



Posted: Friday, June 20, 2014

NOTICE AND CALL OF A SPECIAL CLOSED SESSION MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a special meeting on
WEDNESDAY, JUNE 25, 2014 at 10:00 AM
AT THE TRINIDAD TOWN HALL, 409 TRINITY STREET, TRINIDAD, CA..

10:00AM CLOSED SESSION

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ADJOURN TO CLOSED SESSION**
 - 1. Existing/Pending Litigation against the City of Trinidad, Government Code section 54956.9(b) and/or section 54956.95, from the Tsurai Ancestral Society
 - 2. City Manager Recruitment: Section 54957(b), City Manager Selection and Recruitment Process.
- IV. **RECONVENE TO OPEN SESSION**
- V. **APPROVAL OF AGENDA**
- VI. **ITEMS FROM THE FLOOR**
(Three (3) minute limit per Speaker unless Council approves request for extended time.)
- VII. **CONSENT AGENDA - None**
- X. **DISCUSSION/ACTION AGENDA ITEMS - None**
- XII. **ADJOURNMENT**



CLOSED SESSION AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 28 PAGES

1. Existing/Pending Litigation against the City of Trinidad, Government Code section 54956.9(b) and/or section 54956.95, from the Tsurai Ancestral Society

CLOSED SESSION DOCUMENTS

June 25, 2014 10:00 a.m.

- June 11, 2014 letter from Attorney Zwerdling confirming understanding based on 6/9/14 mediation with attachments:
 - May 21, 2014 letter listing plaintiff's twelve (12) conditions for settlement
 - Deed recorded April 1989 transferring site from Coastal Conservancy to City of Trinidad

- June 9, 2014 e:mails from attorney Stunich detailing his analysis of mediation and recommendations (three separate e:mails, same date).

- May 13, 2014 letter from Rancheria Chairman Sundberg expressing concerns with transfer of land to Tribe.

- May 15, 2014 letter from City Manager in response to Chairman Sundberg's letter.

- July 8, 2010 closed session memo from then City Attorney Paul Hagen on Tsurai Village site transfer efforts. (Note: draft transfer documents prepared by Mr. Hagen are available if requested).

- April 10, 2008 TSA Transfer Committee re request from Rancheria to participate.

ZwerdlingBraggMainzer LLP

A LITIGATION LAW FIRM

Zachary E. Zwerdling

William R. Bragg

Benjamin H. Mainzer

June 11, 2014

Terry Supahan
P.O. Box 389
Orleans, CA 95556

Andy Stunich, Esq.
Perlman & Stunich
2701 Harrison Avenue, Suite 1
Eureka, CA 95501

Tim Wykle, Esq.
Mathews, Kluck, Walsh & Wykle
100 M Street
Eureka, CA 95501

Tim Nisson, Esq.
Nisson, Pincin & Hill
P.O. Box 992710
Redding, CA 96099-2710

Julie Fulkerson
Dwight Miller
Tom Davies
Jim Baker
Jack West
Karen Suiker
c/o Trinidad City Hall
409 Trinity Street
Trinidad, CA 95570

Re: Tsurai Ancestral Society, et al. v. City of Trinidad, et al.

Ladies and Gentlemen:

Following up on our June 9, 2014, round of mediation, this letter is to confirm the following:

1. Plaintiffs do not seek 24 hour police protection for the Tsurai Study Area. They only expect the same level of protection that the City provides to its own properties such as the City Hall.

RECEIVED JUN 12 2014

June 11, 2014

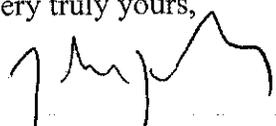
Page 2

2. On August 13, 2014, the City of Trinidad will review the May 21, 2014, letter from plaintiffs setting forth 12 proposals that will resolve both outstanding lawsuits pending between the City of Trinidad and the Tsurai Ancestral Society. The City will then report to the Tsurai Ancestral Society the positions the City has taken on the 12 points. These communications will remain confidential.
3. Plaintiffs request a response in writing by August 15, 2014, as to which points the City agrees with, which points it disagrees with and which points will require further negotiation. If it appears from the City's response letter that the City is making a good faith effort to address the 12 points, plaintiffs will agree to return to another round of Mediation at a date to be determined.
4. Plaintiffs understand that a Management Plan meeting will be held before August 13, 2014. This meeting will address issues other than the transfer of the Tsurai Study Area title. Plaintiffs hope that the City of Trinidad will show good faith by setting up the meeting and further good faith by agreeing to specific steps to implement aspects of the Management Plan.
5. Plaintiffs will seek a six month continuance of the case currently scheduled for Trial in November. The City of Trinidad and the remaining defendants will join in and urge the court to grant the motion.

Finally, I have taken the liberty of enclosing copies of plaintiff's May 21, 2014, letter and the Deed transferring Title of the Tsurai Study Area from the State of California to the City of Trinidad. I have highlighted the language setting forth the cultural easement that was discussed June 9, 2014.

Please call if you have any questions.

Very truly yours,



ZACHARY ZWERDLING

ZZ/cf
Enclosures

cc: Tsurai Plaintiffs (sent via e-mail)
Ralph Faust (sent via e-mail)
Gillian Thompson
Amy Mendoza-Stover
Ruth Curatolo

May 21, 2014

SENT VIA U.S.P.S. AND E-MAIL

Terry Supahan
P.O. Box 389
Orleans, CA 95556

Andy Stunich, Esq.
Perlman & Stunich
2701 Harrison Avenue, Suite 1
Eureka, CA 95501

Tim Wykle, Esq.
Mathews, Kluck, Walsh & Wykle
100 M Street
Eureka, CA 95501

Tim Nisson, Esq.
Nisson, Pincin & Hill
P.O. Box 992710
Redding, CA 96099-2710

Re: Tsurai Ancestral Society v. City of Trinidad, et al.

Gentlemen:

Our thanks to each of you, and your respective clients, for participating in the mediation on May 15. This was a good opportunity for each of the parties to communicate directly and to begin the process of healing and reconciliation that will serve to unite the community, rather than divide it.

This letter confirms that we have made a decision to schedule another round of Mediation on June 9, 2014, at 9:00 a.m. This will occur at the Trinidad City Hall.

I want to take this opportunity to outline our position on settlement of the many issues that we discussed.

Plaintiffs are willing to sign Dismissals with Prejudice of the two pending lawsuits against the City. Further, plaintiffs will waive any claim for attorney's fees and for general damages if the following conditions are met:

1. The first and foremost condition for settlement continues to be the transfer of the Tsurai Study Area to the Tsurai Ancestral Society. As a part of the transfer process, the Tsurai Ancestral Society would request the implementation of the Tsurai Management Plan through the Management Team.

The Tsurai Management Plan sets forth the roadmap for this transfer. Plaintiffs herein request the Tsurai Management Team meetings be scheduled as soon as possible to begin implementing projects in the Study Area. The top priority of the Tsurai Ancestral Society is the goal of transferring title to the Ancestral Society after completion of these projects. The Yurok Tribe and the Coastal Conservancy, as members of the management team, will be expected to participate in these discussions. Plaintiffs are optimistic that these entities will support this effort. I would also remind the parties that plaintiffs received an offer from the City several times in the past to transfer title to the Tsurai Ancestral Society. No concerns were expressed regarding the Yurok tribe at that time. We are not aware of any reason to be concerned about that issue now.

There is no reason why the management team cannot begin to perform its duties under the management agreement. It has been seven years since the Management Plan was signed and there is very little progress to show in all this time. The clearest path towards resolution of the ongoing conflict between plaintiffs and the City remains the failure to move forward with the Management Plan. Settlement of litigation can occur only if the City takes the lead now in planning and scheduling management team meetings. After an agreed period of time, plaintiffs are willing to dismiss the cases against the City if the Management Plan is operational and the Tsurai Study Area is transferred to the Tsurai Ancestral Society.

To begin the process of implementing the Management Plan and transferring the property to the Tsurai Ancestral Society, the plaintiffs ask that the parties meet as a group with Terry Supahan in approximately six months to review progress. Plaintiffs would ask that another meeting be scheduled in one year time to confirm that this condition of settlement has occurred. Dismissal of the pending lawsuits against the City of Trinidad will also be conditional on a satisfactory settlement from Mr. Pennisi and Ms. Ferrett and Coastal Tree Service.

2. The Tsurai would also request the City give a cultural easement over the property it holds title to upon Trinidad Head to the Tsurai Ancestral Society. The importance of the Head to the Tsurai people is well documented, as it is the center of their creation story. It is an essential part of who the Tsurai people are, and how they came into existence. The founder of the Tsurai Ancestral Society was Axel Lindgren, Jr. He spent a lifetime educating the public about the Tsurai

people, and his love of Trinidad and its history, both Native and non-Native. Axel was committed to educating the public and creating safe, responsible trail use. He installed the trails on Trinidad Head, known as the "Tsurai Trail" and kept open the trail to Old Home Beach, now known as the Axel Lindgren Memorial Trail, for public use. Axel believed preservation of both cultural and natural resources, could be accomplished best through properly educating the public about the sensitivity of the area. In his spirit, the Tsurai Ancestral Society is committed to continuing the Ancestral Society's purpose and goals of educating the public about the sensitive areas, and promoting safe, responsible trail use while honoring the past.

3. Plaintiffs have requested, and believe that the City has tentatively agreed that the Galindo Street Trail needs to be closed, because it is constructed over a known gravesite, despite the objection by the Tsurai prior to construction. City representatives acknowledge that, if true, this would be illegal and that there is a need to either change the configuration of the trail or to close it all together. Plaintiffs will require, as a condition of settlement, the City of Trinidad will collaborate with the Tsurai Ancestral Society to close the trail within the one year implementation period described above.

4. A further condition for settlement will be that the Tsurai Ancestral Society will be called upon for cultural monitoring on future projects within the City's control, to avoid future situations like Galindo Street Trail. The Tsurai will charge the going rate for cultural monitoring services so there will be no added expense for the project. Use of other cultural monitors would be permissible with the approval of the Tsurai Ancestral Society. As a part of this condition for settlement, plaintiffs further request that the City agree to notice¹ the Tsurai Ancestral Society about all projects 30 days prior to ground disturbing activities, as this could potentially impact Tsurai cultural resources within the City of Trinidad. Further, the City Planner and City Manager will consult with the Tsurai Ancestral Society during the planning phase of all ground disturbing projects and grant proposals, to avoid unknowingly impacting culturally sensitive areas.

¹ Notice: The City of Trinidad shall agree that "proper notice" shall consist of written communication with the Secretary of the Tsurai Ancestral Society at least 30 days prior to any ground disturbing activities, or before the submission of any grant proposal that would include ground disturbing activities, or for a project proposed in a coastal area.

5. Plaintiffs request that the City incorporate the Tsurai Management Plan into the General Plan and the Local Coastal Plan. City representatives at mediation stated that there was interest in studying this proposal. Plaintiffs would note that Trever Parker has worked to implement this since at least 2013, however, we have not seen the proposed wording or sections in which it will appear. Plaintiffs would request that Ms. Parker provide the Tsurai Management Team a copy of all her efforts to date in order to allow all stakeholders an opportunity to comment.
6. Plaintiffs request that the recommendations in the Management Plan for protective fencing be implemented, beginning on Wagner Street Trail. The management team should begin discussions as soon as possible on the location and appropriate language for the signage. Completion of the protective fencing and signage on the study area will be a condition for dismissal of the two lawsuits against the City.
7. Plaintiffs have requested that the Western access trail be closed. This project shall be done through the Tsurai Management Team and completed within the proposed one year target period.
8. In addition, they request collaborative efforts between the City of Trinidad and the Tsurai Ancestral Society to jointly provide a series of public educational meetings on who the Tsurai are, why they are requesting the land, and what the future goals are for the site. These public meetings/trainings would allow the public to have insight into deep community issues, and after all the information is presented, allow for public participation and comments.
9. A further condition of settlement is that the City shall agree to collaborate with the Tsurai Ancestral Society to develop implementation of a policy for cultural sensitivity training, and shall have the training be presented by the Tsurai Ancestral Society or their designee, for City Council and City staff. At mediation, City representatives stated that they have no objection to this request. Plaintiffs would like to see this condition of settlement implemented as soon as possible.
10. The Tsurai Ancestral Society desires to have input into the hiring process for a new City Manager. To move towards harmony between the parties, the person selected to become the next City Manager will have to be sensitive and aware of the cultural resource issues that have been a continuing source of friction between the City and Tsurai. The Tsurai have been asked to provide the City with proposed language to use in the job description, setting forth the City's desire that

Re: Tsurai Ancestral Society, et al. v. City of Trinidad, et al.

May 21, 2014

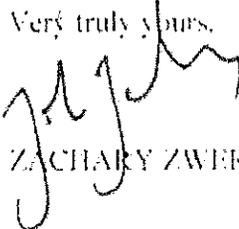
Page 5

the potential City Manager have knowledge and sensitivity towards Native American cultural issues. Plaintiffs further request that to honor the spirit of these discussions, City staff be directed by the City Council to fairly and objectively discuss Tsurai issues with the new City Manager so that the new City Manager will have the ability to work independent of any ill will that may currently exist.

11. The City has agreed to work with the Tsurai to designate City property for use in Tsurai education, cultural and administrative purposes including, but not limited to, a location for Tsurai Ancestral Society meetings, a location for Tsurai cultural demonstration projects, such as canoe carving, and a location for construction of representation Tsurai Village shelters. The Tsurai would also seek the City's assistance to create a kiosk, or some other permanent structure in a prominent location near the entrance of town, that would educate the community and visitors to Trinidad regarding the history of the Tsurai and the important contribution the Tsurai have made to Trinidad. The Tsurai desire to work with City staff to seek grants for these purposes.
12. With regards to the claim for damages against Sam Pennisi and Sharon Ferrett and Coastal Tree Service, counsel for plaintiffs agree to work with these defendants over the next few months to attempt to arrive at a monetary settlement, that would be paid on condition that the City of Trinidad complies with the settlement proposal outlined above and has met the conditions for dismissal of the two cases against it.

We look forward to hearing from you regarding the above.

Very truly yours,


ZACHARY ZWERDLING

ZZ:ef

cc: clients

As Exh. 10
Jud convey

RECORDED AT REQUEST OF
City of Trinidad
1989 6473
DATE 4/4/89 TIME 1:15
STEPHEN A. STRAWN
HUMBOLDT COUNTY RECORDER (12)
By M. Strohman DEPUTY
FEE None

RECORDING REQUESTED BY
AND RETURN TO:
Mayor
City of Trinidad
P.O. Box 390
Trinidad, California 95570

DEED

I. Whereas, the State of California, acting by and through the State Coastal Conservancy (hereinafter known as the "Conservancy"), is the owner of certain real property located in the County of Humboldt, State of California; and

II. Whereas, the Conservancy desires that the property be transferred to the City of Trinidad (hereinafter known as "Grantee") in consideration of the amount of two hundred and fifty thousand dollars (\$250,000.00), appropriated to the State Coastal Conservancy from the Environmental License Plate Fund pursuant to Chapter 1633, Statutes of 1988, in accordance with the authority provided in California Public Resources Code Section 31354; and

III. Whereas, on November 4, 1988, pursuant to California Public Resources Code Section 31107, the Conservancy requested the Director of General Services (hereinafter known as "General Services") to transfer fee title to the property to the Grantee for conservation and public access purposes subject to an easement to preserve scenic open space, protect public access to the ocean shoreline, and protect certain Native American natural and archeological resources;

NOW, THEREFORE, The State of California hereby grants to Grantee all of the State of California's right, title and interest in and to the property described in the attached Exhibit "A" (the "Property") and incorporated herein by this reference, subject to the following easement:

1. The State of California hereby reserves an easement in gross and in perpetuity over the entire Property for conservation purposes, including the preservation of scenic open space and of certain Native American natural and archeological resources, and the right to construct and maintain public access to the shoreline over trails within the easement area.

06473

2. No development, as defined in California Public Resources Code Section 30106, attached as Exhibit "B" and incorporated herein by this reference, shall occur or be allowed on the Property, except for the construction and maintenance of public access trails to the shoreline.

3. This easement shall run with and burden the Property, and all obligations, terms, conditions, and restrictions imposed herein shall be deemed to be covenants and restrictions running with the land and shall benefit and bind the Grantor, the Grantee, and their respective successors and assigns, and shall be effective regarding uses of said land from the date of its recordation.

4. In the event that any easement provision of this deed is held to be invalid or becomes unenforceable for any reason, no other provision of this deed shall be thereby affected or impaired.

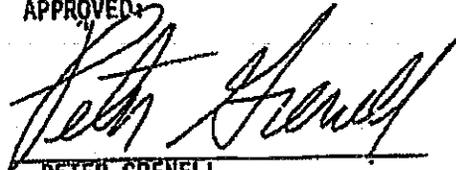
5. Any act or any conveyance, contract, or authorization, whether written or oral, by the Grantee, which uses or would cause to be used or would permit use of the Property contrary to the terms of this easement shall be deemed a breach thereof. The Conservancy may bring an action in court necessary to enforce this easement including, but not limited to, injunction to terminate the breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. Any forbearance on the part of the Conservancy to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of its rights regarding any subsequent breach.

Dated: Feb. 8, 1989

STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES


PAUL V. SAVONA, Chief
for Office of Real Estate
and Design Services

APPROVED:


PETER GRENELL,
Executive Officer
State Coastal Conservancy

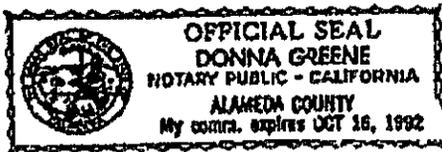
State of California)
County of Alameda) ss.

CERTIFICATE OF ACKNOWLEDGEMENT

06473

On this 28th day of March, 1997, before me, Donna Greene, Notary Public, State of California, personally appeared Peter Grenell, personally known to me to be the person who executed this instrument as the Executive Officer of the State Coastal Conservancy, and acknowledged to me that said agency executed it.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City of Oakland, County of Alameda, on the date set forth above in this certificate.



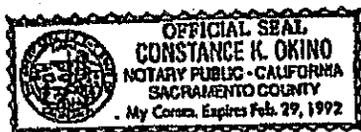
Donna Greene
Notary Public, State of California

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO } ss.

06473

On this 22nd day of March, 19 89, before me, the undersigned, a Notary Public in and for the State of California, personally appeared PHILLIP J. SALAMY personally known to be or proved to me on the basis of satisfactory evidence to be the person who executed this instrument as Assistant Chief of the Office of Real Estate and Design Services, Department of General Services of the State of California, and acknowledged to me that the State of California executed it.

WITNESS my hand and official seal.



Constance K. Okino
CONSTANCE K. OKINO
NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

⑦

Exhibit "A"

That real property situated in the City of Trinidad, County of Humboldt, State of California, described as follows:

TRACT ONE:

PARCEL ONE:

Parcel 3, as shown on that certain Parcel Map No. 143 filed in the office of the County Recorder of Humboldt County, California, on November 10, 1972, in Book 2 of Parcel Maps at Page 50.

PARCEL TWO:

A non-exclusive right of way for ingress and egress for passenger vehicles, pedestrians and other public utilities for domestic purposes only, over, upon, across and within the 40 foot right of way as shown on the Parcel Map mentioned in Parcel One above which lies with the boundaries of Parcel One and Parcel Two as said Parcels are shown on said Parcel Map.

PARCEL THREE:

A non-exclusive right of way for ingress and egress for passenger vehicles, pedestrians and other public utilities for domestic purposes only over the 40 foot right of way as shown on the Parcel Map referred to in Parcel One above and as shown on the Record of Survey by John C. Olsen which survey is on file in the office of the County Recorder of Humboldt County, California, in Book 22 of Surveys, Page 61.

EXCEPTING from said Parcel Three that portion thereof lying within Parcel Two.

PARCEL FOUR:

A non-exclusive right of way, 40.00 feet in width, for ingress, egress, for passenger vehicles, pedestrians and public utilities, for domestic purposes only, the centerline of which is described as follows:

BEGINNING at a point that bears North 41 degrees 59 minutes East, 314.65 feet from the Southwest corner of Section 24, Township 8 North, Range 1 West, Humboldt Meridian, said point being on the Westerly line of former Highway 101;

thence North 68 degrees 10 minutes West 180.0 feet;
thence West, 40.00 feet;
thence South 67 degrees 15 minutes West 126.95 feet;
thence South 78 degrees 26 minutes West 141.44 feet;
thence South 29 degrees 00 minutes West 193.43 feet;
thence South 49 degrees 41 minutes 30 seconds West 131.87 feet;
thence North 87 degrees 43 minutes West 278.61 feet, as reserved in the deed dated February 25, 1966 executed by Ray W. Walker and wife to Belcher Abstract & Title Company, a corporation, and recorded in Book 877 of Official Records, Page 473 under Recorder's File No. 5542, Humboldt County Records, and as reserved in the deed dated October 9, 1967 executed by Ray W. Walker and wife to Breane Murphy, et al, and recorded October 27, 1967, in Book 939 of Official Records, Page 274, under Recorder's File No. 15277, Humboldt County Records.

continued...

06473

06473

PARCEL FIVE:

A non-exclusive right of way, 20.00 feet in width, for ingress and egress, for passenger vehicles, pedestrians and public utilities, for domestic purposes only, the centerline of which is described as follows:

COMMENCING at the intersection of the common corners to Sections 23, 24, 25 and 26, Township 8 North, Range 1 West, Humboldt Meridian;
thence South along the Section line between Sections 25 and 26, a distance of 486.0 feet to the U.S. Meander Line;
and thence North 65 degrees 00 minutes West along said last mentioned line 506.2 feet to the true point of beginning;
thence leaving said U.S. Meander Line, North 15 degrees 00 minutes West 140.3 feet;
thence North 15 degrees 00 minutes East 110.00 feet, as reserved in the deed dated February 26, 1966 executed by Ray W. Walker and wife to Belcher Abstract & Title Company, a corporation, and recorded in Book 877 of Official Records, Page 473 under Recorder's File No. 5542, Humboldt County Records.

PARCEL SIX:

A right of way over the 40-foot road, as provided in deed to Kirkpatrick and Wagner recorded in Book 251 of Deeds, Pages 90 and 92, being the same as conveyed in deed from Carl Langford et al to Ray W. Walker and wife and recorded January 29, 1947, in Book 3 of Official Records, Page 429 under Recorder's File No. 907, Humboldt County Records.

EXCEPTING FROM SAID Parcel Six that portion thereof lying within Parcel One above described.

TRACT TWO:

Lots 20 and 21, as shown and numbered on the Official Map of Trinidad, filed in the County Recorder's Office of Klamath County, California, on October 2, 1871, and now on file in the Recorder's Office of the County of Humboldt, State of California, and further defined in the deeds by Town Trustees under Townsite Act.

The undersigned grantors hereby further grant to grantee any and all of their rights, including the reversionary rights, in the deed to the Trinidad Civic Club recorded May 14, 1948, in Book 47 of Official Records at Page 68, under Recorder File No. 4865, Humboldt County Records.

continued..

06473

TRACT THREE:

Those portions of Lots 1, 4 and 5 of Trinidad, according to the survey made by J.S. Murray dated July 11, 1871, and on file in the office of the County Recorder of Humboldt County, California, and being a portion of Sections 23 and 26 in Township 8 North, Range 1 West, Humboldt Meridian, described as follows:

PARCEL ONE:

BEGINNING at the Northwest corner of said Lot 5 of Trinidad,
 thence along the Northerly extension of the West line of said Lot 5,
 North 0 degrees 22 1/2 minutes West 23.0 feet, to the South line of
 Edwards Street, as shown on the record of survey for Ray W. Walker by John
 C. Olson, Licensed Surveyor, on file in the office of the County Recorder
 of Humboldt County, California, in Book 22 of Surveys, Page 61;
 thence North 88 degrees 50 minutes East 345.5 feet;
 thence South 4 degrees 28 1/2 minutes East 34.68 feet to the centerline
 of a 40-foot wide right of way, as shown on said last mentioned survey;
 thence along said centerline, the following five courses and
 distances;
 North 81 degrees 41 1/2 minutes East 233.01 feet;
 North 19 degrees 37 1/2 minutes East 183.25 feet;
 North 50 degrees 39 1/2 minutes East 35.25 feet;
 North 50 degrees 39 1/2 minutes East 75.0 feet, and
 North 81 degrees 24 1/2 minutes East 77.5 feet, more or less to the
 centerline of Parker Creek, as shown on said last mentioned survey;
 thence Northerly along the centerline of Parker Creek to the Southeast
 corner of the parcel of land conveyed to W.F. Lovelass and wife, by deed
 recorded July 8, 1939, under Recorder's File No. 3188, Humboldt County
 Records;
 thence continuing Northerly along Easterly line of said Lovelass
 parcel and along the centerline of Parker Creek to an angle point in the
 East line of said Lovelass parcel;
 thence leaving said Parker Creek, North along the East line of
 Lovelass parcel, 170 feet, more or less, to the Southwesterly line of the
 former State Highway 101;
 thence Southeasterly along said Southwesterly line to the most
 Northerly corner of the parcel of land described as Parcel One in the deed
 from Ray W. Walker and wife to Belcher Abstract & Title Company, a
 corporation, recorded April 1, 1966 in Book 877 of Official Records, Page
 473, under Recorder's File No. 5542, Humboldt County Records;
 thence along the exterior boundaries of said Belcher Abstract & Title
 Company, a corporation, parcel, the following three courses and distances:
 South 643.6 feet;
 South 64 degrees 32 minutes West 581.5 feet; and
 South 150.7 feet to the U.S. Meander Line;
 thence along said U.S. Meander Line, North 85 degrees West, 365.1 feet
 to the West line of said Lot 5 of Trinidad;
 and thence North 0 degrees 22 1/2 minutes West 325.04 feet to the
 point of beginning;

EXCEPTING THEREFROM Parcel 3 as shown on Parcel Map No. 143 on file in the office of the County Recorder of said County in Book 2 of Parcel Maps, Page 50.

continued...

06473

PARCEL TWO:

A non-exclusive right of way for ingress and egress, for passenger vehicles, pedestrians and public utilities, for domestic purposes only, over the 40-foot right of way referred to in Parcel One above, and as shown on the record of survey made by John C. Olson, which survey is on file in the office of the County Recorder of Humboldt County, California in Book 2 of Surveys, Page 61.

EXCEPTING FROM said Parcel Two, that portion thereof lying within Parcel One.

PARCEL THREE:

A non-exclusive right of way, 40.00 feet in width, for ingress, egress, for passenger vehicles, pedestrians and public utilities, for domestic purposes only, the centerline of which is described as follows:

BEGINNING at a point that bears North 41 degrees 59 minutes East 314.65 feet from the Southwest corner of Section 24, Township 8 North, Range 1 West, Humboldt Meridian; said point being on the Westerly line of former Highway 101;

thence North 68 degrees 10 minutes West 180.0 feet;
thence West 40.00 feet;
thence South 67 degrees 15 minutes West, 129.95 feet;
thence South 78 degrees 26 minutes West, 141.44 feet;
thence South 29 degrees 00 minutes West 193.43 feet;
thence South 49 degrees 41 minutes 30 seconds West 131.87 feet;
thence North 87 degrees 43 minutes West 278.61 feet, as reserved in the deed dated February 25, 1966 executed by Ray W. Walker and wife to Belcher Abstract & Title Company, a corporation, and recorded in Book 877 of Official Records, Page 473, under Recorder's File No. 5542, Humboldt County Records, and as reserved in the deed dated October 9, 1967 executed by Ray W. Walker and wife to Braane Murphy, et al, and recorded October 27, 1967 in Book 939 of Official Records, Page 274, under Recorder's File No. 15277, Humboldt County Records.

PARCEL FOUR:

A non-exclusive right of way, 20.00 feet in width, for ingress and egress, for passenger vehicles, pedestrians and public utilities, for domestic purposes only, the centerline of which is described as follows:

COMMENCING at the intersection of the common corners to Sections 23, 24, 25 and 26, Township 8 North, Range 1 West, Humboldt Meridian;

thence South along the section line between Section 25 and 26, a distance of 486.0 feet to the U.S. Meander Line, and thence North 65 degrees 00 minutes West along said last mentioned line 506.2 feet to the true point of beginning.

thence leaving said U. S. Meander Line North 15 degrees 00 minutes West, 140.3 feet;

thence North 15 degrees 00 minutes East 110.00 feet, as reserved in the deed dated February 25, 1966, executed by Ray W. Walker and wife to Belcher Abstract & Title Company, a corporation, and recorded in Book 877 of Official Records, Page 473, under Recorder's File No. 5542, Humboldt County Records.

continued...

PARCEL FIVE:

06473

A right of way over the 40-foot road, as provided in deed to Kirkpatrick and Wagner recorded in Book 251 of Deeds, Pages 90 and 92, being the same as conveyed in deed from Carl Langford, et al, to Ray W. Walker and wife, and recorded January 29, 1947, in Book 3 of Official Records, Page 429, under Recorder's File No. 907, Humboldt County Records.

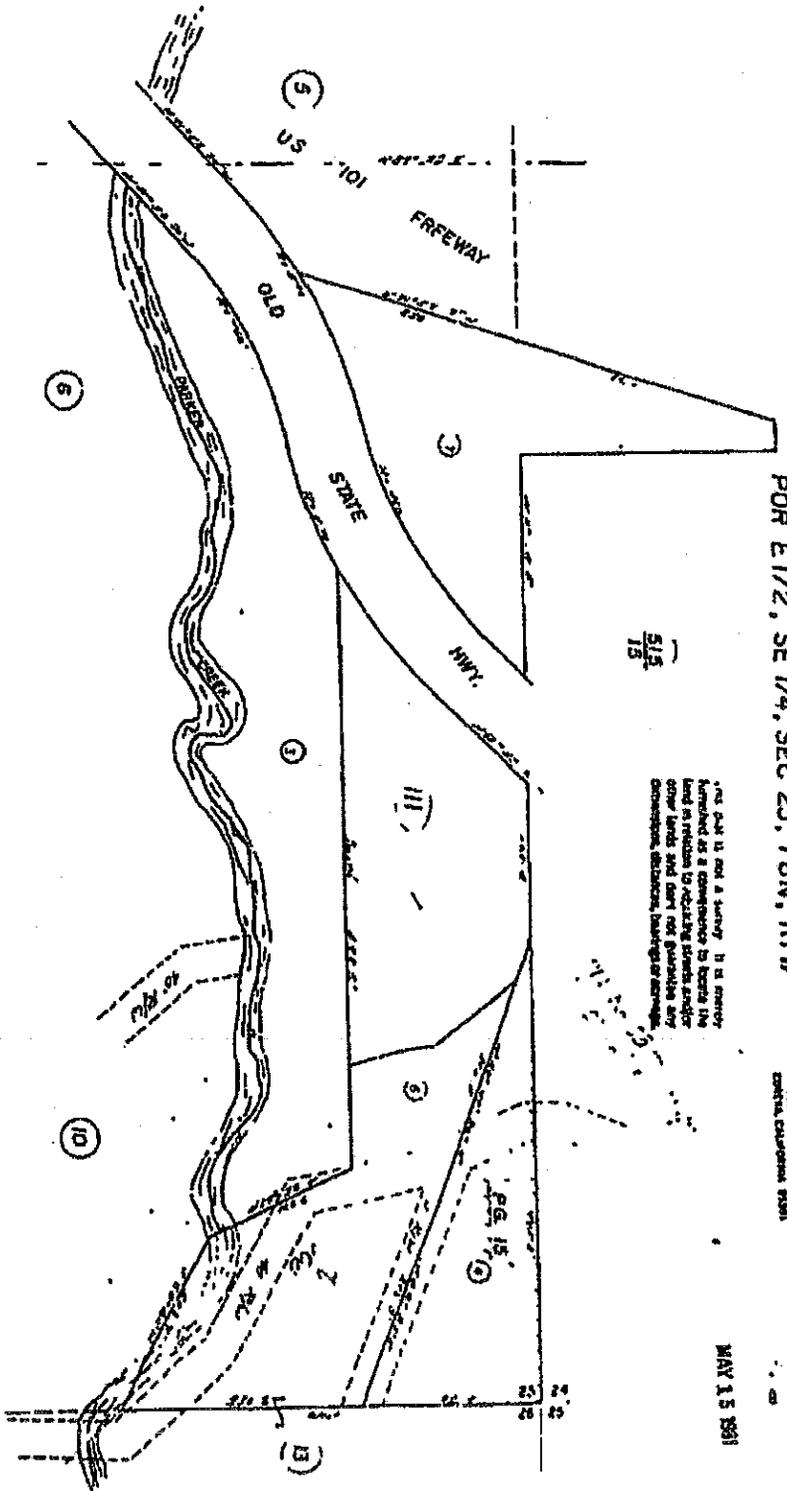
EXCEPTING FROM said Parcel Five, that portion thereof lying within Parcel One above described.

06473

LS22 Pg 61

NOTE - Assessor's Parcel Numbers shown in Ellipse
Assessor's Parcel Number shown in circles

Assessor's Maps Bk. 42 - Pg. 11
County of Humboldt, Calif.



POR E 1/2, SE 1/4, SEC 23, T8N, R1W

EMEREA TITLE COMPANY
120 FORTUM STREET
CENTRAL CALIFORNIA 95901

MAY 15 1981

42-11

(6)

Exhibit "B"

Public Resources Code Section 30106

06473

[30106. Development

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivisor Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

06473

CERTIFICATE OF ACCEPTANCE

The signature of the City of Trinidad's authorized representative set forth below certifies that the interest in real property conveyed by deed from the State of California, dated February 8th, 1989, and recorded concurrently herewith, is hereby accepted by the City of Trinidad pursuant to the resolution of the City Council adopted on February 8, 1989.

Executed on this 8th day of February at City of Trinidad, County of Humboldt, State of California.

Dated: February 8th, 1989 Signed: [Signature]
Authorized Representative

RECEIVED
MAR 15 1989
STATE COASTAL CONSERVATION
OAKLAND, CALIF.

Trinidad City Manager

Subject: FW: closed session continued mediation

-----Original Message-----

From: Andrew Stunich [mailto:ajs@perلمانstunichlaw.com]

Sent: Monday, June 09, 2014 7:24 PM

To: Trinidad City Manager

Subject: Re: closed session continued mediation

Ok. The following is my analysis of the Mediation and demands made by the TAS. Please forward to the Council.

1. The TAS has made demands that are somewhat along the lines of what was discussed at the last mediation the notes of which we went over at the last closed session. At this juncture, it would probably be helpful to have a Council vote on what the Council is willing to offer the TAS. I think they need to see a counter offer at this point.

Rather than try to agree on one global package to vote on which would be difficult, I assume, to get an agreement on, it would probably be better to have a list of the demands made and to vote on each demand in the form of the following:

The City agrees to make an offer to the plaintiffs in the TAS v City of Trinidad et al cases to settle BOTH CASES by making an offer to the plaintiffs in exchange for a release and dismissal with prejudice that will include all parties waiving their costs and all parties to be responsible for their own attorney fees. The offer will also include those additional individual line items, if any, agreed to by a majority of the Council which must include a quorum of at least three approval votes for each item to be offered. The offer must be accepted in writing within 60 days.

Hold Vote on this issue. It is assumed it will pass. The rest relates to the individual demands by the TAS which will be voted on one by one.

Line Item 1: Offer to give a quit claim to the TAS for the TSA for any ownership interest the City has in the TSA. This deed would make no warranty or guarantee as to the size of the land, its boundaries or the nature of the City's ownership. Options: This offer can be made contingent upon the Yurok Tribe consenting. This offer can also be made contingent upon notice to the Rancheria.

A finding must be made that the area is not suitable for a park due to its culturally sensitive status. This transfer is contingent upon no one being able to legally stop the transfer.

There has been a serious mediation discussion regarding the type of deed to be transferred. I have strongly recommended a Quit Claim Deed. The difference between deeds needs to be explained at this juncture. A Quit Claim Deed only transfers whatever interest the transferring party has. That is important here as there are easements on the TSA, some of the property may have been given to Mr. Frame as part of that litigation, and the rights to the property of the Yurok Tribe, for example, are far from known with certainty.

Consequently, not only should any transfer to the TAS be by Quit Claim Deed, but both the offer and quit claim deed absolutely should make it clear that the TAS will be transferred only what interest the City has AND that the TAS agrees that should the Yurok Tribe, anyone else, or any group or legal entity make a successful claim for a full or partial ownership interest in the TSA that the City is not liable to the TAS and is not responsible to defend the TAS's interest in the Land in Court. If such language is not included and the Yurok Tribe or someone else blocks the transfer, then the TAS could sue the City for damages and claim the land is worth millions and potentially win millions of dollars in damages from the City.

Note that the plaintiffs have tried to allege that the "Coastal Commission" would not allow a Quit Claim Deed, I suspect that is absolute nonsense trying to trick the City and I was very disturbed by the claims. In any event, I have asked Mr. Foust for legal authority for his position. I doubt he will ever be able to provide it (In fact I know he cannot and will not - he was just trying to deceive us and it did make me angry). I have never heard of anyone needing a Coastal Commission permit to transfer land. Now this does not mean that Mr.

Foust will not be able to get one of his friends at the Coastal Commission to make such a claim for him, but claims without legal support are worthless. In my opinion, the TAS is up to something in trying to get the City to give anything other than a Quit Claim Deed and whatever it is it is not in the City's interest to do so. In summary, if not handled right and we deed the land in exchange for anything of value like dismissing the lawsuit and it turns out the land cannot be transferred we may be liable to the TAS for the value of the land which could be considerable.

Line Item 2: The TAS requests "implementation of the TMP through the Management Team." (See paragraph 1 on page 2 of Zach's letter) I strongly advise against any further contractual agreements related to the TMP. The TMP is vague and poorly drafted. Making any further agreements based on it is DANGEROUS! I do suggest drafting a city resolution stating that Team meetings should be requested by the City no less than on a quarterly basis to try and get the parties to advance the goals of the TMP. The City did agree to use best efforts to advance the TMP and we need to show that we are trying to do so.

However, any such resolution should say that it is just a statement of City discretionary policy and is not meant to confer contractual rights to anyone. What is the goal here? To fulfill previous contractual obligations and to show an interest in advancing the TMP without further opening the door to more lawsuits.

Another concern I have is that it would be poor practice to make agreements over which the City has no real control. How can we agree to implement the TMP when others must reach agreement for us to be able to act? Note also that the TAS wants an agreement to transfer the property after completion of the projects in the TMP. That is too vague and too open ended to ever be safely agreed to. If you want to consider such an agreement, demand specifics and demand exactly what the City has to do to be in compliance otherwise you are trading this litigation for future litigation wherein you are in a worse position.

Note that on page 2, the TAS would have the City agree that only "after an agreed period of time, plaintiffs are willing to dismiss the cases against the City if the Management Plan is operational and the TSA is transferred to the TAS." Hence, agreeing to what the TSA wants only means getting rid of the lawsuit if you are somehow able to get the TMP "operational" whatever that means. Hence the City has no control and given the problems between the TAS and Yurok Tribe it may be impossible to ever actually meet the terms under which the cases would dismissed.

Vote

Line Item 3: The TAS wants a Cultural Easement over the Trinidad Head.

I STRONGLY recommend this not be done. First, what is a cultural easement? At a minimum I would demand detail in exactly what this would entail and exactly what the City's obligations to the TAS would be. What does the TSA want the easement for? What would it do pursuant to such an easement? What would the City be required to do?

Any consideration of any transfer of an interest to the TAS must be clear as to what is being transferred. The TAS has scornfully rejected my request for clarity as to the meaning of cultural easement, but that should be a red flag. Why do they want such ambiguity?

Contractual ambiguity is an invitation to future litigation. Finally, the Coastal Conservancy already has an easement for cultural resources that I believe covers the Trinidad Head area as well. I question whether we even have the rights the TAS are asking for that we could transfer to them. It could raise issues with the Coastal Conservancy.

If the Cultural Easement was never transferred to us how can we purport to transfer it to someone else? If we do and it is challenged and it turns out we had no right to make such a transfer then the TAS could sue us for damages.

Vote

Line Item 4: The TAS wants closure of the Galindo Street Trail. At the last mediation, all they asked for was to reroute the trail so the trail does not pass over alleged burial sites. That request I understood and if possible to do it seemed reasonable. Now they want the trail "closed." I cannot help but wonder as to why? I also doubt it is even possible because unlike a private easement, the right to use a public "right of way" is "vested equally in each and every member of the public." (Bello v. ABA Energy Corp., 121 Cal.App.4th at 308) "Specific language has never been required in California to establish the scope of a public right-of-way." The public may obtain a right of way through a private landowner's affirmative grant (a "dedication") or through "persistent public use of private land, whether or not permissive." (Bello v. ABA Energy Corp., supra, 121 Cal.App.4th at 317)

Since the public has used the Galindo Street trail for years, the public has a right of way as it is my understanding that the trail is over private land. If we agree to close the trail and are legally blocked we will again possibly be exposed to the TAS for damages.

Line Item 5. The TAS wants an exclusive right in the TAS to cultural monitoring. I do not recommend this. It could cause an increase in costs as well as problems with future development and contracts and leaving the selection of cultural monitors to those that undertake the projects seems far easier.

Line Item 6: The TAS wants to incorporate the TMP into the General Plan and local coastal plan. Again, I strongly advise against any further contractual agreements related to the TMP or its incorporation into the General Plan. Again, the TMP is vague and poorly drafted. Making any further agreements or plans based on it is DANGEROUS and could cause a host of both foreseeable and unforeseeable consequences.

Vote:

Line Item 7. The TAS wants to implement fencing on the TSA: Yet again, I strongly advise against any further contractual agreements related to the TMP. The TMP is vague and poorly drafted. Making any further agreements based on it is DANGEROUS! The City has not been the hold up as to fencing anyway. Any agreement should be made after the Team and Policy 69 stakeholders have agreed on fencing and the cost has been determined as well as how it will be paid for. Why can this not be worked out within the current TMP framework? Has the City been the reason for failure to do so? If not, why should the City make another agreement it can be sued over? The resolution, suggested above, to call for quarterly team meetings should be enough and if the resulting Team meetings cannot resolve the fencing issues then how is it that the City can act without Team approval? The answer is it cannot so this agreement should not be approved.

Vote

Line Item 8: Re Requested collaborative efforts between City and TAS re public educational meetings. Nothing wrong with doing this if the collaborative efforts are spelled out in detail so the City knows EXACTLY what it is obligating itself to do. I would also consider a sunset clause. Making into perpetuity contracts is dangerous.

Vote

Line Item 9: Re sensitivity training. Again, nothing wrong with doing this if any agreement is spelled out in detail so the City knows EXACTLY what it is obligating itself to do. I would also consider a sunset clause. Again, making into perpetuity contracts is dangerous.

Vote

- 4. Line Item 10: Input into hiring process. Seems highly questionable to give one special interest group such a right. If done, however, make any agreement very specific and have a sunset clause.

Vote

Line Item 11: Designate City property for exclusive TAS use as described in paragraph number 11 on page 5. Raises gift of public property concerns. If offered, make any agreement very specific and have a sunset clause.

--

Andrew J, Stunich
2701 Harrison Ave., Suites 1 & 2
Eureka, California 95501
(707) 442-1927
Facsimile: (707) 443-2747
ajs@perلمانstunichlaw.com

Trinidad City Manager

Subject: FW: closed session continued mediation

-----Original Message-----

From: Andrew Stunich [<mailto:ajs@perlmanstunichlaw.com>]

Sent: Monday, June 09, 2014 7:36 PM

To: Trinidad City Manager

Subject: Re: closed session continued mediation

I have one more addition to my Mediation analysis. Paragraph 11.5 of the TMP states: "Steps should be taken to transfer allowable portions of the 12.5 acres TSA to the Yurok tribe consistent with applicable law and the terms of the settlement agreement signed by the City, Coastal Conservancy, and the Tsurai Ancestral Society in April 2005."

Is this a rock solid legal obligation to transfer the land to the TAS?

No, but it could possibly be enforced and to simply transfer the property without accounting for the possibility suit will be filed and a determination made that the Yurok Tribe is the equitable owner thereby exposing the City to damages would amount to unnecessary risk taking. The TMP waxes eloquent about how valuable and unique the land is and we signed it. We would be in a difficult situation at trial litigating damages to the TAS or Yurok Tribe for breaching an agreement to transfer title to them and I could see damages of a considerable amount being awarded. This is especially true as to the Yurok Tribe. Is it possible that jurors would see us as people that do not honor agreements and punish us? What would our explanation be for going back on this agreement? Just because the TAS sued us because someone else trespassed on City land and cut vegetation is not that sympathetic of an excuse. I hope this makes you realize why I am so strongly urging caution here. .

Andrew J, Stunich
2701 Harrison Ave., Suites 1 & 2
Eureka, California 95501
(707) 442-1927
Facsimile: (707) 443-2747
ajs@perlmanstunichlaw.com

Trinidad City Manager

Subject: FW: closed session continued mediation

-----Original Message-----

From: Andrew Stunich [<mailto:ajs@perlmanstunichlaw.com>]

Sent: Tuesday, June 10, 2014 7:33 AM

To: Trinidad City Manager

Subject: Re: closed session continued mediation

There is one more issue that needs to be brought to the Council's attention. Do not fall into the trap of thinking that because we would not be selling the land to the TAS that the City's liability is somehow lessened if we cannot transfer title as promised. Courts consider the dismissing of a lawsuit in exchange for something just as valid a contract as if the land was sold for cash. That is why we can only give a quit claim deed with express reservations as I described in my prior e-mails just in case any transfer is blocked. If you purport to sell land by any means other than a quit claim deed and it turns out you cannot sell it as someone else has full or partial rights to the land, then you are liable to the person for his or her damages. You must look at any potential transfer to the TAS in the same way and be careful so that the door is not opened for damages.

In fact this may be exactly where the TAS is trying to coax you,. I cannot think of any other reason why a group like the TAS, which knows the history of that land and its ownership succession as well or better than anyone would be so deceitful in its attempt to con the City into any other kind of deed than a quit claim deed. If a regular deed is given the City is, in essence, warranting that it has clear title and if the Yurok Tribe or anyone else is able to show a right to the land, then we are exposed to some serious monetary damages.

Andrew J, Stunich
2701 Harrison Ave., Suites 1 & 2
Eureka, California 95501
(707) 442-1927
Facsimile: (707) 443-2747
ajs@perlmanstunichlaw.com



Cher-Ae Heights Indian Community of the Trinidad Rancheria



May 13, 2014

Mayor Julie Fulkerson
City of Trinidad
P.O. Box 390
Trinidad, CA 95570

RECEIVED MAY 15 2014

COPY

Dear Julie,

We are extremely concerned with the Tsurai Village property and the possible transfer of this land from City ownership to the Yurok Tribe without consultation or communication with the Trinidad Rancheria. Jacque Hostler-Carmesin met with Councilman Dewight Miller on Friday May 9th, and learned that the City is moving forward with this land transfer. She expressed the Rancheria's opposition to this transfer and indicated it was a very productive meeting and appreciated Mr. Miller's sincere approach and attention to our areas of concern.

As you are aware, the Cher-Ae Heights Indian Community of the Trinidad Rancheria is not only a Tribal Government, but also the largest stakeholder in the Harbor area with over twelve million in assets and capital outlay committed to the public access and stewardship with all federal, state, and local agencies. In 2007, we embarked on a Harbor Planning Study, the planning, design, and engineering of the Trinidad Pier, as well as the Clean Beaches Harbor Restroom Project, and wastewater treatment plant. The Tsurai Village is adjacent to Rancheria Property and we believe a co-management strategy would be extremely effective in realizing the goals expressed in the Tsurai Management Plan (TMP).

The TMP was the result of a three-year collaborative effort beginning in 2003, by the Coastal Conservancy, City of Trinidad, Tsurai Ancestral Society, and the Yurok Tribe to resolve areas of past and present conflict over management of the Tsurai Study area. While the Trinidad Rancheria was not part of the planning and development of the Tsurai Management Plan (TMP), or this conflict, the Rancheria made a documented statement at that time, "while Trinidad Rancheria would like to be involved (due to lack of staff and capacity at that time), they would defer their participation to a later time."

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]



We would like to meet with the City Council to discuss this important decision and recommend a delay in this transfer. Additionally, we request to move forward with formal Government to Government Consultation in this matter as well as others including the Trinidad Rancheria's Proposed Interchange Projects, master planning efforts, as well as the City's Stormwater Project.

Thank you for your prompt attention and we look forward to meeting with you as soon as possible

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Sundberg". The signature is fluid and cursive, with the first name "Garth" being more prominent and the last name "Sundberg" following in a similar style.

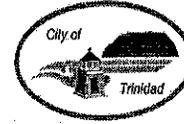
Garth Sundberg
Tribal Chairman
Trinidad Rancheria

Cc: Councilman Dewight Miller
Sue Corbaley, Coastal Conservancy

CITY OF TRINIDAD

P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-3876
Fax: (707) 677-3759

Karen Suiker, City Manager



May 15, 2014

Mr. Garth Sundberg
Tribal Chairman
Trinidad Rancheria
P. O. Box 630
Trinidad, CA 95570

Dear Chairman Sundberg,

Mayor Fulkerson has asked that I respond to your letter of May 13, 2014 regarding the possible transfer of the Tsurai Village land from City ownership to the Yurok Tribe without consultation or communication with the Trinidad Rancheria. Please know that no such decision has been made by the Council. As it has been doing for the past several months, the City continues to explore a number of possibilities in the hopes of resolving the multiple litigations filed by the Tsurai Ancestral Society over this land, and I want to assure you that the City would never take any such action to agree to or finalize such a decision without public discussion, and is in fact prohibited from doing so according to law. Input from each of the three Native American entities having spiritual and emotional ties to the land would be of particular importance and carry significant weight in any such a decision. I apologize for any misunderstanding.

The City very much values the excellent working relationship that exists between our two entities and it is important that we continue the consultation and communication with regard to matters that affect both government agencies. With regard to the City's stormwater project as you referenced in your letter, the City has a number of times presented information to the Rancheria and the Tribal Council, but it has been a while since the last update and another one is due. Toward that end, Becky Price-Hall will be contacting Jacque to set this up, if she hasn't already. As you may know, the Council has appointed Councilmember Jack West to act as the city's liaison to the Tribal Council with respect to this issue, and he stands ready to participate in any update with your Council. With regard to the proposed interchange project, Councilmember West is again the city's liaison in his capacity as the City's representative on HCAOG. If you feel it would be beneficial to appoint a council representative to deal with master planning efforts, I would gladly place an appropriate item on a future council agenda for such an appointment. Council-appointed representation is how the City is involved in and participates in the decision-making process by other governmental entities, such as the Humboldt County Association of Governments, the Humboldt Waste Management Authority, the Redwood Regional Economic Development Corp., the Humboldt Transit Authority, and several others. We can do this anytime there is a project of mutual concern.

Please allow me to take this opportunity to express my sincere appreciation for the time and effort of your Vice Chair Robert Hemsted in attending and participating in City Council meetings. Last evening he updated the Council and community members present on the current status of the

Highway 101 interchange project, and I thought he was very effective and responsive to concerns and questions presented. He has frankly been a pleasure to work with, and the City is fortunate to benefit from his commitment.

Thank you for the opportunity to clear up this misunderstanding, and I look forward to continuing to work in close collaboration with Rancheria staff on the multitude of projects we have in common. I very much value the effective relationship and mutual respect I believe I have with Jacque as well as that in place between and among our respective staff members. This helps to assure continued communications on issues impacting both our entities, and greatly facilitates the ability to bring decision-making or policy considerations to our respective governing boards on a timely basis. Please know that I stand committed to building on and improving these relationships.

Sincerely,

Karen Suiker
City Manager

Cc: City Council Members
Jacque Hostler-Carmesin
Sue Corbaley

CONFIDENTIAL CLOSED SESSION MEMORANDUM

TO: Trinidad City Councilmembers
FROM: Paul Hagen, Trinidad City Attorney
DATE: July 8, 2010
Re: *Status of and Initiative for Tsurai Village Site Transfer Efforts*

I. Introduction

As you all know, for over twenty years the City has endured substantial controversy over the Tsurai Village site property. Just one year ago now, I completed drafting a pair of documents that fully satisfied the attorneys of the three parties legally involved in transferring the property to the Yurok Tribe (the City, the Tribe, and the Coastal Conservancy), a long-sought goal by many. These documents were discussed in closed session last year. The Yurok Tribal Council was ready to approve them, with the expectation that the City would follow suit in short order. Unfortunately, issues which were entirely collateral to those facing the City and the Tribe were allowed to stop all progress. Afterwards, nothing happened for a year.

Then, last month someone hired a professional vegetation cutting business to trespass on the city's village site property and cut vegetation. In the process things went seriously awry and a substantial portion of the site was denuded of all vegetation save grasses, etc. The damage was severe, the outcome of it all is still uncertain. All of that is now being actively addressed through proper channels, and is not the concern of this memorandum.

This memo addresses the current status of, and initiative for, transfer of the Tsurai Village site property. On June 18th and July 1st of 2009, respectively, I wrote a letter to the attorneys for the Tribe and the Conservancy, and to the City Councilmembers. You may want to revisit those letters as you consider what to do now.

Ironically, when the recent cutting occurred efforts to re-start property transfer discussions between the City and the Tribe had *already* been initiated by the Tribe, with the City agreeing to meet. The vegetation cutting incident kick-started these discussions, with a very fruitful meeting occurring between City and Tribal representatives on July 6th.

At that July 6th meeting, it was decided that the City Council would hold a closed session on the status of the village site transfer efforts. To assist the councilmembers, I was asked to write this memo.

What follows is a synopsis of the June 18th and July 1st letters referenced above, plus information to bring the councilmembers up to date on the current status of transferring the property.

II. Property Issues

The property's issues are in several categories (caveat: all politics aside here), as follows:

- 1) One is the boundary issue, which the transfer documents address (see "IV. A.," below);
- 2) The other big issue not taken on, nor do we need to here, is groundwater saturation; Trinidad has a septic ordinance and upgrade program in the works, as well as aging water supply infrastructure problems. I set both issues 1 and 2 aside here;
- 3) That leaves managing the property itself as the biggest thing left;
- 4) Everything else is small if not *de minimis*.

III. Property Management

A. Property Management is Both the Core of the Problem and the Key Issue

All the acrimony that has swirled around this property for the past 20 years has to do with disagreements over its management. The issue of property management is the key, overarching issue--*everything* else in contention revolves around or is subsumed within this issue. Therefore we must squarely address future property management in the transfer--this is both mandatory and completely fundamental to everything.

B. Four Fundamental Issues

I see the fundamental issues facing us in property management as being four:

- 1) Bluff stability;
- 2) Cultural resource preservation;
- 3) Public access/trails; and
- 4) Views.

And these fundamental issues all come together in how vegetation will be managed on the Property.¹ If the vegetation is managed in a certain way, all four of these issues can and will be properly addressed in both spirit and execution. Therefore a Vegetation Management Plan must be the hub of any solution we devise.

C. The TMP's Lack of Executive Authority for Property Management

Exhaustive analysis has brought me to realize that the critical thing which the Tsurai Village property lacks just now is a source of executive authority for property management. Everyone agrees the TMP fell far short of this. The TMP is *not*, in fact, a "plan" for managing the property at all; it is 'a plan to make a plan.' It provides no authority. This is a fatal deficiency, and it is corrected in the two transfer documents.

¹ See Option, III. G. 2; Lease, III. I. 2.

In fact, no guiding authority whatsoever exists for property management, anywhere. All we have are (1) years of litigation with two settlement documents, followed by (2) a nerve-shredding three-year TMP process, all resulting in (3a) lots of recommendations *but no teeth*, and (3b) vague directives for the City to transfer the property to the Tribe.² In terms of what it takes to *actually* get any property management done, this amounts to nothing at all.

So we absolutely need some executive authority and guidance. This authority and guidance needs to be clearly articulated in one place and constructed so that it (a) can be effectively used to actually get things done, and (b) can be *readily seen as such*. I have built this executive authority and guidance into the Lease and Option documents.³

D. The Transfer Documents Pick Up Where the TMP Ended

This is a very important point: I have written the “Property Management Conditions” sections of the transfer documents⁴ to pick up where the TMP left off. These sections constitute the executive authority and directive needed, specifically directing the Tribe to begin developing a “Vegetation Management Plan” (“VMP”) pursuant to the TMP. The Tribe must address these fundamental four issues in creating the VMP⁵.

IV. The Transfer

A. The Two Transfer Documents

There are two documents to transfer the Property: (1) the Lease Agreement, and (2) the Option to Purchase.

In preparing these documents I very carefully went back and forth through the TMP and all pertinent documents, thinking about things a great deal. These two transfer documents have been very carefully drafted with much give-and-take consultation among the four attorneys for

² “The Management Plan process will include an examination of specific issues affecting the City Property including ... transfer of a portion of the City property to the Yurok Trine ...” (“Settlement Agreement,” Attachment B to transfer documents, between TAS, City, Conservancy and CCC, ¶ 1, pg. 2.)

“Steps should be taken to transfer allowable portions of the 12.5 TSA to the Yurok Tribe consistent with applicable law and the terms of the settlement agreement [which is Lease/Option documents’ Attachment B] signed by the City, the Coastal Conservancy, and the Tsurai Ancestral Society in April 2005.” (*Tsurai Management Plan*, Part 11, ¶ 11.4, “Recommendations,” pg. 73.)

³ In the area of property management, these two documents are meant to be mirror images of each other. They both do the same thing, *viz.*, bind the Tribe in one way or another in its future management of the Village property.

⁴ See “G” in the Options, “I” in the Lease.

⁵ See Option, G.2. and G.4; Lease, H.2. and H.4.

the two parties to the transfer--the City and the Tribe--and also the *only* other party that has any legal standing in the approval of the transfer, the Conservancy.⁶ The result was producing two serious documents which are completely acceptable to all three agencies' legal counsel. This act alone is quite an accomplishment.

B. Two Main Issues Now Before the City Council

As to the transfer, there are currently two main issues before us:

First, discussing the transfer documents themselves and the provisions therein; and

Second, the transfer approval process as it now lays before us all.

B.1. How the Transfer Fulfills the Goals of the TMP

Preliminarily, one should note that the TMP itself calls for the City to transfer the village site property to the Yurok Tribe.⁷ You will find repeated references to this in the transfer documents.

B.2. The Transfer Documents:

First, note that the transfer documents are heavily footnoted with references to the TMP and the three Attachments which are incorporated into them (*viz.*, A. Conservancy easement; B. Settlement Agreement to trail litigation; C. Mutual Settlement and Release, also to trail litigation). The reason for this is so that anyone can easily and clearly see the source of the terms embedded in them, and thus their authority.

⁶ The Tsurai Ancestral Society, in drafting and agreeing to the terms of the Settlement Agreement which it signed ("Attachment B" to the transfer documents), *excluded itself from any approval of the transfer*, leaving that approval authority exclusively and explicitly to the City, the Tribe and the Conservancy. *This is a very important point.* (See June 18th letter, "Approval Process, Parties," pg. 3.)

⁷ "The TAS has expressed the desire to see the TSA ownership transferred to the Yurok Tribe as they feel the Tribe has the expertise and resources required for appropriate management and long-term protection and restoration. The Yurok Tribe expressed a willingness to assume ownership of the TSA and a desire to see this important cultural area properly managed and restored." (*Tsurai Management Plan*, Part 7 "Tsurai Study Area Resource Management Issues," ¶ 7.6 "Ownership," p. 42)

"Per the terms of the litigation settlement agreement signed by the Coastal Conservancy, the City, and the TAS in April 2005 transfer of City property to the Yurok Tribe is as follows [see ¶ 7 of Attachment B to the transfer documents for further language]." (*Tsurai Management Plan*, Part 10 "Findings," ¶ 10.6 "Ownership," p. 66)

"Steps should be taken to transfer allowable portions of the 12.5 acre TSA to the Yurok Tribe consistent [with] applicable law and the terms of the settlement agreement signed by the City, the Coastal Conservancy, and the Tsurai Ancestral Society in April 2005." (*Tsurai Management Plan*, Part 11 "Recommendations," ¶ 11.4, "Ownership," p. 73)

Again, the one key issue that haunts this site is Vegetation Management--*all* other issues of substance are subsumed within how vegetation will be managed. The Tsurai Management Plan merely punted on this issue, as with so much else, leaving it for future resolution. I have done my best to 'move the ball forward' as much as possible by building into the transfer documents a *legally binding mechanism* to address this crucial and core issue.⁸

B.3. The Approval Process:

Unlike the transfer process, the approval process is neither technical nor complex--it is almost purely political in nature and calls for a very different type of attention than the legalities of the transfer documents and the issues embodied therein. It is a relatively straightforward and simple process.

Parties:

First, by the terms of the Settlement Agreement between the TAS, the City, the Conservancy and Commission (Attachment B), the Conservancy must approve any transfer from the City to the Tribe.⁹ Thus, by design the Society has no legal standing in this transaction, *i.e.*, the document specifically includes these three parties while excluding the Society.

Next, we all know that these documents are *bilateral* in nature, with the City and the Tribe as the only two parties signing and being bound by them. No other party signs or is bound thereby. That said, the Conservancy must approve them ahead of time, effectively having a veto power as a de facto third party. (See footnote 9.)

Politics:

Now comes political considerations. Here is how I see the mechanics of document approval playing out:

- City Council will have a closed session to discuss all this (with this memo);
- The Council will then have an open meeting, hear comment, and adjourn;
- It is agreed that the wisest strategy is to then have the Tribal Council approve the transfer documents first, hopefully accompanied by a well-worded resolution; and
- Then the City Council approves them.

⁸ See "The Transfer Documents Pick Up Where the TMP Ended," June 18th letter, pg. 3.

⁹ "The transfer of the property from the City to the Yurok Tribe shall also be subject to the following conditions: [...] the governing bodies of the City, the Conservancy, and the Yurok Tribe shall have duly authorized the transfer in accordance with the provisions of this Agreement and other applicable provision of law." ("Settlement Agreement," which is "Attachment B" to transfer documents, ¶ 7(c)(iv), pg. 3.)

V. Dangerous Pitfalls

A. The Tsurai Ancestral Society's Involvement in Property Transfer

This item of concern, not found in the documents themselves, is that of any ongoing disagreements between the Yurok Tribe and the Tsurai Ancestral Society as to the village site.

I cannot stress this point strongly enough: The City of Trinidad has absolutely no business intervening in that fight.

This topic was directly discussed in the July 6th meeting. Yurok Tribal representatives made it clear, and not for the first time, that any issues the Tsurai Ancestral Society may have with how the site will be managed under Yurok possession or ownership are between the Tribe and the Society, *and the City has no place in these discussions*. This was stated in response to a letter from the Society's attorney dated July 2, 2010, which states: "The Tsurai Ancestral Society has officially decided to shift our focus from transferring title of the Tsurai Study Area to implementing the recommendations of the Tsurai Management Plan."

As experience has shown that people are often confused on the issue of the Society's proper involvement with the transfer, two very clear points bear stating (the first being repeated from footnote 6 above):

- 1) The Tsurai Ancestral Society, in agreeing to the terms of the Settlement Agreement which it signed ("Attachment B" to the transfer documents), *excluded itself from any approval of the transfer*, leaving that approval authority exclusively and explicitly to the City, the Tribe and the Conservancy. Stated differently, pursuant to their own decision (*i.e.*, agreeing to the terms of settlement) *they chose to surrender all legal standing in the transfer of the property*; and
- 2) There is no "Tsurai Management Team" any more; it cannot be "reconvened." To attempt to do so would have two results: (a) Efforts to transfer the property would be derailed, as people would be solely discussing vegetation management, and (b) given the City's utter lack of resources to manage the site and its vegetation, its record of accomplishing absolutely nothing on the site (save building the Axel Lindgren Trail) would remain unblemished to the complete detriment of all concerned. The greatest loser in this would be the site itself, continuing its deterioration unabated.

Ironically, this is the end result of what happened last year when the City and the Tribe were ready to adopt the transfer documents and a Society-generated collateral issue brought everything to a screeching halt. Question: Had the transfer gone through last year as desired, where would everyone be today?

Answer: We would certainly *not* be discussing what the *City* should do about the clearcutting, which may not have even happened had the Tribe taken possession and begun the vegetation management which the transfer documents clearly demand (and what the City has done absolutely nothing about since, which--in further irony--was reportedly what generated the clearcutting).

B. Trails, John Frame, and Peripherally Related Issues

It was mentioned at the July 6th meeting that John Frame has offered to donate a very large sum of money to the Trinidad Library if he can achieve some concessions on the property. Regardless of the sums offered or concessions involved, to do this would be a very bad idea. Despite the enormous amounts of time, energy and taxpayer money spent in dealing with Mr. Frame's years-long litigation blizzard over trails and everything else, he properly should have no more say in the transfer of the property than any other citizen of Trinidad. Such a gambit is nothing more than attempting to outright buy what one cannot otherwise get through democratic or brute force (litigation) means.

VI. Close

I believe, and others agree, that last month's clearcutting, while deplorable, is also a blessing in disguise. I reiterate that the Tribe reached out to the City shortly before this happened, asking to restart negotiations on property transfer. The parties were arranging a meeting date when the cutting incident occurred. The resultant meeting on July 6th was, once again, very fruitful in that the two parties directly involved in the transfer reiterated their desire to move forward to transfer the property as agreed last year. The reality is that only after transfer occurs can any vegetation management truly begin.

It is my recommendation that the City Council move expeditiously with the transfer of the property to the Yurok Tribe. The Tribe has the resources and the will to manage the site, we do not.

Do not be deterred by either the Society's demands to focus on vegetation rather than transfer--that is their choice, an unwise one for the City and the site itself--or by those who will call for anything but transfer. The City has already almost gone bankrupt over this site once (requiring a sales tax increase to replenish the city's coffers after litigation bills exhausted all reserves), and cannot afford to allow the site to languish further without any resources to do anything.

To not transfer the site is to continue to expose ourselves not merely to liability and expense, but sadly even worse, to an otherwise unchangeable lose-lose situation for all concerned.

Attendees:

Tsurai Ancestral Society

Kelly Lindgren
Chet Jarboe

Yurok Tribal Council

Tom Gates
Robert Bohrer

City of Trinidad

Chi-Wei Lin
Stan Binnie
Steve Albright

Coastal Conservancy

Su Corbaley (joined part of the meeting by telephone)

MEETING AGENDA

1. Introductions
2. Committee Participation

The California Coastal Conservancy (Su Corbaley and legal counsel) will be asked to be participants at all meetings, and efforts will be made to arrange meetings around their travel schedules.

Representatives from the Trinidad Rancheria requested to participate. They have been asked to formally request this in writing to Mayor Lin. There was generally consensus not to have the Rancheria present for the following reasons:

- The negotiation to transfer the property is due primarily to cultural interests;
- Other neighboring property owners are not participating;
- Other neighboring governmental entities are not participating;
- The Rancheria was asked and declined to participate in the development of the Tsurai Management Plan; and
- Only those entities named in the settlement agreement regarding the cultural site are participating in the transfer discussions.

When received, their letter of interest will be forwarded to all parties.

3. 2008 Timeline for Committee Actions

The following meeting dates were set:

Committee Meetings

Thursday, May 1, 2008	9:00am	Trinidad
-----------------------	--------	----------



CLOSED SESSION AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

2. City Manager Recruitment: Section 54957(b), City Manager Selection and Recruitment Process.

PACKETS DISTRIBUTED EARLIER