

**MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**  
**WEDNESDAY, MAY 09, 2018**

**I. CALL TO ORDER**

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

**II. PLEDGE OF ALLEGIANCE**

**III. CLOSED SESSION**

- 1 Conference with legal counsel regarding active litigation. Tsurai Ancestral Society vs. City of Trinidad. Pursuant to California Government Code section 54956.9 (a)
- 2 Conference with legal counsel regarding real estate negotiations between the City of Trinidad and Verizon Wireless regarding the Trinidad Head cell site. Pursuant to California Government Code section 54956.8

**IV. CLOSED SESSION REPORT**

- 1) Real estate negotiations will continue, and 2) The City is very concerned about its obligation to the public with regards to the Tsurai land transfer. City Attorney Stunich will contact the Tsurai to try to resolve the ongoing issues. The District Attorney is concerned with possible Brown Act violations by having closed Management Team meetings. Legal remedies may be pursued if the City is unable to find a resolution between the City and the Tsurai Ancestral Society.

**V. APPROVAL OF AGENDA**

*Motion (Miller/West) to approve the agenda as written. Passed unanimously.*

**VI. APPROVAL OF MINUTES – 04-11-18 cc**

*Motion (Ladwig/Baker) to approve minutes as written. Passed unanimously.*

**VII. COUNCIL MEMBER REPORTS, COMMITTEE ASSIGNMENTS**

- West:** HCOAG: Discussed billboards along 101. Negotiating with owners to relocate. \$5 million in funding for Last Chance grade. Geotech studies and alternative routes are being conducted. May is bike month.
- Baker:** Nothing to report.
- Miller:** RCEA – Wind energy update. CCA program has been serving rate payers as expected.
- Rotwein:** Trails committee; Signs, bench policy, trail inventory. Meeting next Tuesday. Government-to-Government meeting scheduled with the Rancheria next Tuesday. Attended 2 Board of Supervisors meetings. Measure Z funds secured. Thanked Ryan Sundberg for supporting the City's Planning Area map with regards to Luffenholtz Creek and County marijuana grow permits.
- Ladwig:** Nothing to report.

**VIII. STAFF REPORTS**

City Manager Berman's written staff report was included in the packet. Various highlights included 1) Measure Z funding secure for next year, 2) Civic Club Emergency Permit application received, 3) P.C. recommendation for accessory dwellings should be on a future Council agenda, 3) Marine Lab Tree removal on PC agenda, 4) RCEA is assisting the City with a solar feasibility study, 4) streetlight bulbs at Museum have been replaced.

**Mayor Rotwein** requested City Manager follow-up on 1) STR Committee, Scenic Drive vegetation trimming, Staffing discussion, cannabis permits in the Luffenholtz Creek watershed.

**IX. ITEMS FROM THE FLOOR**

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

**Shirley Laos – Trinidad Rancheria**

Handicap parking in front of the school is being abused by people without disability placards. Comments made in the meeting packet staff report regarding the General Plan were inaccurate. The Rancheria has been very engaged in the General Plan update and has provided comments to the City on multiple occasions.

**Diane Stockness** – Trinidad

Large motor homes need to be advised to stay on Main, Trinity, and Edwards Streets, and need to be informed when they are parked in unsafe ways.

**Dorothy Cox** – Trinidad

The noise that occurred during the Land Trust event held at the Town Hall on Art Night was unbearable. It finally ended at 9:30pm. The tennis court should not be used as a babysitting station.

**X. CONSENT AGENDA**

1. Financial Status Reports for March 2018
2. Staff Activity Report April 2018
3. Law Enforcement Report April 2018
4. Resolution 2018-05; Requesting November 2018 Election Consolidation with the County of Humboldt.

*Motion (Miller/West) to approve 1-4, and pull 5 & 6 for discussion. **Passed unanimously.***

5. Authorize City Manager to Accept LID Project Bids and Award Construction Contract.

Public comment included:

**Diane Stockness** – Trinidad

I would like View Street to be blocked at Parker Creek Drive when the project begins. The cherry trees on East should be removed.

**Dorothy Cox** – Trinidad

The project will take much longer than planned to complete. Please be mindful of the neighbors this time.

Council comments included:

**Baker:** I have issues with phase 1. The swale on West Street may have been built slightly over the right-of-way on private property. The City should hire a surveyor to verify my findings. I'm concerned with financial liability the City may face when issues like this occur, and I don't see any language in the new contract documents that holds the City harmless for errors made by the City Engineer. City Manager Berman explained that he would work with the Attorney to ensure appropriate language is included in the contract.

**Rotwein:** Concerned about timing. Why can't this be done in September? Why is the rain garden so big? Tearing up the town in the middle of the summer is a bad idea.

**Miller:** I support maximum storm water collection and believe traffic issues are not as big of a deal as they're being portrayed tonight.

**Ladwig:** The Parker Street area is a traffic nightmare. I'm in favor of the project, with slight modifications to the traffic flow along Hector and Underwood – separate from the construction project.

**Dagan Short** – GHD Engineer

We've been working on this project for 5 years. SWRCB has a fairly strict construction timeline for permitting, ending October 15. The plan is to work on this one street at time to minimize the overall traffic impact and inconveniences. Regarding surveying, this year will be the first survey verified by a second, independent surveyor. The traffic access plan will address many of the street closure issues expressed tonight.

*Motion (Ladwig/Miller) to award the contract to Wahlund Construction tonight as recommended by GHD, with the condition that the contract includes hold harmless language requested by Councilmember Baker to protect the City from liability associated with errors made by construction engineers and contractors. **Passed 3-2. No – Baker, Rotwein.***

6. Consider Draft Resolution 2018-01 Formalizing Principals of Cooperation and Communication with the Yurok People and the Tribal Governments within our Greater Planning Area

Mayor Rotwein read the Resolution. **City Attorney Stunich** explained his recommendation to add the following statement at the end of the Resolution: "This Resolution is meant to be a statement of the City of Trinidad's intentions, not meant to create a contractual obligation."

Public comment included:

**Jacque Hostler** – Trinidad Rancheria

Thanked the City for the opportunity to participate and comment.

**Shirley Laos** – Trinidad Rancheria

Thanked the City and expressed support for the last sentence addition.

*Motion (West/Ladwig) to approve the Resolution as submitted, including the statement recommended by the City Attorney. **Passed unanimously.***

## **XI. DISCUSSION/ACTION AGENDA ITEMS**

### **1. Discussion/Decision regarding Tsurai Management Team**

City Manager Berman explained that the City Council discussed the Tsurai Management Team (TMT) in February of this year. At that meeting the Council adopted specific policy positions regarding the TMT, and directed staff to convey those to the TMT and report back to Council.

The City policies adopted in February are:

- 1) TMT meetings should be open to the public. Where discussions of confidential information regarding cultural resources are needed, the TMT can hold closed sessions, or the key parties can meet outside of the TMT format.
- 2) TMT membership should be expanded to include the other three stakeholder groups listed in the TMP – The Trinidad Rancheria, a representative of adjacent landowners, and an ‘interested public’ representative
- 3) The TMT should develop and adopt some basic written guidelines or bylaws, including how to move forward when members cannot reach unanimous consensus.
- 4) City participation in the TMT needs to be subject to applicable Brown Act requirements.

These City positions were shared and discussed at the subsequent TMT meeting. The Tsurai Ancestral Society and the Yurok Tribe representatives did not support the City’s recommendations regarding public meetings or expanding membership. There was some interest in working on item #3 – developing written guidelines or bylaws, as all parties agree that the TMT has not been as functional and productive as the parties would like it to be. The TAS argued (in part) that TMT membership was established not just in the TMP, but through legal settlements, and that changing membership would require amendments to those settlements. The Coastal Conservancy was not in attendance, and has not provided any formal comment on these positions.

The puzzle for the City is how to advance our adopted policies while fulfilling our commitments to implement the TMP. Staff’s ideas and recommendations follow:

- 1) The City should continue to participate in regular TMT meetings. The City has significant ongoing work to do with the TMT members that would be dramatically affected by a withdrawal from the group. In addition, the City has made a legal commitment to help implement the TMP, and the TMT is the key mechanism identified to do so. Withdrawing could create legal liability for the City.
- 2) Until the meetings are open, the City should be represented at TMT meetings by the City Manager and City Attorney, without Council members present, in order to meet the policy and legal requirements of the Brown Act.
- 3) The City could consider establishing a separate City Committee, comprised of stakeholders and subject to the open meetings, focused on tribal relations and cultural resources. This would help address the City TMT policy goal of open meetings with a more inclusive membership. Staff would recommend that the group include at a minimum the Yurok Tribe, Trinidad Rancheria, TAS, and public (Trinidad resident)

representation, with a Council or Planning Commissioner as chair. The public would be invited and have a chance to speak as well. Many City projects, both on and off the Tsurai Study Area, require input and/or consultation regarding cultural resource issues. This committee could be a single place to help discuss tribal and cultural resource issues and relations for the City with all interested parties. It would be an advisory group to the City. The City could bring issues from the TMT to this Committee to ensure the public and other interested groups have a chance to weigh in on those issues as well.

This would require additional staff effort and volunteer effort from the participants, and would be partially redundant with the TMT. The effectiveness and participation rate in such a committee is hard to predict, but it would be a way to try and implement the policy positions adopted in February.

Public comment included:

**Jim Cuthbertson** – Trinidad

I'm not in favor of having a second committee. The TMT meetings should be open to the public.

**Jacque Hostler** – Trinidad Rancheria

I've been working on this since 2011. The Rancheria has been requesting participation on this team for many years. We believe that not including the Rancheria violates numerous laws. We recommend adding the Rancheria and stakeholders, and make the meetings abide by the Brown Act. Discrimination issues are being brought to Governor Brown and the Coastal Conservancy Director. Federally recognized tribes have a choice to participate in open meetings. 501(c)3 Tribes are bound by State laws.

**Shirley Laos** – Trinidad Rancheria

I do not support a parallel committee. It's redundant and makes no sense.

**Patti Fleschner** – Trinidad

I concur with Cuthbertson, Hostler, and Laos's comments. I support transparent, open meetings. Developing a parallel process is redundant and wastes valuable time.

**Lisa Peltier (?)** – NAACP Volunteer

Asked for background information, clarification, and if the Tsurai "tribe" has been consulted.

**Meg Stofsky** – NAACP Member

Has the other tribal entities agreed to be bound by the Brown Act? Are you trying to obligate people to things they don't agree to.

Council comments included:

**Miller:** Our Council must abide by the Brown Act. TMT meetings have always happened behind closed doors.

**Baker:** I agree with the Rancheria representatives. No new committee. TMT is often times dysfunctional, and we can work this out within the current committee.

**Ladwig:** This is a puzzle, not a problem. I appreciate the alternative option, but NO new committee.

**West:** Agree with Ladwig.

**Rotwein:** The Tsurai Management Plan calls for adaptive management practices to be applied. The Team needs to adapt. No new committee. Include the stakeholders and the Trinidad Rancheria, and hold open meetings.

*By consensus, the Council did not support establishing a new committee and held firm to their original position to include the Trinidad Rancheria and stakeholders in Management Team meetings subject to the Brown Act requirements.*

- Discussion/Decision regarding Edwards Street Bluff Parking between Ocean Avenue and Trinity Street.  
City Manager Berman explained that the City has labeled the bluff side of upper Edwards Street between Trinity and Ocean Ave. as "No RV Parking" with lettering on the street, but without signs. This is generally respected, but not completely enforceable. This area has a beautiful view, appreciated by many, and the desire to avoid very large vehicles blocking the view seems reasonable and appropriate. There has been frustration lately over

the Sheriff's stance that the current situation does not support issuing citations. There have also been concerns over people who are not in RV's but are parked for extended periods and seemingly camping out of their vehicles.

Staff sees the following options, and are seeking Council and community input.

1. Whatever the desired specifics, Council needs to pass a law specifying the parking restrictions and the basis for them.
2. Pass a Resolution formalizing the NO RV PARKING.
3. Add a time limit, possibly one hour, which would ensure nobody would "hog" the space.

Staff prefers to avoid placing new signage in such a beautiful vista, but will work with the Sheriff to establish whatever mechanisms are necessary to enforce the law.

Public comment included:

**Diane Stockness** - Trinidad

No RV parking. Multiple signs are needed. 2-hour parking, with no parking on the north side. More benches are also needed.

**Dorothy Cox** – Trinidad

How do we deal with the white van that parks there all day? No RV's. I took pictures of people airing out their laundry there before. There should be more benches along the bluff that no parking signs can be attached to. 1-hour time limit.

**Jim Cuthbertson** – Trinidad

I was on the Council when we agreed to stencil NO RV's in the street. It worked.

Council comment included:

Miller: NO RV parking. 1-hour time limit. Minimal signage. Red curb on the north side.

West: Agree with Miller.

Ladwig: Agree with West and Miller.

*Motion (Rotwein/Ladwig) to direct staff bring back a resolution that formalizes the upper Edwards Street parking restrictions for No RV's, and a 1-hour vehicle time limit. **Passed unanimously.***

3. Discussion regarding Onsite Wastewater Treatment System (OWTS) Ordinance Implementation.

City Manager Berman presented a slide show highlighting statistics of the OWTS program as implemented to date. Primary goals are to permit every system in the City, and develop an efficient renewal system. There are approximately 70 systems permitted and approximately 130 without permit. The permitting rate should accelerate as staff gains experience. In order to get all properties permitted in 2018, 18 permits must be issued each month.

Council questions included:

**West:** How long does it take to complete a single permit?

**Ladwig:** Do we know of properties that are more ecologically sensitive? How about properties that have been notified twice or are non-responsive?

**Rotwein:** There is currently 1.1 staff positions being paid for by the General Fund (Grant Administrator = .6, and Part-time Admin = .5). We should use the additional time being consumed by the Grant Administrator to expedite this program.

Public comment included:

**Meg Stofsky**

How close is Trinidad to complying with Federal laws? What about people that are severely impacted by this, such as the disabled?

**Dorothy Cox** – Trinidad

There is more than 1 qualified inspector.

### **Unknown Individual #1**

I heard that the Bed & Breakfast on the corner had a septic system that was seeping under the road and affecting the lighthouse area.

Mayor Rotwein explained that this issue is governed by State Water Resources Control Board, not the Feds. Grants have been made available for septic repairs, but not necessarily ONLY for the financially challenged or disabled. Finally, accusations have been made of the Bed & Breakfast septic systems that are false. They have a permit that is regularly reviewed by the County Department of Environmental Health.

#### 4. Discussion/Decision regarding Planning Commissioner Vacancy Appointment.

City Manager Berman explained that the Planning Commission has been operating with only 4 commissioners since August 2017. The vacant seat term expires in December 2020. The current commissioners are John Graves, Diane Stockness, Richard Johnson, and Brett Gregory.

The City recently received a letter of interest from resident Mike Morgan. Mr. Morgan served on the Planning Commission from 2006-2008, then served a 4-year term on the City Council from 2009-2012.

#### Public comment included:

##### **Meg Stofsky**

The concerns of myself, lighthouse demonstrators, and the NAACP have with Mr. Morgan are is hostile and aggressive behavior. I urge you to not appoint him as Planning Commissioner.

##### **Shirley Laos – Trinidad Rancheria**

I believe that as a lifelong member of the Trinidad Rancheria and Trinidad, and working with Mr. Morgan on many occasions, I do not agree with the criticisms alleged of him tonight. I find him to be very informed and reasonable, and based on my experience I support his candidacy.

##### **Joel ? – Socialworker 1**

It is difficult to see this person as a candidate. During lighthouse demonstrations, he came out on his porch and fired off a tazer device to intimidate us. His inappropriate behavior could pose problems in the future for the Planning Commission and City Council.

##### **Katherine Melburn – Socialworker 2**

His behavior is inappropriate and disruptive and I do not support his appointment. Unfair treatment and intimidation patters and use of social media during the native demonstrations were wrong.

##### **Lisa Peltier – NAACP Volunteer**

Mr. Morgan was disruptive during a candle light vigil held during the lighthouse demonstrations. It is unacceptable to appoint him to the Planning Commission. I'm here as an ally to the Tsurai. The Rancheria is a much smaller group. We were asked to be here to support the Tsurai.

##### **Dorothy Cox – Trinidad**

Mr. Morgan has a business to run and I interpret his comments as letting the public know he was open for business, nothing more.

#### Council comments included:

**Miller:** Finding anyone to serve in volunteer positions is difficult. I appreciate Shirley Laos's comments about Mr. Morgan. I served on the Council with him. He has, at times, behaved outlandishly. I support the NAACP and am sympathetic to the comments made tonight. We should have a talk with Mr. Morgan if he's appointed.

**Baker:** If appointed, the actions he takes after appointment are more important. We have already, recently, removed a Planning Commissioner for behavior issues. He should be held to higher standards.

**Rotwein:** We heard only half the story tonight. I'm willing to support Mr. Morgan.

*Motion (West/Rotwein) to appoint Mike Morgan to fill the vacant term on the Planning Commission through December 2020. Passed 4-1. No – Ladwig.*

5. Discussion regarding FY 2017-2018 Audit Recommendations.

City Manager explained that it was his intent to cover this item in his staff activity report – not to have it on the agenda as a discussion item. Most, if not all of the recommendations have been implemented. The City's reserve assets have been moved from the checking account to the LAIF investment fund.

Public comments included:

**Shirley Laos** – Trinidad Rancheria

I have generations of ancestors buried in the Trinidad Cemetery. I was happy to see the City is considering long term planning for the Cemetery.

**XI. FUTURE AGENDA ITEMS – None**

**XIII. ADJOURNMENT: 9:15 pm**

**Submitted by:**

**Approved by:**

\_\_\_\_\_  
**Gabriel Adams**  
Trinidad City Clerk

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**Susan Rotwein**  
Mayor

DRAFT