

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, MAY 10, 2017

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION

1. *Conference with legal counsel regarding active litigation. Tsurai Ancestral Society vs. City of Trinidad. Pursuant to California Government Code section 54956.9 (a).*

IV. RECONVENE TO OPEN SESSION – No report given.

V. APPROVAL OF AGENDA

*Motion (Rotwein/West) to approve the agenda as amended, pulling 4 & 6 for discussion. **Passed unanimously.***

VI. APPROVAL OF MINUTES – April 12, 2017 cc, April 26, 2017cc2

*Motion (Ladwig/West) to approve the minutes as amended. **Passed unanimously.***

VII. COUNCIL MEMBER REPORTS

Rotwein: Met with the Hazardous Materials Response Authority, Coast Guard, and attended a meeting with the Trinidad Rancheria as the city's tribal liaison. Announced that she was pleased to report that Maggie Flemming sent an opinion memo to the City stating she did not believe the Mayor committed a Brown Act violation. She also added that she hoped the Council considers adopting best practices policies for governing at a future meeting.

West: HCAOG report; Last Chance Grade status and solutions, Little River Trail progress, and road sharing issues with cyclists.

Baker: Working with Councilmember West on reviewing STR approvals. Also surveyed Ocean Ave. and Ocean Alley, and discussed issues with neighbors. Attended Brown Act training recently with 4 of 5 Council members.

Miller: RCEA is rolling out the Community Choice Energy program this month.

Ladwig: Nothing to report.

VIII. STAFF REPORTS:

City Manager Berman summarized the staff activities report included in the Consent Agenda highlighting various accomplishments and project status for the month; *Lighthouse Memorial site repair work underway – sidewalk removed and erosion control in place. Measure Z funding approved for \$75,000 to cover public safety expenses. Truck abandoned on launcher beach and tow recovery process took place the following morning.*

IX. ITEMS FROM THE FLOOR:

Patti Fleschner – Trinidad

Thanked the City for the Bed Tax contribution payment, and thanked Deputy Luke Mathieson for continued assistance with transient issues at Saunders Park, Museum, & Library. BLM lighthouse on Trinidad Head will be open 10-12 every Saturday in the summer. Thanked the Council for their help protecting the Trinidad Memorial Lighthouse.

Dorothy Cox – Trinidad

Thanked Deputy Mathieson for his immediate assistance with an issue that she witnessed at the overpass recently that involved a man with a fake gun. Can I get an Ocean Avenue encroachment report please? Pull consent 6 for discussion.

Leslie Farrar – Trinidad

We submitted written comments at the 4/26/17 meeting and it is unclear where they are referenced in the minutes. I request consent items 4 and 6 be pulled for discussion.

Alan Grau – Trinidad

Same comment as Leslie Farrar.

Tom Davies – Trinidad

Requested consent items 4 & 6 get pulled for discussion.

X. CONSENT AGENDA

1. Staff Activity Report for April 2017

2. Financial Status Reports for March 2017

3. Proclamation Recognizing May 2017 as Humboldt Bike Month.

4. Approve Letter allowing Strawberry Rock Gallery to Obtain an Alcohol Sale License through ABC.

City Manager Berman explained that owner Suzanne Murphy has applied to the State for an alcohol license so they can serve alcohol inside the gallery at periodic events and receptions. The California Department of Alcohol Beverage Control considers this area to have an “undue concentration” of alcohol licenses, and will not issue the license without the City’s consent, stating “the public convenience or necessity would be served by the issuance of this license”.

Public comment included:

Tom Davies – Trinidad

A license will open up their opportunity to sell alcohol anytime. We are a town of 300 people constantly pandering to tourism. This is a message the city doesn’t need to send anymore. Not in favor of issuing this license.

Residents **Alan Grau, Dorothy Cox, Leslie Farrar, and Kim Tays** agreed with Davies – not in support of issuing the license.

Comments included:

Baker: Public concerns are important, but do we have data on violence and drunkenness in public related to these establishments?

Ladwig: This permit is consistent with other licenses issued in the same shopping center, and I want to be fair to everyone. Had we decided to stop accepting licenses prior to this application being submitted, I’d feel more comfortable declining it. But we haven’t. I hear the public comments, but we have to be fair.

Rotwein: I’m being persuaded by public comment, and am also concerned with saturation of licenses and the change in use of the business that’s currently there.

Motion (Ladwig/West) to deny Strawberry Rock Gallery the City’s support to obtain the ABC Liquor License.

Passed 4-0-1 Miller – Abstain.

5. Adopt Resolution 2017-05 Authorizing Trinidad’s Membership in the Humboldt County Solid Waste Task Local Task Force.

6. Adopt Resolution 2017-06 Authorizing Trinidad’s Inclusion in the Renewal of the Humboldt County Tourism Business Improvement District (HCTBID).

Councilmembers Ladwig and Rotwein recused themselves from this discussion.

City Manager Berman explained that Local lodging owners voted to create the Humboldt County Tourism Business Improvement District (HCTBID) in 2012, and are now seeking to renew it for ten years. The HCTBID is funded with a 2% tax on short-term lodging. The funding goes to efforts to promote tourism, both at a local and regional level. This 2% tax is separate from, and in addition to, the 10% Transient Occupancy

Tax collected by Trinidad. The 2% HCTBID funds are collected by the City, who then passes them on to the Humboldt Lodging Alliance on a quarterly basis.

In order to renew the HCTBID, a majority of the businesses paying the assessment must petition the City for HCTBID renewal (by amount paid). That majority has been reached in the City, as well as on the larger Countywide scale, indicating that a majority (by amount paid) of lodging owners want to continue the HCTBID.

The County of Humboldt has requested by the inclusion of the City of Trinidad in the HCTBID. The County of Humboldt has requested consent to act as the lead jurisdiction in renewing the HCTBID. Adopting this resolution will give the County of Humboldt authority to include the City of Trinidad in the renewed HCTBID. To renew the HCTBID, the County of Humboldt will follow the renewal proceedings specified by law, including accepting petitions, adopting a resolution declaring its intention to renew the HCTBID, holding a public meeting and public hearing to allow for comments, and adopting a resolution renewing the HCTBID.

There are two new aspects of the HCTBID that benefit Trinidad. First, the City can recover our staff time handling this money through an incidental fee (1% of the HCTBID funds that pass through our office). More importantly, 60% of the funds collected in Trinidad are designated to support local Trinidad Area projects through what is essentially a small grant program.

HLA Executive Director Tony Smithers clarified that Prop 218 does not apply here. This is an assessment, not a tax. He also reintroduced himself and re-summarized Berman's summary of issue at hand. Smithers also clarified that the City can benefit from receiving a large percentage of the tax collected to re-invest in tourism related projects throughout town. Applications from the community will be reviewed by Trinidad's HLA representative for approval.

Public comment included:

Alan Grau – Trinidad

There are too many tourists coming to Trinidad than it can accommodate. Cited various STR complaints, and stated that more tourists will undermine the coastal village character.

Dorothy Cox – Trinidad

Concerned about having one person in control of funding. I'd like to see the report of accomplishments that HLA is taking credit for.

Victoria Sackville-Rosen - Trinidad

I can see many good things that could come out of this, but also see issues with having one person in charge of the grant funding available to the community.

Leslie Farrar – Trinidad

Who is Trinidad's representative? This is unnecessary for Trinidad, it is marketed enough already. I'm confused how to distinguish projects for tourism vs. projects that improve the town.

Tom Davies – Trinidad

If HLA Resolution is accepted by the Council, then they shouldn't make any budget contributions to HCCVB.

Kim Tays – Arcata

10 years is too long. Mike Reinman as representative is a conflict. Can someone else on the board make the decisions?

Council comments included:

West: Why Reinman? Smithers explained that he signed up for the 2-year term.

Baker: I see this as having potential to be useful for the City. I have concerns, however, with any one single person having decision-making power for grant allocations.

Miller: Clarified the Council's role in processing the TBID funds and noted the added funding opportunity this provides for community groups.

*Motion (West/Baker) to approve Resolution 2017-06 granting consent to the County of Humboldt to renew the HCTBID, and requested the City Manager keep the Council updated regularly on the program. **Passed unanimously.***

*Motion (West/Baker) to approve the consent agenda as amended, pulling # 4 & 6 for discussion. **Passed unanimously.***

XI. DISCUSSION/ACTION AGENDA:

1. Appoint Members to the Trinidad Trails Committee

City Manager Berman explained that the Council has approved a charter and a membership framework for a standing Trails Committee. That Charter is attached and provides for the composition, purpose, and goals of the Trails Committee. The membership framework is:

- (1) City Councilmember (committee chair)
- (1) Planning Commissioner
- (2) General Public representatives*
- (1) Yurok Tribe Representative
- (1) Trinidad Rancheria Representative
- (1) Visitor Services Representative

*The Council indicated that in the event two City residents do not apply for the general public seats, one can be appointed from the Greater Trinidad Area.

The City invited interested parties to submit a letter of interest. The following 5 letters have been received and are included:

- Jonna Kitchen (applied as Visitor Services – also a City resident)
- Gail Kenny (Resident)
- Zack Brown (Trinidad Rancheria Tribal Council Member)
- Ben Morehead, Executive Director, Trinidad Coastal Land Trust (Visitor Services)
- Jim Cuthbertson (Resident)

*Jim is not a PC member, but would, if willing, serve as liason between the PC and the Committee.

Public comment included:

Shirley Laos – Trinidad Rancheria

Invited the City to attend a Trails Summit meeting at the Warfinger in Eureka on Saturday June 03.

Motion (Ladwig/Baker) to approve the committee makeup as recommended by Councilmembers Rotwein and West, as follows: Councilmember Rotwein (City), Gail Kenny (public), Jonna Kitchen (public), Zack Brown (Trinidad Rancheria), Ben Morehead (Visitor Services), Jim Cuthbertsen (Planning Commission) **Passed unanimously.***

2. Discussion/Decision Regarding Trinidad Head Cell Tower Lease

City Manager Berman explained that when the City of Trinidad was given ownership of approximately 46 acres on Trinidad Head by the federal government in 1983, the granted property included a cable TV communications facility near the top of the Head. Trinidad Head is in the City's Open Space zoning, and the City's receipt of the property came with condition from the federal government that it be used for public recreation. However because it was already in place upon the City's receipt of the land, the cable facility was considered a legal non-conforming use. That use, with lease rent to the City, continued into the 1990's. In 1997, with the cable company no longer interested in the site, the City of Trinidad entered into a 20-year lease for cellular communication facilities on the site. The cable dish on site was replaced with two poles, with cellular antennae affixed. The end date of that 20-year lease is now approaching.

The Lease Agreement:

The copy of the lease that the City has had on file, which has been referenced repeatedly in past decisions and discussions about this issue, was an unsigned draft dated April 1997. The City has recently obtained a final signed version of the lease from the current lessee (attached). This final lease agreement:

- a) Was signed in August of 1997, with an effective start date of September 1st, 1997, therefore the 20 year lease term ends on Sep 1st 2017;
- b) Provides that the City can terminate the lease by providing notice of its intent to do so within 90 days of the lease termination date, i.e. by June 1st 2017
- c) If notice is not provided by June 1st, the lease is automatically extended for one additional year.
- d) Note that the option to extend the lease by five years, which is present in the draft lease, was removed from the final signed lease. Staff found corresponding May 1997 Council meeting minutes documenting the decision to remove that term from the lease.

Approval of the 1997 lease appears to have been non-controversial at the time. However, when a permit to modify the site was considered in 2006-7, there was vocal opposition, including an appeal to the Coastal Commission of the City's permit approval. Coastal Commission staff recommended denial, and the applicant withdrew the project. Since that time, the City has allowed some small modifications to equipment on site, with review by Coastal Commission staff to establish concurrence that these modifications have not required a new Coastal Development Permit.

Carriers and Coverage:

The City's lease is with Verizon. Verizon subleases to two other mobile providers: Sprint and AT&T. City Staff have notified all three carriers of the current lease situation, and asked them to describe the impacts to their coverage if the site was to be removed. The City Council previously (2012) sent a letter to Verizon notifying them that the City may end the lease when it is able.

Verizon has indicated they are prepared to give up the Trinidad Head Site. They have built alternative coverage, including a large tower that recently went up at the rock Quarry above the City. They have not provided any coverage map of the effect of removing the Trinidad Head site.

The other two carriers are very concerned. Sprint says the loss of the Trinidad Head tower would basically eliminate coverage for their customers north of the Little River, as Trinidad Head is their only tower north of McKinleyville. AT&T has provided less detailed information, but also indicated that their coverage and customers would be seriously affected in the greater Trinidad area. Sprint indicated that it would take them 12-18 months to develop an alternative site.

Interest in Continuing Use:

Sprint and AT&T have expressed interest in continuing their existing use under a new agreement and payment arrangement with the City. They have also requested that if the City decides to remove the site completely, the City consider extending the lease for one additional year to provide them time to develop alternative coverage.

The City has also received one preliminary statement of interest from another party who would like to continue the existing use of the site under a new lease from the City. That interest is conditioned on minimal changes to the facility so as not to require a new Coastal Development Permit.

The City currently receives approximately \$25,000 per year in lease payments for the site. Staff expect that number would increase under a new arrangement, but no negotiations have occurred. Staff see continuation of use as feasible only if it can be done with basically no changes to the site.

Key Issues:

Zoning - Removal of the facility would be consistent with the Open Space Zoning. There is no requirement to remove a non-conforming use, and non-conforming uses generally can be altered, repaired, and extended, but cannot be made 'more non-conforming'.

Visual Resources - Removal would improve visual resources somewhat. The cell site is visible, more so from off the Head than from the trails on the Head. But the site is one of several similar structures in view - the power poles and lines climbing the Head, and the radio tower and atmospheric monitoring equipment on federal property adjacent to the cell site, will remain.

Coverage Loss/Public Safety – This location has exceptional line-of-sight coverage for the greater Trinidad area, including on local beaches and at sea. Removal will (per carrier’s report) dramatically affect cell phone coverage for Sprint and AT&T customers, whether resident or visitors. This is a public safety as well as a convenience issue.

Revenue - The City has been receiving approximately \$25,000 per year from leasing the site; staff expects that a continuation of existing use would generate at least that much going forward. This is about 5% of our General Fund Revenue (excluding grants).

Permitting Challenges- Continuing use through any new lease arrangement would be controversial. Staff expect any change on site that requires a permit to be appealed to the Coastal Commission, and expects Commission staff to recommend denial. Minor repairs and maintenance of existing structures, including like-for-like replacement of components, typically does not require a new permit, but staff expect any such proposal would be viewed skeptically by Commission Staff.

Public Input –Prior public comments have included arguments both for and against removal. A previous City Council sent a letter to Verizon indicating their intent to remove the towers at this point. The Trinidad Head Study Committee Final Report recommended removal, as have the Yurok Tribe. In recent conversations staff have heard from Volunteer Fire Department staff (speaking as individuals) and local fisherman concerned about loss of coverage

Staff see the following options for Council to consider, with brief pros and cons of each:

- 1) **End the Cell Tower Use this fall.** Notify Verizon and the other carriers that we are terminating the lease with no intent to continue use. Verizon is responsible for removing the equipment, and it should be gone by Sep 1st according to the lease. This decision would need to be made prior to June 1st.

Pros: Removes a non-conforming commercial use from Open Space Zoning. Improves visual resources on Trinidad Head, avoids permit fights.

Cons: Dramatic coverage loss for Sprint and AT&T customers; City foregoes ongoing General Fund Revenue

- 2) **Extend the current lease for one year with intent to terminate in 2018.**

Pros and Cons - as with immediate removal above, except this avoids abrupt coverage loss for AT&T and Sprint, assuming they can find alternative options. Other benefits are delayed one year.

- 3) **Extend the current lease for one year and explore negotiations with parties interested in continuing use**

Pros –Gain more information on possible revenue, no permit challenge to a one-year extension of existing use, No impact on coverage/public safety or City revenue next year. Option of terminating facility still available.

Cons: (if new lease) No change to non-conforming use and visual impacts, permitting challenges.

Public comment included:

Brad Twoomey – Trinidad

The City should get out of the money making business on Trinidad Head.

Alan Grau – Trinidad

Cell towers are not appropriate for a California Monument. Do not renew the lease.

Cindy Lindgren – Trinidad Area Resident

Cell companies do not always tell the truth. Renewal may not be worth \$25,000/year.

Kim Tays – Arcata

Read an old memo from Coastal Commission staff member Jim Baskin, stating the cell facility should have never been allowed to be on Trinidad Head. I’ve spent \$11,000 of my own money protecting Trinidad Head. It needs to be restored to its natural condition.

Shirley Laos – Trinidad

Speaking as an individual Yurok person – not as a Rancheria staff member – I suggest that you do not renegotiate, but extend one year to allow carriers to find an alternative.

Leslie Farrar – Trinidad

Agreed with Cindy Lindgren and Kim Tays. I support science, but no new leases. Remove everything.

Marieva Russo – Trinidad

Echoed public comments and urged the Council to not renew the lease.

Tom Davies – Trinidad

I support all the public comments made. Do not renew the lease.

Council comments included:

Baker: Concerned about safety issues if the lease was terminated immediately.

West: Interested in finding out if AT&T & Sprint would lose coverage completely or not when the lease is terminated.

Ladwig: I have not heard from a single person asking for the cell towers to stay, and I have no concern for AT&T or Sprint.

Miller: I have been in favor of removing the cell towers, but I also think they should be given 1 year to make the move.

Rotwein: I agree with Miller. A transition period is needed. This also gives us time to prepare for the budget impact.

*Motion (Rotwein/Ladwig) to extend the lease for 1 final year with the intent to eliminate the site at expiration date of September 01, 2018. **Passed unanimously.***

XII. FUTURE AGENDA ITEMS

- Explore liquor licenses issue (Is Trinidad saturated? Or are more licenses ok?)
- Resolution of HSU Marine Lab cypress tree.
- Public trails trespassing on private property
- Next meeting scheduled for June 01, 2017, at 10:00am. Special Budget Session.

XIII. ADJOURNMENT

Meeting ended at 9:20pm.

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Dwight Miller
Mayor