

## Trinidad City Clerk

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**From:** Bryce Kenny <jbrycekenny@gmail.com>  
**Sent:** Monday, August 10, 2020 11:31 AM  
**To:** cityclerk@trinidad.ca.gov; citymanager@trinidad.ca.gov  
**Cc:** sladwig@trinidad.ca.gov; tdavies@trinidad.ca.gov; 'Richard Clompus'; jwest@trinidad.ca.gov; dgrover@trinidad.ca.gov  
**Subject:** Item IX 1. and 2 of Agenda for August 11, 2020

Dear Mayor and Council Members:

I take this opportunity to comment on the proposed Van Wycke and Galindo trail closures. Having nice walkable trails is one of the great amenities that comes with living in Trinidad. The city policy should be to have more trails, not less. Both the Van Wycke and Galindo Street trails are on public right of ways that were laid out in the 1800's. While neither is capable of supporting vehicle traffic, both are important links in the city's transportation system.

While slumping below the Van Wycke trail has been a problem for decades, it is still passable, and my wife and I enjoy walking on it. It is no worse than many of the trails in the adjacent State Park, the bottom of the Axel Lindgren Jr. Memorial Trail, or the bottom of the Parker Creek trail where it reaches Old Home Beach. None of those other trails are being closed. The idea of city liability is a red herring. In the unlikely event that someone is hurt on a city trail and makes a claim, our insurance company is required to provide coverage, though it could do so under a "reservation of rights," and then later litigate with the city over that issue. That almost never happens, and if it did, the city would likely prevail.

It is very concerning to me that the staff report refers to a meeting with the "stakeholders," which apparently means the four property owners upslope from the Van Wycke trail. In the context of city trails, the "stakeholders" are the people who use the trails, not adjacent property owners who seek to increase their "privacy." This is all reminiscent of a long and expensive legal battle waged between another private party who bought land encumbered with a public beach access trail, and the city and State of California. That was all in vain if the city is so willing to capitulate and close the Van Wycke trail based on the desires of a few property owners.

At the last Planning Commission meeting, Eli said that a simple wooden foot bridge over the worst slumping section of the Van Wycke trail would be a good solution, and everyone agreed. Now, he has reversed course and is calling for complete closure of the Van Wycke trail and routing of all traffic down Edwards Street. Since the illegal barricading of the east end of the trail, my wife and I have been walking down Edwards instead, and it is no where near as enjoyable as the Van Wycke trail, because of the heavy traffic on Edwards and the lack of view toward the harbor and green space below the trail.

The Planning Commission has tabled the Van Wycke trail closure idea pending a recommendation from the Trails Committee. The Council should not short-circuit that process by jumping ahead with a decision to close the trail. More discussions should occur, that include the view points of trail users. I hereby request to be notified of all such future meetings.

If the city is to have a trails system, it must protect its existing trails. There simply is no more city land upon which to construct new trails. Of course, it can condemn land for the construction of trails, but that is an extreme measure that should be used sparingly.

The Galindo Street trail is another valuable link in the trails system. Claims that it should be closed because of its proximity to a grave are misplaced. Whoever is buried there has been resting in peace for at least a century, and will continue to do so, despite the occasional passerby. I question any alleged Native American cultural norm that prohibits

walking near a grave. It was known at the time the trail was constructed that there may be a grave nearby, and no one objected. Why now, all these years later?

Please do not close either of these trails. It would be a violation of the Coastal Act. If you do, as fair warning, I will formally oppose those efforts by all legal means.

Thank you for your time and attention.

Sincerely,

Bryce Kenny  
462 Ocean Avenue  
Trinidad, California

## Trinidad City Clerk

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**From:** Richard Harris Jr. <rharrisjr1@gmail.com>  
**Sent:** Monday, August 10, 2020 2:41 PM  
**To:** cityclerk@trinidad.ca.gov  
**Cc:** 'Bryce Kenny'  
**Subject:** City Council Agenda Packet for Aug. 11, Agenda Discussion Item 4 / Please supplement the public comment correspondence file

Gabe --

The matter of the Draft Gov-to-Gov Policy on the Aug. 11 Agenda is continuation of the same matter from Council's July 14 meeting, Discussion Item 6. Letters from Bryce Kenny dated June 19 and July 14 on the Gov-to-Gov topic submitted to Council by Bryce Kenny are in Council's respective June 23 and July 14 Public Comment Correspondence Packets. However, these letters were not carried forward to Council's Correspondence packet or Agenda packet for the Aug. 11 meeting. Can you please print these both and add them to the file so that the Council Members will have them in well in advance of the Aug. 11 6 p.m. meeting. Thank you.

1) Letter, BKenny to Ci Council, 7.14.20

<https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/Public%20Comments%2007-14-2020%20cc.pdf>

2) Letter, BKenny to Ci Council, 6.19.20

<https://drive.google.com/file/d/1eX-Umsf-vyYwoQzFzEEdBYjk9ASRPpd0/view?usp=sharing>

Thanks.

Richard Harris  
415-290-5718



Virus-free. [www.avast.com](http://www.avast.com)

## Romero 8/10/2020 Comments on New Proposal

### Van Wycke Bicycle and Pedestrian Connectivity Project

Considering the connectivity route outlined in the new conceptual diagram, we have a few comments and concerns (excluding water line issues). Due to the short notice, they are brief.

- Appropriate to consider Edwards St for connectivity.
- Public access to beach areas is important.
- Pedestrians should be given priority over bicycles.
- Bicycles are vehicles and can share the street if needed (i.e. if no bike lane). Skateboards too.
- For safety, keep pedestrians separate from bicycle lanes.
- Consider using Edwards for the entire stretch to reduce the slope as much as possible.
  - While a generalized plan view was included, a profile was not, so the steep corner at Edwards and Galindo can't be compared with the slope of the Van Wycke trail.
  - Although we have been told that users in non-motorized wheelchairs have been considered, that corner is steep even for other less mobile people. The sidewalk is legal since the streets are steep, but from a practical standpoint of providing reasonable access for all it is not acceptable. Most disabled adults in wheelchairs would require at least 2 assistants (personal experience and watching other families navigate).
  - Perhaps the City could offer disabled users the use of motorized, off-road style wheelchairs with big wheels and seatbelts (like at the dunes in Arcata, and at Clam Beach). Beach access would be even more friendly since this style can go on sand too.
- Galindo right-of-way trail is desirable.
- Multiple spots to provide opportunities for the public to pause and be enriched by nature, and to be able to appreciate the special setting.
- Ramifications of increasingly more traffic and congestion should be considered.

Chris & Cynthia Romero

Trinidad

**J. Bryce Kenny**  
**Attorney at Law**  
**P.O. Box 361**  
**Trinidad, California 95570**  
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August 11, 2020  
By e-mail

Mayor Steve Ladwig  
Trinidad City Council  
City Hall; 409 Trinity St.  
P.O. Box 409  
Trinidad, CA. 95570

**Re: City Council Meeting, Tuesday, August 11, 2020, 6 p.m.**  
**Discussion Agenda Item 4**

**Humboldt Alliance for Responsible Planning objects to the Draft “Government to Government Meeting Policy” because it would continue an illegal City Council practice of closed meetings with the Rancheria that violates the open public meeting laws of the Brown Act and the State Constitution, Article 1, Section 3.**

**The City Council committee that has for years been meeting in secret with the Rancheria is a “standing committee” appointed by the Council to deal with longstanding and ongoing issues of Tribal relations. This can hardly be called “ad-hoc” or temporary.**

**The City Council has been publicly advised by the City Attorney in February 2018, and again in August 2020, that behind-closed-doors meetings between a City Council committee and the Rancheria are problematic.**

Dear Mayor Ladwig and Members of the Trinidad City Council,

This letter supplements my letters to you dated July 14, 2020<sup>1</sup> and June 19, 2020<sup>2</sup>, which provide legal analysis and extensive citation to the controlling law. Because my prior letters have been, oddly, omitted from the August 11 Agenda Packet, I have attached copies of them hereto as Exhibits A and B respectively, with a request that Council Members read them.

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<sup>1</sup> Letter, J. Bryce Kenny, Esq. to Trinidad Mayor Steve Ladwig and City Council, July 14, 2020:  
<https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/Public%20Comments%2007-14-2020%20cc.pdf>

<sup>2</sup> Letter, J. Bryce Kenny, Esq. to Trinidad Mayor Steve Ladwig and City Council, June 19, 2020:  
<https://drive.google.com/file/d/1gBwXukzzx8cE5f3BDguTHkzZUOFq2ri/view?usp=sharing>

1. **The City Council must comply with California’s Open Meetings Laws, the Brown Act and California Constitution Article 1 Section 3. The Brown Act makes no provision for closed meetings of California legislative bodies – whether they are called “Government to Government” or anything else. Rather, the Brown Act and State Constitution require all legislative bodies – including city councils and their standing committees – to meet in open, public meetings.**

This issue is discussed in detail, with extensive legal citation, at pages 2-3 of my July 14, 2020 letter (Exhibit A and footnote 1, below). Very briefly summarized: (1) the State Constitution, at Article 1 Section 3, requires that “the meetings of public bodies . . . shall be open to public scrutiny”; (2) **any statute, law, or other rule furthering the right of public access shall be broadly construed, while any such statute, law, etc. limiting the right of public access shall be narrowly construed**; (3) the Ralph M. Brown Act (“Brown Act”) provides that (i) all meetings of legislative bodies (including city councils) shall be open and public (Government Code Section 54953(a), and (b) that standing committees are legislative bodies for purposes of the open meetings requirement (Government Code Section 54952(b). The Brown Act’s open meeting requirement is preemptive – “notwithstanding the provisions of any other state law.” (Government Code Section 54958).

2. **Trinidad City Council has had for many years a committee whose continuing subject matter jurisdiction is to deal with the Tribes. Because it is a committee of long duration, with continuing subject matter jurisdiction, this committee meets the definition of a “standing committee” under the Brown Act. The councilmen on this standing committee have at least since 2018 been meeting with the Rancheria in “government-to-government” meetings in violation of the open public meetings mandates of the Constitution and the Brown Act.**

The Brown Act provides that “... standing committees of a legislative body, irrespective of their composition, which have a **continuing subject matter jurisdiction**, . . . are legislative bodies for purposes of this chapter.” (Government Code Section 54952(b).

It is quite clear in the case of the Trinidad City Council’s committee that has been meeting with the Rancheria, that the committee’s subject matter jurisdiction is Tribal relations, and that it is a committee of long duration, not limited to a specific task or a short time period. The Rancheria is a fact-of-life on the Trinidad outskirts, the owner of significant local properties, and the area’s biggest business and employer. So Tribal liaison is an ongoing, long-term calling – not a short-term, one-task-at-a-time proposition.

To illustrate the difference between a “standing committee” and an ad-hoc advisory committee, the California Attorney General gives the following examples:

- “Advisory committee comprised of two councilmembers for the purpose of reviewing all issues related to parks and recreation in the city on an ongoing basis: This committee is a standing committee which is subject to the Act’s requirements because it has continuing jurisdiction over issues related to parks and recreation in the city.
- Advisory committee comprised of two city councilmembers for the purpose of producing a report in six months on downtown traffic congestion: This committee is exempt advisory committee because it is comprised solely of less than a quorum of the an members of the city council. It is not a standing committee because it is charged

with accomplishing a specific task in a short period of time, i.e., it is a limited term ad hoc committee.”<sup>3</sup>

In the instant case, the task of relations with the local Tribes more resembles the Attorney General’s parks commission example than it does producing a six-month traffic report.

Testimony at several Council meetings has established that the committee that has been meeting with the Rancheria in what have been characterized as “Government to Government meetings” has been comprised of Mayor Ladwig and Vice-Mayor West, together with the City Manager. Councilmembers Ladwig and West have been members of the City Council’s standing “Tribal Government Liaison – (Trinidad Rancheria/Yurok Tribe)” Committee since at least January 2019, as shown on the table captioned “Committee Assignments: As of January 09, 2019”.<sup>4</sup> (Copy attached as Exhibit C hereto.) At its July 10, 2019 meeting, Council made a handful of committee member replacements, none of which affected the Tribal Government Liaison Committee at that time.<sup>5</sup> Councilman West, who in January 2019 was listed in as the Alternate, apparently stepped-in as a regular Member of the Tribal Government Liaison Committee following the retirement of Councilman Baker. **It is quite apparent that what they have recently been calling the “Executive Committee” or the “Government-to-Government Committee” has been a function of their assignments as the Council’s designated committeemen on the Tribal Government Liaison (Trinidad Rancheria/Yurok Tribe) Committee.**

- 3. At a February 13, 2018 Special Meeting, and upon the on-the-record advice of City Attorney Andy Stunich, the City Council adopted a policy of open public meetings for a City/Tribal relations matter involving the Tsurai Management Team. That policy has never been revoked by the City Council. And the rationale of that policy applies to the City Council’s dealings with the Rancheria.**

The Brown Act and its application to the Trinidad City Council’s meetings with the Tribes is an issue well-known to the Council. The Council convened a February 13, 2018 Special Meeting to formulate City policies for participation in the Tsurai Management Team, focusing on management of the Tsurai Study Area, a 12.5-acre parcel of City-owned land that includes the historic location of the Yurok village of Tsurai. The Yurok Tribe, Tsurai Ancestral Society, and Trinidad Rancheria are all identified as “stakeholder groups.” The City Council committee representatives were Councilmen West and former Councilman Baker.<sup>6</sup> Two issues

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<sup>3</sup> Office of the California Attorney General (2003),  
The Brown Act: Open Meetings for Local Legislative Bodies, at p. 6 (20/114)  
<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/brownAct2003.pdf>

<sup>4</sup> Trinidad City Council, Committee Assignments as of January 09, 2019:  
[https://drive.google.com/file/d/10rzRGvRKdliLDozA7\\_T\\_xlVqKX24kISN/view?usp=sharing](https://drive.google.com/file/d/10rzRGvRKdliLDozA7_T_xlVqKX24kISN/view?usp=sharing)

<sup>5</sup> City Council Meeting Agenda Packet, July 10, 2019, at pp. 50-52  
Discussion Item 1, “Discussion/Decision regarding Council Committee and Commissionership assignments,  
<https://drive.google.com/file/d/1Pq0XUUCsmVbUvYza9ESZcmjvK7YY2r4d/view?usp=sharing>

<sup>6</sup> See Trinidad City Council, Committee Assignments as of January 09, 2019:  
[https://drive.google.com/file/d/10rzRGvRKdliLDozA7\\_T\\_xlVqKX24kISN/view?usp=sharing](https://drive.google.com/file/d/10rzRGvRKdliLDozA7_T_xlVqKX24kISN/view?usp=sharing)  
(Copy attached as Exhibit C)

addressed in then-City Manager Dan Berman's Report (copy attached as Exhibit D) were Closed Meetings and the Brown Act, as follows (quoting from the Report):

"Open vs. Closed meetings: The TMT has normally held closed meetings, with guests outside of the TMT members invited only by unanimous consent of the TMT.

"TMT and the Brown Act **The Brown Act requires that "standing committees" of the City hold their meetings in accordance with the Brown Act.** This means the meetings are open to the public, and agendas are posted in advance. **The definition of "standing committee" is broadly interpreted as a committee involving appointed Council members, meeting on an ongoing basis, to address a specific issue or set of issues. Staff believes a cautious interpretation could make the TMT subject to the Brown Act if Council members are central City representatives to the group.**"<sup>7</sup> (A copy of the City Manager's Report is attached hereto as Exhibit D.)

Minutes of that February 13, 2018 Special Meeting reflect that City Attorney Andy Stunich attended, and in response to Councilman West, advised the Council as follows:

**West:** Asked City Attorney Stunich about the status of TMT meetings regarding the Brown Act. **Stunich** stated he had **concerns about the meetings, especially if Councilmembers are attending. He explained that sending Staff to a meeting or sending a Councilmember to gather information does not present any Brown Act issues. However, if a Councilmember is attending and participating, it's best to be cautious and abide by the Brown Act.** Stunich also stated that it was "odd" that the TMT meetings are intended to manage public property.<sup>8</sup> (A copy of the Feb. 13, 2018 Special Meeting Minutes is attached hereto as Exhibit E.)

Staff recommended that the Council adopt five policies for the TMT meetings, including (1) that meetings should be open to the public, and (4) that the City's participation in the TMT "needs to be subject to applicable Brown Act requirements." The meeting minutes reflect that Councilmembers Miller and Ladwig supported the open meetings, as did then-Mayor Susan Rotwein, who said, **"The public has been left out of these meetings for too long. Transparency is important."** On Councilman Miller's motion, he and Council Members Ladwig and Rotwein voted in favor of adopting staff's recommended policies, including:

**"(1) TMT meetings should be open to the public.** Where discussions of confidential information regarding cultural resources is needed, the TMT can hold closed sessions, or the key parties can meet outside of the TMT format. [and] **4. City participation in the TMT needs to be subject to applicable Brown Act requirements.**"<sup>9</sup>

So Council adopted the open public meeting policy. Councilmen West and Baker voted NO.<sup>10</sup>

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<sup>7</sup> Trinidad City Council, Special Meeting, Feb. 13, 2018, Report, p.3 (5/6) (emphasis added)

[https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/02-13-18%20scc%20packet\\_0.pdf](https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/02-13-18%20scc%20packet_0.pdf) (Copy attached, Ex. D)

<sup>8</sup> Minutes, Trinidad City Council Special Meeting, Feb. 13, 2018, at p. 2,

[https://drive.google.com/file/d/1jZVAzf\\_m7qxIZW5U5047mwjaajnobxLW/view?usp=sharing](https://drive.google.com/file/d/1jZVAzf_m7qxIZW5U5047mwjaajnobxLW/view?usp=sharing)

Note: the Feb. 13, 2018 Special Meeting Minutes were approved by Council at its May 9, 2018 meeting

Agenda Packet, May 9, 2018, at 3/52: <https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/05-09-18%20cc%20packet.pdf>

<sup>9</sup> Minutes, Trinidad City Council Special Meeting, Feb. 13, 2018, at p. 4, found at Agenda Packet of City Council Mar. 14, 2018 Meeting at pg. 6/59: [https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/03-14-18%20cc%20packet\\_1.pdf](https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/03-14-18%20cc%20packet_1.pdf)

<sup>10</sup> Minutes, Trinidad City Council Special Meeting, Feb. 13, 2018 at p. 4 (6/59), Id.

#### 4. CONCLUSION: THE STATE CONSTITUTION AND THE BROWN ACT REQUIRE OPEN PUBLIC MEETINGS IN TRINIDAD

Under California law, the people – in this case, City of Trinidad residents and voters – have a right that the people’s business be conducted in public. Not behind closed doors. This applies to all “legislative bodies” and their “standing committees,” including the Trinidad City Council’s committee that has been meeting behind closed doors with the Rancheria. This is the gist of City Attorney Stunich’s on-the-record advice to the City Council at the February 13, 2018 Special Meeting.

And it is the gist of the “Brown Act Legal Opinion To: Cuty of Trinidad From City Attorney” that first appeared the city’s website on the evening of August 10, with the caption “08-11-2020 CC Packet add-on”. (<https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/Brown%20Act%20Legal%20Opinion%2008-11-2020.pdf>). That Legal Opinion (curiously, undated and unsigned) states, in pertinent part:

“Question raised: can the City have government to government meetings with other legal entities such as the Rancheria . . .

The Ralph M. Brown Act is California’s “sunshine” law for local government. . . . In a nutshell, it requires local government business to be conducted at open and public meetings, except in certain limited situations. The Brown Act is based upon state policy that the people must be informed so they can keep control over their government.”<sup>11</sup>

The Legal Opinion concludes:

“Certainly meetings with staff should be able to be kept outside of the Brown Act if the guidelines set forth above are followed. I think that repeated or regularly scheduled meetings with council members are going to run into problems.”<sup>12</sup>

HARP opposes the Draft “Government to Government Meeting Policy” because it would perpetuate a clearly illegal practice of closed legislative body meetings. And we urge the Council and each of its members individually to stop this practice now.

Respectfully submitted,

s/

J. Bryce Kenny

Copies and Exhibits: see next page

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<sup>11</sup> Brown Act Legal Opinion to Cuty of Trinidad from City Attorney, 8.11.20, at p. 1  
<https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/Brown%20Act%20Legal%20Opinion%2008-11-2020.pdf>

<sup>12</sup> Brown Act Legal Opinion to Cuty of Trinidad from City Attorney, 8.11.20, at p. 7  
<https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/Brown%20Act%20Legal%20Opinion%2008-11-2020.pdf>

cc: Eli Naffah, Trinidad city Manager  
Supervisor Steve Madrone, Humboldt County Board of Supervisors  
Supervisor Mike Wilson, Humboldt County Board of Supervisors  
Sarah Lindgren-Akana, Tsurai Ancestral Society  
Jennifer Kalt, Humboldt Baykeeper  
Kelly Lindgren  
Humboldt Alliance for Responsible Planning Executive Committee

## LIST OF EXHIBITS

- A** Letter, J. Bryce Kenny, Esq. to Trinidad Mayor Steve Ladwig and City Council, July 14, 2020:  
<https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/Public%20Comments%2007-14-2020%20cc.pdf>
- B** Letter, J. Bryce Kenny, Esq. to Trinidad Mayor Steve Ladwig and City Council, June 19, 2020:  
<https://drive.google.com/file/d/1gBwXukzzzx8cE5f3BDguTHkzZUOFq2ri/view?usp=sharing>
- C** Trinidad City Council, Committee Assignments as of January 09, 2019:  
[https://drive.google.com/file/d/10rzRGvRKdliLDozA7\\_T\\_xlVqKX24klSN/view?usp=sharing](https://drive.google.com/file/d/10rzRGvRKdliLDozA7_T_xlVqKX24klSN/view?usp=sharing)
- D** Trinidad City Council, Special Meeting, Feb. 13, 2018, Report, p.3 (5/6)  
[https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/02-13-18%20scc%20packet\\_0.pdf](https://trinidad.ca.gov/sites/trinidad.ca.gov/files/library/02-13-18%20scc%20packet_0.pdf)
- E** Minutes, Trinidad City Council Special Meeting, Feb. 13, 2018, at p. 2,  
[https://drive.google.com/file/d/1jZVAzf\\_m7qxIZW5U5047mwjaajnobxLW/view?usp=sharing](https://drive.google.com/file/d/1jZVAzf_m7qxIZW5U5047mwjaajnobxLW/view?usp=sharing)

**JOHN R. FRAME**

P.O. Box 360  
Trinidad, CA 95570  
707-677-3030

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August 11, 2020

Members of the City Council,

I am writing to address the council's recent decision to reopen Trinidad trails.

The day I learned of this decision I spoke with the City Manager regarding conflicts between that decision and higher government mandates including the Center for Disease Control (hereinafter CDC) and the California Governor. During that conversation I reminded him that on the Van Wycke and Wagner access the foregoing mandates of distancing are not possible. The westerly 150 feet of the Wagner access is by court order no more than three feet wide. Further, there is a blind corner from which anyone on the access has no visual ability to determine if they are approaching other people. Once visual contact is possible it is still impossible to maintain the required distancing. The Van Wycke trail does have a line of sight to determine whether others are on that trail. However, there are parts of the trail that also do not provide sufficient width for the required distancing.

The City Manager informed me that the council's decision was based on recommendations of the Trails Committee and that he had no authority to change that decision. I inquired whether he could temporarily stay that decision until the issues could be fully presented to the council. He informed me that he did not have that authority.

Following is an excerpt from the April 14th city Emergency Declaration. " 2. The City Manager is delegated the authority to make all necessary decisions and to take all necessary actions without prior approval of the City Council in order to protect employees, city residents and visitors, and public utility customers, specifically including, but not limited to, the purchasing of goods and contracting for services, personnel policies, and operational policies and procedures." It appears to this writer that indeed City Manager has and had complete authority "...without approval of the City Council...to protect...city residents and visitors." That protection is precisely what has been mandated, what is at issue and what is being requested.

This decision is worsened by the fact that the city has no means of monitoring or enforcement of the masking requirement or distancing.

Additionally, there are three residents on each side of the 475 Wagner driveway that are more than 80 years old making them very vulnerable and at high risk. It would be of great consequence, perhaps even death, if one of them was exposed to the corona virus by an infected person passing through that driveway. It could also be of great consequence to the city given that the residents are knowingly and unnecessarily being exposed to a highly contagious virus.

Literally, the entire population of the world is combating a deadly disease and has in one way or another been affected and inconvenienced. Some who would like to use trails and accesses in an unfettered manner may feel inconvenienced by the temporary inability to do so. Their temporary inconvenience cannot outweigh the potential exposure of a deadly virus to others.

We are fortunate to have many beaches and accessibility without the need to encroach on those small instances where people's health and well being is put at risk. These two accesses cannot in any way be categorized as a necessary or essential use as defined by CDC during the time of this pandemic.

How dangerous is the corona virus and how contagious is it? Consider the following.

The covid19.ca.gov website posts the following: Wear a mask, ...keep your distance. (emp. added) As of August 11, 2020 there have been 574,411 cases (+2.2% increase), 10,468 deaths ( 1.1% increase) and 9,186,279 tests. The tests are only about 25% of the California population.

wwwnc.cdc.gov posts: Virus-laden small (<5 µm) aerosolized droplets can remain in the air and travel long distances. COVID-19 Outbreak Associated with Air Conditioning in Restaurant, Guangzhou, China, 2020.

There is no consensus on how far the corona virus can travel air borne. However, there are documented instances, including the above air conditioning transmission in a five story restaurant, that it is considerably more than 6'.

About the time the city council decided to reopen trails and accesses the following was being statutorily enacted by other government agencies.

## In the News...7.13.20.

### Newsom issues new statewide order for all California counties

Effective today, the governor extended the closure of bars and indoor dining statewide, and has ordered gyms, churches, and hair salons closed in most counties as [coronavirus](#) cases and hospitalizations surge according to [Kron 4 News](#).

Times-Standard - July 15, 2020

COVID-19: Enforcement begins Friday for Humboldt County businesses' outdoor permits. County health officer says 150 in isolation due to contacts.

## Tracking the coronavirus in California

By **Los Angeles Times Staff**

Updated Aug. 11, 8:54 a.m. Pacific

**574,514**  
confirmed cases  
**+274** today  
**+13,149** yesterday

**10,480**  
deaths  
**+4** today  
**+99** yesterday

Thank you for your consideration.

John Frame

**David Hankin**  
**756 9<sup>th</sup> Ave.**  
**Trinidad, CA. 95570**  
[david.hankin@humboldt.edu](mailto:david.hankin@humboldt.edu)

August 5, 2020

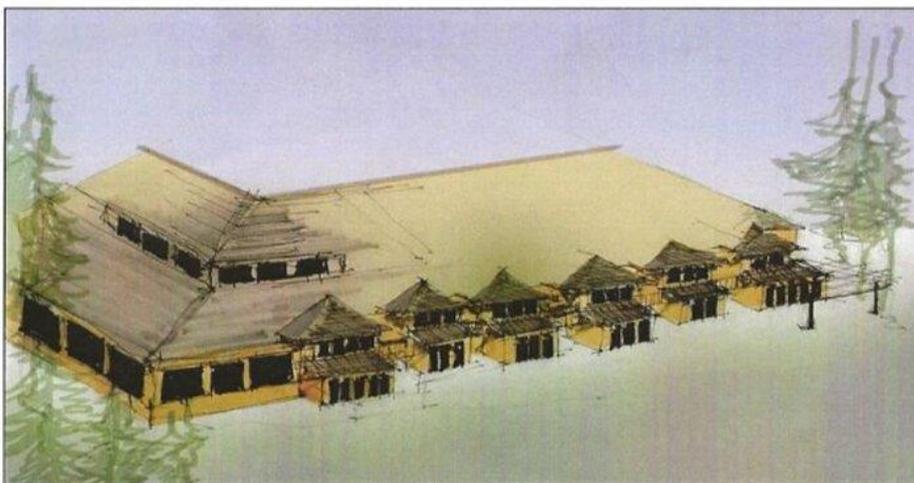
Trinidad Mayor Steve Ladwig  
Members of the Trinidad City Council  
City Hall, 409 Trinity St.  
P.O. Box 409  
Trinidad, CA. 95570

**Re: City Council Meeting, Tuesday, August 11, 2020, 6 p.m.**  
**Public Comment from the Floor**

Greetings Mayor Ladwig and City Council members,

When I returned home last week from a two-week trip, my wife shared with me the July 15 issue of the Times-Standard, with Mayor Ladwig's My Word column on Trinidad's ongoing debate over water and the Rancheria's hotel proposal. Steve wrote that the Humboldt Alliance for Responsible Planning (HARP), of which I am a member, has "opposed the hotel but haven't successfully offered to help find suitable solutions." I would like to correct Steve with respect to this statement.

HARP has never opposed a reasonably-sized and -designed hotel on the Rancheria's property. When it introduced the hotel idea in its 2011 Comprehensive Plan, the Rancheria pictured a 3-story traditional wooden lodge, in keeping with its nearby attractive administrative complex. (See copy of architect's drawing from Page 7 of the Rancheria's Comprehensive Community-Based Plan, below.) That 2011 Comprehensive Plan committed the Rancheria to land use policies including: "**maintain the unique qualities and character of the Trinidad Rancheria as a small coastal Native American community . . . Ensure new development minimizes potential visual impacts and does not detract from the scenic character of Rancheria lands . . . All new development shall meet community standards for design quality.**" (Policies 101.A-1, A-3, and B-3.) HARP's members did not object to this.



*Sketch of hotel perched upon the existing casino bingo hall*

But in or about 2017, the Rancheria apparently changed course, scrapped its professed policies of minimizing visual impacts, maintaining small coastal character and meeting community design standards, and instead proposed a 100-room, 6-story, generic high-rise Hyatt hotel dominating the cliffs overlooking Trinidad Bay and requiring, according to the Rancheria's consultants, 19,000-plus gallons of water per day (gpd) in peak season (which coincides with Trinidad's late summer dry season). Subsequently, this original design has been replaced with a 5.5-story hotel design requiring 14,000 gpd. HARP cannot support such a project, but rather has strongly opposed the "completely-out-of-place hotel that would forever change the Trinidad Bay landscape" and threaten the City's water supply in a time of climate change and increasing drought. Likewise, the Tsurai Ancestral Society – lineal descendants of Trinidad Bay's original Yurok village – has publicly and repeatedly objected to and opposed the Rancheria's high-rise Hyatt hotel plans that would "forever change the traditional landscape that shapes our cultural identity."

An overwhelming majority of Trinidad voters and area residents also agree with HARP and the Tsurai Ancestral Society. They have spoken and submitted written comments objecting to the high-rise Hyatt and its water demands at public meetings and proceedings of the Coastal Commission, Bureau of Indian Affairs, Humboldt Bay Municipal Water District, and Trinidad City Council. At a May 21, 2020 Special Meeting of the City Council, the public comments were 57-to-1 against providing City water for the proposed 5.5-story Rancheria/Hyatt hotel.

The City of Trinidad itself, in official letters from the City Manager to the Bureau of Indian Affairs in October 2018 and March 2020 formally objected that the Rancheria's proposed high-rise Hyatt hotel design was not "consistent with visual goals of the county and city land use regulations". Moreover, the City Manager's March 2020 letter to the BIA expressed concerns regarding the proposed high-rise Hyatt hotel's water demands. "The City has serious concerns regarding the availability of water from Luffenholtz Creek which is greatly impacted by drought and climate change. . . The City has yet to adopt a policy for considering applications for our limited [water] resource and is not able to effectively evaluate any requests should they be sent to the City at this time."

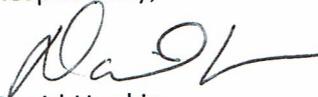
Likewise, the June 2019 Coastal Commission initial staff reports found the proposed 5.5-story hotel to be inconsistent with California's Coastal Management Plan and recommended a maximum 40' height. The Coastal Commission overruled Staff's objections in August 2019, conditionally approving the Rancheria hotel proposal on the condition that the Rancheria prove to the Commission's Executive Director that the hotel would have an adequate water supply. But to this day – a year later – the Rancheria has failed to provide the Executive Director with proof of an adequate hotel water supply to satisfy the Commission's water condition.

As a companion to the proposed high-rise Hyatt, the Rancheria is pushing as well for a 4-way freeway interchange to drop Highway 101 traffic onto their lands, with proposed gas station, mini-mart, trailer park, and commercial offices – the combination of which would effectively relocate Trinidad's commercial center to the Rancheria. But the Rancheria pays no local city or county property or business tax, so these add-ons would effectively starve Trinidad of tax revenues for municipal services. HARP opposes this freeway interchange and believes that other traffic-resolving options are available should the Rancheria develop a hotel on its property.

As we all know, the Rancheria has never publicly indicated willingness to budge one inch from its proposal to construct a 5.5-story 100 room hotel and, eventually, to get a full freeway interchange

constructed to serve only the Rancheria's casino/hotel interests. A smaller hotel with reduced height and reduced water demand might provide a "suitable solution" to the hotel controversy, subject of course to the Planning Commission's still-to-be-adopted Water Policies and Drought Contingency Plan. The Caltrans 2017 Project Study Report provides traffic-resolving alternatives to a full interchange that might provide a "suitable solution" to the traffic issues that might be raised if a hotel were built. But until the Trinidad Rancheria behaves like the "good neighbor" that they claim to be and begins to publicly consider reasonable alternatives to their proposed 5.5-story 100-room hotel and freeway interchange (ideally in broad public consultation with HARP and other local community members, the TCC, Supervisor Madrone, and representatives of the Tsurai Ancestral Society and Yurok Tribe), HARP will continue to object to the Rancheria's current hotel and freeway development proposals. What the Rancheria currently proposes is not responsible development and not good for Trinidad.

Respectfully,



David Hankin

On behalf of Humboldt Alliance for Responsible Planning

cc's:

Eli Naffah, Trinidad City Manager

Supervisor Steve Madrone, Humboldt County Board of Supervisors

Supervisor Mike Wilson, Humboldt County Board of Supervisors

Sherri Provolt, Yurok Tribal Council

Sarah Lindgren-Akana, Tsurai Ancestral Society

Jennifer Kalt, Humboldt Baykeeper

Kelly Lindgren

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