff has been advised by HCOAG legal counsel that acting after the specified date (Jan 1st 2017) is not expected to be a problem.

42704.5. By January 1, 2017, a local agency that has jurisdiction over a street or highway shall do either of the following:

(a) Adopt the standards developed by the Department of Transportation pursuant to Section 42700 for recycled paving materials and for recycled base, subbase, and pervious backfill materials.

(b) Discuss at a regularly scheduled public hearing of the local agency's legislative or other governing body why the standards are not being adopted.

The City Engineer and City Staff support the legislation's intent of utilizing recycled materials, but do not recommend the Council adopt the Caltrans standards. Trinidad has a very small number of paving projects in any given year, and applying these standards

would take significant staff time to analyze and implement. Failure to adopt the new standards does not prevent the City from utilizing recycled materials.

The City references Caltrans Standard Specifications for asphalt paving, aggregate base and other construction materials in the specifications for road construction projects. These specifications routinely include provisions for use of recycled materials, and therefore use of recycled materials is allowed for use on City projects.

Without standards requiring the use of recycled materials in place, it is left up to the contractors and materials suppliers to determine the most cost effective way to provide materials. Given that the City of Trinidad is a very small consumer of construction materials on a statewide basis, adopting standards for recycled materials would likely not be effective to persuade local suppliers to change their manufacturing processes and incorporate more recycled materials, more than is already being done. Adopting standards would require that the City complete an additional evaluation of cost would also require more staff time and may not yield a significant benefit.

Staff will continue to follow trends of what other local agencies and the State are doing to require the use of recycled materials and consider how we can best incorporate the use of recycled materials.

FINANCIAL IMPACT:

Not adopting Caltrans recycled materials standards will have no financial impact. The financial impact of adopting Caltrans standards for recycled materials standards for recycled base, subbase, and pervious backfill is unknown at this time, but would require additional staff and City Engineer time for each pavement project.

RECOMMENDED COUNCIL ACTION:

1. Receive information on Public Resources Code 42700 and accept this report as a discussion of why Trinidad should not adopt these standards.

Attachments:

- Attachment A – Public Resource Code Section 42700

PUBLIC RESOURCES CODE

SECTION 42700-42704.5

42700. The Director of Transportation, upon consultation with the board, shall review and modify all bid specifications relating to the purchase of paving materials, and base, subbase, and pervious backfill materials, using recycled materials. The recycled materials shall include, but are not limited to, recycled asphalt pavement, crushed concrete subbase, foundry slag, asphalt flux produced from the reprocessing or re-refining of used oil, and paving materials utilizing recycled materials, including, but not limited to, crumb rubber from automobile tires, ash, and glass and glassy aggregates. The specifications shall be based on standards developed by the Department of Transportation for recycled paving materials and for recycled base, subbase, and pervious backfill materials. The standards and specifications shall provide for the use of recycled materials and shall not reduce the quality standards for highway and road construction.

42701. (a) In purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation and any other state agencies that provide construction and repair services, the State Procurement Officer shall contract for those items that utilize recycled materials in paving materials and base, subbase, and pervious backfill materials, unless the Director of Transportation determines that the use of the materials is not cost effective. In determining the cost-effectiveness of the materials subject to this section, the factors that the director shall consider include both of the following:

(1) The lifespan and durability of the pavement containing the materials.

(2) The maintenance cost of the pavement containing the materials.

(b) This section also applies to any person who contracts with the Department of General Services or with any other state agency to provide these construction and repair services.

(c) The recycled materials shall include, but are not limited to, recycled asphalt, crushed concrete subbase, foundry slag, and paving materials utilizing crumb rubber from automobile tires, ash, and glass and glassy aggregates. The specifications shall be based on the standards of the Department of Transportation for recycled paving materials and for recycled base, subbase, and pervious backfill materials.

42703. (a) Except as provided in subdivision (d), the Department of Transportation shall require the use of crumb rubber in lieu of other materials at the following levels for state highway construction or repair projects that use asphalt as a construction material:

(1) On and after January 1, 2007, the Department of Transportation shall use, on an annual average, not less than 6.62 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(2) On and after January 1, 2010, the Department of Transportation shall use, on an annual average, not less than 8.27 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(3) On and after January 1, 2013, the Department of Transportation shall use, on an annual average, not less than 11.58 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(b) (1) The annual average use of crumb rubber required in subdivision (a) shall be achieved on a statewide basis and shall not require the use of asphalt containing crumb rubber in each individual project or in a place where it is not feasible to use that material.

(2) On and after January 1, 2007, and before January 1, 2015, not less than 50 percent of the asphalt pavement used to comply with the requirements of subdivision (a) shall be rubberized asphalt concrete.

(3) On and after January 1, 2015, the Department of Transportation may use any material meeting the definition of asphalt containing crumb rubber, with respect to product type or specification, to comply with the requirements of subdivision (a).

(c) (1) The Secretary Transportation shall, on or before January 1 of each year, prepare an analysis comparing the cost differential between asphalt containing crumb rubber and conventional asphalt. The analysis shall include the cost of the quantity of asphalt product needed per lane mile paved and, at a minimum, shall include all of the following:

(A) The lifespan and duration of the asphalt materials.

(B) The maintenance cost of the asphalt materials and other potential cost savings to the department, including, but not limited to, reduced soundwall construction costs resulting from noise reduction qualities of rubberized asphalt concrete.

(C) The difference between each type or specification of asphalt containing crumb rubber, considering the cost-effectiveness of each type or specification separately in comparison to the cost-effectiveness of conventional asphalt paving materials.

(2) Notwithstanding subdivision (a), if, after completing the analysis required by paragraph (1), the secretary determines that the cost of asphalt containing crumb rubber exceeds the cost of conventional asphalt, the Department of Transportation shall continue to meet the requirement specified in paragraph (1) of subdivision (a), and shall not implement the requirement specified in paragraph (2) of subdivision (a). If the secretary determines, pursuant to an analysis prepared pursuant to paragraph (1), that the cost of asphalt containing crumb rubber does not exceed the cost of conventional asphalt, the Department of Transportation shall implement paragraph (2) of subdivision (a) within one year of that determination, but not before January 1, 2010.

(3) Notwithstanding subdivision (a), if the Department of Transportation delays the implementation of paragraph (2) of subdivision (a), the Department of Transportation shall not implement the requirement of paragraph (3) of subdivision (a) until three years after the date the department implements paragraph (2) of subdivision (a).

(d) For the purposes of complying with the requirements of subdivision (a), only crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States may be used.

(e) The Department of Transportation and the board shall develop procedures for using crumb rubber and other derived tire products in other projects.

(f) The Department of Transportation shall notify and confer with the East Bay Municipal Utility District before using asphalt

containing crumb rubber on a state highway construction or repair project that overlays district infrastructure.

(g) For purposes of this section the following definitions shall apply:

(1) "Asphalt containing crumb rubber" means any asphalt pavement construction, rehabilitation, or maintenance material that contains reclaimed tire rubber and that is specified for use by the Department of Transportation.

(2) "Crumb rubber" or "CRM" has the same meaning as defined in Section 42801.7.

(3) "Rubberized asphalt concrete" or "RAC" means a paving material that uses an asphalt rubber binder containing an amount of reclaimed tire rubber that is 15 percent or more by weight of the total blend, and that meets other specifications for both the physical properties of asphalt rubber and the application of asphalt rubber, as defined in the American Society for Testing and Materials (ASTM) Standard Specification for Asphalt-Rubber Binder.

42704. (a) On or before January 1, 2014, the Department of Transportation may, with input from the Caltrans/Industry Rock Products Committee, establish specifications for the use of reclaimed asphalt pavement (RAP) of up to 40 percent for hot mix asphalt mixes.

(b) Subdivision (a) does not limit the authority of the Department of Transportation to establish specifications for the use of reclaimed asphalt pavement in amounts greater than 40 percent for hot mix asphalt mixes.

(c) (1) On or before March 1, 2016, the Department of Transportation shall submit a report to the Legislature in compliance with Section 9795 of the Government Code on its progress, since the year 2011, toward the development and implementation of the specifications for reclaimed asphalt pavement, as specified in subdivision (a).

(2) This subdivision shall become inoperative on March 1, 2020, pursuant to Section 10231.5 of the Government Code.

42704.5. By January 1, 2017, a local agency that has jurisdiction over a street or highway shall do either of the following:

(a) Adopt the standards developed by the Department of Transportation pursuant to Section 42700 for recycled paving materials and for recycled base, subbase, and pervious backfill materials.

(b) Discuss at a regularly scheduled public hearing of the local agency's legislative or other governing body why the standards are not being adopted.



CONSENT AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

4. Authorize Public Release of Attorney Memos re: Brown Act and Citizen Petition

CONSENT AGENDA ITEM

Date: March 22, 2017

Item: AUTHORIZE PUBLIC RELEASE OF ATTORNEY MEMOS RE: BROWN ACT AND CITIZEN PETITION

Staff Recommendation:

Authorize public release of the three attorney opinions requested and received regarding the Brown Act and the recent community petition to the Coastal Commission.

Summary:

The City received three opinion letters from attorneys regarding the Brown Act and the recent community petition signed by some councilmembers. By default, these letters fall under confidential communications, but the Council can elect to make them public, and staff recommend they do so. Staff will post them on the City website and provide them in response to requests if the Council approves this action.



CONSENT AGENDA ITEM 5

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

5. Authorize Letter of Support for Last Chance Grade Repair

NO SUPPORTING DOCUMENTS WERE SUBMITTED FOR THIS ITEM.



DISCUSSION AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 3 PAGES

1. Discussion/Decision regarding review of Environmental Assessment for the Trinidad Rancheria's Harbor Properties

ACTION AGENDA ITEM
Wednesday, March 22nd, 2017

Item: Discuss and Receive Public Comment on the Trinidad Rancheria Environmental Assessment for the Trinidad Harbor Fee-to-Trust Application.

STAFF RECOMMENDATION:

Receive staff presentation and public comment. Approve a letter requesting additional time to comment on the Environmental Assessment (EA). Provide direction to staff regarding submittal of comments on the EA.

Summary:

Trinidad Rancheria is applying to transfer the Harbor-Area properties they own into federal trust status. As part of their application process, they have developed an Environmental Assessment document that addresses the impacts of two construction projects on the Harbor Properties: Storm Water Improvements and an Interpretive Visitor Center, as well as the transfer from fee status to federal trust status.

The Environmental Assessment is open for public comment until April 6th 2017. It is a 382 page document, available on the Rancheria's website, with copies at City Hall. This is not the only comment period in the overall fee to trust application, but it is a key step in the process. The overall application for federal trust status has not yet been accepted as complete by the Bureau of Indian Affairs (BIA). That process is likely to proceed for at least six months from present, and could take much longer. This document is the basis for the NEPA (National Environmental Policy Act) findings that BIA must make in order to approve the fee to trust application

Staff are in the early stages of reviewing the document, and preliminary comments and observations follow. Staff expect to present additional analysis at the meeting, and encourage the public to provide their comments to the City as well as the Rancheria and BIA.

Staff also plan to submit a letter to the BIA requesting additional public comment time of at least another 30 days.

The Rancheria has been invited to present to Council, and to be available to answer questions. Key Rancheria staff are not available on the 22nd, but it may be the only Council meeting prior to the comment period closing, and therefore staff are proceeding to bring this before the Council.

Initial Review Comments

(note – these are primarily the City Manager's initial review notes – Our City Planner is just getting started on the document).

Overall –

Putting this land into federal trust status would effectively remove it from the City. The City would have no planning and permitting jurisdiction or authority over what would become

effectively federal land. The City would also cease to collect any revenue from the properties; we are in the process of quantifying that impact (see details under note 4 below). The City would lose approximately 9 acres of land out of 310 acres total, or 3% of the land area of the City. This percentage does not reflect the central importance of the Harbor to the identity of Trinidad throughout its history. The Harbor would still be there, and the Rancheria clearly needs public and commercial fishery use to continue as a central part of their business model. Public easements to the pier in particular are in place as part of recent state funding for the pier. But the local City government would have no real control over its future uses

The specific projects described in the EA are of much less concern to staff than the fee to trust application. Staff support the stormwater project completely, and are supportive in concept of an interpretive visitor center.

Detailed Comments and Questions:

1. Section I and Figure 1-3. Land subject to transfer into trust status.

The proposed project includes transferring almost 3 acres of land to trust status that is outside the parcels owned in fee by the Trinidad Rancheria. Staff has questions as we understood that only lands owned in fee can be transferred into federal trust status. Bay St., as shown on Figure 1-3, was vacated by the City in 1912 and may belong to the Rancheria, although this has not been clearly established. The area indicated for inclusion along the beaches on each side of the Little Head appears to be largely below the high tide line. Staff's understanding is that these beaches are state tidelands which would not be eligible to transfer as they are not owned by the Rancheria. The pier itself is also shown as property to be included in the transfer. Staff's understanding is that the Rancheria does own the structure of the Pier, but not the underlying waters (tidelands) which are state owned, and granted to the City by the State for management.

2. Project Purpose, Need, and Alternatives

The EA combines the two construction projects and the placement of the land in trust into a single project for analysis. The only alternative evaluated is the 'no-action' alternative. But the construction projects and the transfer of the land into federal trust status do not need to be linked. In fact they seem quite separate. The storm water improvements are already funded by state grants and will almost certainly be implemented independent of the trust application. The Interpretive Visitor Center could also proceed independent of the trust application, with permitting through the City and Coastal Commission.

The Purpose and Need statement (section 1.4 starting on page 1-3) lists 7 purposes served by the Project, but only the first of them seems to clearly apply to the trust application – facilitating self-governance by exercising sovereignty over the land. The proposed 'Trinidad Harbor District' (page 2-3) to better organize and manage the Harbor area businesses seems like something the Rancheria could implement now. If there are economic benefits to the Rancheria to placing the land into trust, they are not well explained in this section. The Harbor was not part of the Rancheria's original land base, and the worthy goals of preserving the local environment, reducing stormwater runoff, and highlighting the cultural and economic importance of the Harbor do not obviously depend on federal trust status.

3. Affected Environment – Section 3

Water – Page 3-6

The information on the City's Water Plant does not reflect the recent upgrades to the Plant. Staff will provide more current information in our comment letter.

Flooding – Page 3-7

FEMA has recently conducted coastal flooding models of the Humboldt Coastline including the Harbor Area and is in the process of updating Flood Insurance Rate Maps (FIRM). It does not appear that this latest information is included.

4. Socioeconomic Impacts – Section 4 p 4-10 9 (p 73 of 382)

This section notes that property taxes were \$46,063 in 2014, and declares them 'de minimis' in relation to the County's total property tax revenue. Staff see at least three financial impacts to the City of Trinidad that are not addressed here at all:

- a. **Property tax** – Property taxes within the City are paid to the County, who then returns a portion of those revenues to the City. While the Harbor property taxes may be small relative to total County property tax revenue, they are significantly larger relative to the City's property tax revenue, and the City's budget. Staff are working with County Staff to get precise numbers.
- b. **Sales tax** – The City receives sales tax on Seascapes restaurant sales as well as the bait shop. These funds will be lost to the City in the event of federal trust status. Staff have requests in to the State Board of Equalization to help quantify these amounts.
- c. **Transient Occupancy Tax** – The Rancheria operates a Short Term Rental in the home above the Seascapes. The City received almost \$5,000 in TOT revenues from this rental in the last fiscal year.

Additional Questions Generated to date:

This EA, if approved, will provide NEPA analysis for the two proposed construction projects of the Stormwater Improvements and the Visitor Center, as well as taking the land into Trust.

Is it correct that, if the land goes into trust, additional projects could also be proposed in the future, subject to a subsequent EA and other federal requirements?

And would the BIA be the entity ultimately reviewing and approving future proposals, or would the Tribal Council serve that role?

Staff are continuing their review of the EA, and welcome comments and questions from the public.

STAFF RECOMMENDATION:

Receive staff presentation and public comment. Approve a letter requesting additional time to comment on the Environmental Assessment (EA). Provide direction to staff regarding submittal of comments on the EA.



DISCUSSION AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

2. 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

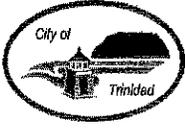
2 general public representatives (Residents of Trinidad)

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.



DISCUSSION AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 11 PAGES

3. Discussion of Draft Noise Ordinance

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

Draft from city staff (2/3/2017)

ORDINANCE 2017-01

**AN ORDINANCE OF THE CITY OF TRINIDAD
ADDING CHAPTER 8.06 TO TITLE 8 OF THE TRINIDAD MUNICIPAL CODE,**

GENERAL NOISE REGULATIONS

WHEREAS, excessive noise can damage hearing and impact the character and quality of life for residents and visitors to the City of Trinidad; and

WHEREAS, residents are entitled to the peaceful use and enjoyment of their property; and

WHEREAS, the establishment of these noise standards will facilitate compliance and assist in the resolution of problems relating to excessive noise.

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,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRINIDAD DOES HEREBY ORDAIN AS FOLLOWS:

That new Chapter 8.06 is added to Title 8 of the Trinidad Municipal Code, to read as follows:

CHAPTER 8.06

GENERAL NOISE REGULATIONS

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.

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."

(end section 8.06.10- PURPOSE AND FINDINGS)

Council Committee Notes

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.

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.

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.

(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.

(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.

(f) For other than noise sources identified in a-e above, the following noises shall be prohibited:

- 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.

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.

(end section 8.06.30- EXCESSIVE NOISE PROHIBITED)

SECTION 8.06.040 EXEMPTIONS

The following activities shall be exempt from the provisions of this Chapter:

- (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.
- (b) Entertainment Events. The provisions of this Chapter shall not apply to those reasonable sounds emanating from:
 - 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) 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.

8.06.040

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.

(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.

(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.

(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.

(f) Reasonable noise sources associated with commercial and recreational fishing activity at any hours.
(end section 8.06.40)

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.

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. *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.*
2. *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.*
B. Infraction.
1. *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 or reduced and prosecuted as an infraction.*
2. *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*

\$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 wherein 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)

CITY CODES REGULATING NOISE DECIBELS

PIGEON FORGE, Tennessee

[http://www.mtas.tennessee.edu/Knowledgebase.nsf/0/E0CCD8834E7269958525773B0047C9A2/\\$FILE/sample noise ordinance decibel requirements.doc](http://www.mtas.tennessee.edu/Knowledgebase.nsf/0/E0CCD8834E7269958525773B0047C9A2/$FILE/sample%20noise%20ordinance%20decibel%20requirements.doc)

11-805. Prohibited noise sound level standards. Any act in violation of the following subsections is deemed to be in violation of the chapter without in any way limiting the generality of the provisions of § 11-804.

(1) Maximum permissible sound pressure levels. The maximum permissible sound pressure levels of any continuous source of sound shall be as herein established for the time period and district listed in Table A of this section. This includes, but is not limited to, sound from such activities as production, processing, cleaning, servicing, testing, operating, or repairing either vehicles, materials, goods, products or devices. Sound pressure levels in excess of those established for the districts of the city, in times herewith listed, shall constitute prima facie evidence that such sound is an unnecessary noise. Sound pressure levels shall be measured at the approximate location of the property line or the boundary of the public way, at a height of at least four (4) feet above the immediate surrounding surface, on a sound level meter of standard design and operated on the "A" weighting network.

District	Sound Pressure		Level Limit db(A)	
	7 A.M.-10 P.M.		10 P.M. - 7 A.M.	
Residential	55		50	
Commercial	65		55	
Industrial	80		75	

LIMITING NOISE LEVELS FOR ZONING DISTRICTS SOUND LEVEL IN DECIBELS

	ZONE	WHERE MEASURED
50	All residential Districts, (R-1, R-2, FAR)	Common lot line
55	Professional, Civic District (P-1)	Common lot line
60	Commercial Districts (C-1, C-2)	Common lot line
65	Industrial Districts	Common lot line

CUMBERLAND GAP Tennessee

11-302. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited under the following parameters. In residentially and commercially zoned areas, as defined under Title 14 of this code, excess of the following decibel limits is prohibited:

Zoning	Time of Day	
	7:00 AM – 9:59 PM	10:00 PM – 6:59 AM
Residential	45 db (A)	40 db (A)
Commercial	55 db (A)	45 db (A)

Decibel recordings are made with an American National Standards Institute Type II approved device at the approximate location of the property line or the boundary of the public way, at a height of at least four feet above the immediate surrounding surface.

SACRAMENTO, CA

Article II. Noise Standards

8.68.060 Exterior noise standards.

A. The following noise standards unless otherwise specifically indicated in this article shall apply to all agricultural and residential properties.

1. From seven a.m. to ten p.m. the exterior noise standard shall be fifty-five (55) dBA.

2. From ten p.m. to seven a.m. the exterior noise standard shall be fifty (50) dBA.

B. It is unlawful for any person at any location to create any noise which causes the noise levels when measured on agricultural or residential property to exceed for the duration of time set forth following, the specified exterior noise standards in any one hour by:

Cumulative Duration of the Intrusive Sound

	Allowance \pm in Decibels
1. Cumulative period of 30 minutes per hour	\pm 0 DB
2. Cumulative period of 15 minutes per hour	\pm 5 DB
3. Cumulative period of 5 minutes per hour	\pm 10 DB
4. Cumulative period of 1 minute per hour	\pm 15 DB
5. Level not to be exceeded for any time per hour	\pm 20 DB

C. Each of the noise limits specified in subsection B of this section shall be reduced by five dBA for impulsive or simple tone noises, or for noises consisting of speech or music.

D. If the ambient noise level exceeds that permitted by any of the first four noise limit categories specified in subsection B of this section, the allowable noise limit shall be increased in five dBA increments in each category to encompass the ambient noise level. If the ambient noise level exceeds the fifth noise level category, the maximum ambient noise level shall be the noise limit for that category. (Prior code § 66.02.201)

Fort Collins, CO Noise Ordinance

Sec. 20-23. Maximum permissible noise levels.

(a) A noise measured or registered in the manner provided in § 20-24 from any source at a level which is in excess of the dB(A) established for the time period and zoning districts listed in this Section is hereby declared to be a noise disturbance and is unlawful. When a

noise source can be identified and its noise measured in more than one (1) zoning district, the limits of the most restrictive zoning district shall apply.

Areas zoned:

Low Density Residential (R-L)

Urban Estate (U-E)

Foothills Residential (R-F)

High Density Mixed-Use Neighborhood (H-M-N)

Low Density Mixed-Use Neighborhood (L-M-N)

Medium Density Mixed-Use Neighborhood (M-M-N)

Neighborhood Conservation Low Density (N-C-L)

Neighborhood Conservation Medium Density (N-C-M)

Neighborhood Conservation Buffer (N-C-B)

Public Open Lands (P-O-L)

River Conservation (R-C)

Transition (T)

7:00 a.m. to 8:00 p.m.	55 db (A)
8:00 p.m. to 7:00 a.m.	50 db (A)

Sec. 20-24. Classification and measurement of noise.

For the purposes of classifying any noise disturbance and determining whether it is in violation of § 20-23, the following test measurements and requirements shall be applied; provided, however, that a violation of § 20-22 may occur without the following measurements being made:

(1) Noise shall be measured at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or public property other than the public right-of-way, the noise shall be measured at or within the property boundary of the receiving land use.

(2) The noise shall be measured on a sound level meter.



DISCUSSION AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 6 PAGES

4. Discussion/Decision regarding Building Permit Violations and Citywide Policies

ACTION AGENDA ITEM

Wednesday, March 22nd, 2017

Item: Discussion/Decision regarding Building Permit Violations and Citywide Policies

Summary:

Specific -

On March 1st Staff received complaints that building permit conditions imposed on the detached living space (a converted shop/garage) at 407 Ocean St were being violated. The City's Building Inspector toured the property a week later, on March 9th, and confirmed that plumbing for a sink and stove had been reinstalled against permit conditions. It appeared that the actual sink and cooktop had been removed in the days before his arrival. The Building Inspector issued a demolition permit to the property owner, requiring the removal of the utilities in violation. That permit also requires an aging non-conforming propane tank to be replaced with a smaller tank consistent with current codes, and cleanup of some other items on the property. City staff time involved in investigating and rectifying this situation will be billed to the owner as part of the demolition permit. The permit requires all work to be done shortly, by the end of the month. The property is currently listed for sale.

General-

Zoning and OWTS limitations make it difficult to permit secondary dwelling units on many City parcels. What is often possible to permit is the creation of detached living space – a bedroom, office, or study in a detached structure, such as a conversion of a garage or shop. Once these living spaces are in place, there are powerful financial incentives, as well as personal convenience, for owners or residents to convert a detached bedroom/living space into its own complete dwelling unit. A clear demarcation between the two situations is not always evident, and it can be difficult for the City to know how such space is being used. State law is also changing to encourage secondary units, and can override some local controls. Staff are recommending the Council direct the Planning Commission and Planning Staff to address these challenges by developing new policy around this issue for the City to consider.

Background:

The back structure at 407 Ocean St. was converted without permits from a shop/garage into a second dwelling unit sometime in the late 2000's under the same owner. After a lengthy process the Planning Commission issued an 'after the fact' permit allowing some of the improvements to remain, but requiring that the structure be 'detached living space' that is considered part of the main house – basically a detached bedroom. No kitchen facilities (sink or stove or cabinets) are allowed, any tenant must have access to the main house for cooking and general use, and a deed restriction was placed on the property explicitly limiting the address to one dwelling unit, and three bedrooms total.

Staff appreciate the community for bringing this violation to our attention, and expect to have the property back in compliance with the permit conditions soon. With the property for sale, staff are recommending the Council direct staff to generate a City letter for a new or prospective owner summarizing the restrictions on use of the detached living space and any other relevant

issues. Staff's priority here is to ensure the violations are promptly corrected, and that they not reoccur.

For the City as a whole - this episode reflects the challenges that exist for the City in allowing detached living spaces, while trying to prevent them from being used as full accessory dwelling units. Secondary units are being encouraged throughout the State as a way to provide additional, and often affordable, housing stock. New state law makes it generally difficult for local governments to restrict accessory dwelling units. In Trinidad the situation is unusual in that secondary units are limited not just by our zoning (which the state law may override) but also by our reliance on Onsite Wastewater Treatment Systems (OWTS or septic systems). Most residential OWTS are not sized to support two separate dwelling units, which generally result in more wastewater than simply another bedroom in a single residence.

As a compromise, the City has a history of allowing existing, detached structures to be converted into living space as an economical alternative to an addition. These spaces can and have been used for a variety of legitimate, single-family, residential uses. However, there are powerful financial incentives, as well as reasons of simple personal convenience, for owners or residents to convert a detached bedroom/living space into its own complete dwelling unit. Staff, concerned citizens, and the Planning Commission and Council have spent quite a bit of time in recent years over concerns and disagreements about the difference between a second dwelling unit and a detached living space, and whether any secondary cooking facilities should be allowed on a property that only has one dwelling unit.

To reduce the likelihood of future incidents like this recurring problem at 407 Ocean St., Staff recommend that the Council direct Planning Commission and Planning Staff to develop clear policy recommendations about permitting detached living space. The policies should address the potential for these spaces to be utilized as separate dwelling units in violation of permit requirements, and the challenges for the City in identifying such violations. This could include some or all of concepts like a) not allowing them, b) requiring semiannual walk throughs by the Building Inspector, c) creating a more explicit list of exactly what utilities and appliances mark the boundary between a second dwelling unit, and a detached living space associated with a single main dwelling unit.

Staff are not requesting the Council try and tackle this policy at all at this meeting, but simply to ask the Planning Commission and Staff to develop a recommendation.

STAFF RECOMMENDATION:

Direct staff to generate a letter summarizing 407 Ocean St. restrictions and conditions for transmittal to the owner, realtor, and any new owner to ensure any new owner understands the situation and limitations on the uses of the property. .

Direct Planning Commission and staff to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units.

Definition of a Kitchen and Determination of a Dwelling Unit

PURPOSE

This policy provides guidance to PRMD staff as to the allowable design and use of an accessory structure and in determining the number of kitchens within a dwelling unit. It shall be used when reviewing permit applications, checking plans, investigating complaints and inspecting buildings. The provision of a kitchen is one of the primary factors used to determine whether a structure is considered to be a dwelling unit and for determining the number of units within a structure or allowed on a given site. These guidelines shall be used by all staff in determining whether a building contains a kitchen and is an allowable dwelling unit.

GENERAL

The Sonoma County General Plan and Zoning Ordinance limits allowable residential densities (units per acre) in all zoning districts and allows additional dwelling units, such as second units, agricultural employee units, and farm family units, in some areas. Dwelling units are defined in the zoning code as "*a permanent building or portion thereof including manufactured and mobile homes designated or used exclusively as the residence, sleeping room or quarters with kitchen facilities which constitutes an independent housekeeping unit, for one (1) or more persons*". Efficiency dwelling units can be as small as 220 square feet. Similarly, the Building Code defines a dwelling unit as "*A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation*".

This policy should be used in conjunction with Policy 1-4-1, *Definition of a Bedroom* in determining whether a structure or portion of a structure is considered a *dwelling unit* that must conform with the allowable density under the General Plan and Zoning Code or other applicable zoning requirements (e.g., second units). A *dwelling unit* must also conform to applicable septic system standards.

A non-commercial structure, or portion thereof, shall be considered a *dwelling unit* if it contains a kitchen as defined herein, and an area that constitutes a bedroom as defined in Policy 1-4-1. In most cases, a structure with a full bathroom will be considered as having a bedroom pursuant to Policy 1-4-1. Structures that meet this definition will be considered a *dwelling unit* regardless of how they are labeled on the plans (e.g., pool house, cabana, recreation room, guest house, studio, etc.). Where an additional dwelling unit cannot be allowed, the design of an accessory structure can be modified to eliminate the bedroom or kitchen facilities that constitute a dwelling unit.

AUTHORITY

Chapter 26, Sonoma County Code. Currently, the Sonoma County Code does not include a definition of a kitchen, but a kitchen is one of the determining features in the definition of a dwelling unit. Since dwelling units are limited by the allowable density and zoning standards, the definition of a kitchen is important in making the determination about whether a structure is a *dwelling unit* under the code.

Chapter 2 of the Sonoma County Code authorizes staff to record the conditions of approval of an issued permit.

PROCEDURE

PRMD staff shall determine whether an area is a kitchen and whether the structure is a *dwelling unit*. This determination shall be based on the design of the physical facilities rather than the proposed use or how the area is labeled on the plans. Staff shall use the following criteria.

DEFINITIONS

- A. **Kitchen.** A kitchen means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains one or both of the following:
1. Cooking appliances or rough in facilities including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or microwave ovens or similar appliances, 240 volt electrical outlets or any gas lines.
- OR
2. A sink less than 18 inches in depth with a waste line drain 1-½ inches or greater in diameter AND a refrigerator exceeding five (5) cubic feet in capacity or space opening with an electrical outlet that may reasonably be used for a refrigerator exceeding five (5) cubic feet in capacity.
- B. An approved kitchen may have more than one sink, stove, oven or refrigerator in the same room.
- C. **Wet Bar.** A single sink with a waste drain line no greater than 1-1/2 inches in diameter and an under counter refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size or a gas or electric range, stove top and/or oven (but may include a microwave oven).

EXCEPTIONS

Notwithstanding the criteria above, the following shall not be considered to be a kitchen:

- A. Gas lines and/or electrical outlets of 240 volts in a residential garage, barn, workshop or similar structure, if an operable garage door is provided and the space is unconditioned as defined in the adopted model codes. A garage may contain a refrigerator or freezer but cannot contain any cooking appliances.
- B. One laundry room in a dwelling unit. The laundry room may include utility hook-ups for gas or electric laundry appliances and may include a utility sink with a sink depth 18 inches (18") or greater and/or a full size refrigerator or freezer. A laundry room shall not contain cooking appliances.
- C. An "outdoor kitchen" that is placed in an unenclosed area that may be roofed but is open on at least two sides and exposed to weather.
- D. Any room where the director of PRMD or his/her designee determines that the room, by its design, clearly cannot reasonably be used as a kitchen. In considering whether a room is a kitchen that would designate a structure as a dwelling unit, the director may also consider but not be limited to, whether or not the structure has a full bathroom and/or potential sleeping area pursuant to Policy 1-4-1. When an exception is made per #4 above, it shall be documented by a Zoning Permit application and a "Notice" on the subject parcel shall be placed in PRMD's permitting computer system so that anyone researching the parcel is aware of the determination. A Deed Restriction and/or an Agreement may be required to be signed by the property owner and recorded to inform future property owners of restrictions on the use of a building and future permit requirements for any change in use.

An electrical outlet of 240 volts in capacity or a gas outlet including "rough-in" openings that provide for future installation of any kitchen facilities described in Section "A" above must receive planning approval/clearance prior to building permit issuance or final inspection. The criteria noted above shall be used to determine if the structure is an allowable use, if it constitutes a dwelling unit, and/or if it requires a deed restriction and agreement. Kitchen facilities described in Section "A" above, including "rough ins" may be allowed in structures that meet the criteria for a second unit and are designated and permitted as such, even though the structure is not used as a dwelling (i.e. allowing a gas line, refrigerator and sink in a workshop or artist studio or allowing a stove, refrigerator and sink in a pool house). The deed restriction/agreement will be binding on all successors in interest and will limit the use of the structure as permitted.

ATTACHMENTS

Sample Deed Restriction and Agreement

Approved by: /s/
Tennis Wick, Director

Lead Authors: Jennifer Barrett, Dean Parsons
DeWayne Starnes, Ben Neuman

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