

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, MARCH 08, 2006

I. CALL TO ORDER/ ROLL CALL

- Mayor Lin called the meeting to order at 7:30PM. Council members in attendance: Marlow, Bowman, Lin, Heyenga, Cuthbertson.
- City Staff in attendance: City Clerk, Gabriel Adams; City Attorney, Jeff Guttero; Police Chief Ken Thrailkill; City Engineer, Steve McHaney.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION – No Closed Session

IV. RECONVENE TO OPEN SESSION

V. APPROVAL OF AGENDA

Bowman: Postpone #11 (Gould encroachment) to the next meeting.

Motion (Heyenga/Bowman) to approve the agenda as amended. Passed unanimously.

VI. APPROVAL OF MINUTES

January 06, 2006 scc

Motion (Marlow/Heyenga) to approve the minutes as corrected. Passed unanimously.

February 01, 2006 scc

Motion (Heyenga/Bowman) to approve the minutes as corrected. Passed unanimously.

February 08, 2006 cc

Motion (Heyenga/Cuthbertson) to approve the minutes as corrected. Passed unanimously.

February 28, 2006 cc2

Motion (Heyenga/Cuthbertson) to approve the minutes as corrected. Passed 4-0 - Bowman absent.

VII. COMMISSIONERS REPORTS

Marlow – Parks and Recreation, Streets

Trails: Public Works will be recruiting new employees for the special projects pool. Marlow will update the Council as new workers are selected.

Bowman – Police, Harbor

Harbor: Nothing to report.

Police: Nothing to report.

Heyenga – Fire, Planning

Planning: There will be a Planning Commission meeting this month but on the fourth Wednesday, March 22 at 7:30pm. On the agenda are:

- Application for a second story on a house on Underwood.
- Application for an addition to a house on Ocean Ave.
- Draft ordinance implementing the City's Onsite Wastewater Treatment System Program. This will be the first of several hearings and public information meetings on the proposed ordinance. The grant funding this work ends March 31.

Public hearing on US Cellular's appeal of the Planning Commission's denial for a cell pole installation on Trinidad Head is tentatively scheduled for Monday evening, May 1. This date depends on Councilmember's availability for a special meeting in Town Hall to hear the appeal.

The new office computer funded by the OWTS grant has been installed. The City Clerk will use the new computer not only for his current work, but the Septic Maintenance database and mapping will

be entered on this computer. Gabe's computer will be used by the new grant administrator. The replaced computer may be donated to Trinidad school.

Lin – Water, Town Hall

Water: Nothing to report.

Town Hall: Thanked Jim Cuthbertson, Tom Odom, and Bill Harkins for remodeling the ladies bathroom.

City Council members must stick to the deadlines for submitting items for the agenda packet. Late submissions make it difficult for the City Clerk to prepare the agenda, keep the Council updated, and inform the community properly. If necessary, the policy will be brought back to the City Council for a decision. The deadlines are as follows:

- o **Regular Meeting** – Titles are due by Wednesday at 2:00pm. Background info is due by Thursday at 10:00am.
- o **Second Regular Meeting** – Titles are due by Tuesday at 2:00pm. Background info is due by Wednesday at 10:00am.

Cuthbertson – Finance

Finance: Nothing to report.

VIII. STAFF REPORTS

City Clerk/IWMC – Adams - Nothing to report

City Attorney – Guttero - Nothing to report

Police Chief – Thrailkill (absent)

IX. ITEMS FROM THE FLOOR

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

Sungnome Madrone – Fox Farm

Re: *Van Wycke Trail repair plan*

Most of the area below Van Wycke is inherently unstable with the ocean cutting at the toe of the slope during periods of intense storms and storm surge at high tides. The undersized drainage system running down the old Van Wycke right of way and through the trail can allow large amounts of water to run down and off the trail at the retaining wall. This happens during periods of intense runoff, like this past New Years Eve. Soil erosion and slumping at the retaining wall along the Van Wycke Trail have made the trail impassable. Left alone the problem will get worse – and further threaten the underground utilities in the area. Recent retaining wall work at the site has shifted down-slope. Work done by RCAA and CCC's in 1993 also shifted, but less severely. A close investigation and review of the design and construction details reveal that the cable tie-backs and dead-man installed on three of the posts in 1993 has allowed the posts to hold their position.

A long-term solution would be to re-route all utilities out of this area, replace the existing 9" & 12" culverts with 18" & 24" culvert with a few drop inlets along the trail, and construct a Hilfiker retaining wall. A short-term solution would be to rebuild and add to the existing retaining wall (\$4,998), and install a fiberglass bridge (\$30,000). RCAA recommends that the City implement improvements to the retaining wall and make efforts towards securing funding to do the long-term solutions. The proposal will be brought back to the Council for decision at a future meeting.

X. CONSENT AGENDA

1. Proclamation 2006-01; Celebrating Girl Scout Birthday week March 12-18. (City Council)
2. Ordinance 2006-01; **Second Reading** - Saunders/HNCLT property Rezone Ordinance & Amending the Zoning Map & Land Use Map. (Heyenga)

*Motion (Lin/Cuthbertson) to approve the Consent Agenda. **Passed unanimously.***

XI. AGENDA ITEMS

1. Discussion/Decision on designating Parker Creek Trail as the temporary primary trail due to the closure of the Axel Lindgren Memorial Trail. (Lin)

Introduction

Mayor Lin explained that the 1994 stipulated judgment agreement between the City and Mr. Frame designated that the ALM trail as the primary trail to Old Home (Indian Beach), and Wagner Street (Old Wagon Road), Parker Creek and Groth Lane Trails as secondary trails. The intent of the designations is to limit traffic along the Wagner Street Trail - which was the center of dispute.

In the recently signed Mutual Settlement Agreement, the City reaffirmed its intention to implement all provisions of the 1994 judgment.

Due to the recent storm damage, the City closed the ALM Trail. The closure of the ALMT unexpectedly diverted more traffic to the Wagner Street Trail which the 1994 Agreement was intended to limit. The added burden will negatively impact the local residence and the Tsurai Study Area.

The City should make reasonable efforts to mitigate these impacts. The City is working on repairing the primary trail as soon as possible. But the City should also designate a temporary primary trail and make effort to direct traffic away from the Wagner Street Trail.

Mayor Lin proposed that the Council designates the Parker Creek Trail as the temporary primary trail and install signs to effectively redirect the flow of the traffic to the Parker Creek Trail.

Council Questions for Clarification

Cuthbertson – We should first follow through with the decision made on January 06. The sign recently posted at Parker Creek violates this decision.

Marlow – At the January 06 meeting our intent was to direct traffic to alternative routes. The next morning, I discovered a sign at the lighthouse noting all the alternative routes. It was posted without my notification.

Heyenga – This item does not deal with signage. The discussion should focus on identifying a temporary, alternative primary route. Is the proposal to only post signs directing traffic to Parker Creek and not post signs at other trails? The LACO report that described the causes of erosion on the Wagner Street Trail said that pedestrian traffic was not an issue, it was the drainage of the adjacent houses on the bluff.

Lin – The intent of the January 06 meeting was to discuss Trinidad's emergency preparedness following the NYE storm, not discuss trail closures. Now that the emergency is over, I propose designating a temporary route until the ALM Trail is repaired – which could take months, or even a year. The proposal is to develop a longer-term solution.

Bowman – Are we going to debate the definition of “temporary”? Lin's proposal changes the decision we made on January 06 – is this what we intend to do?

Public Comments Included:

Sungnome Madrone – Fox Farm

I believe in your proactive approach to find an equitable solution. Simply naming something primary or secondary doesn't really make a difference. People will take the Wagner Street Trail regardless of whether or not its designated primary or secondary because it's convenient. Mayor Lin is admirably making his best effort to reduce the impacts that closure of the ALM Trail may have on the Frame residence. It's important to note that location and convenience will always be favored.

Tom Odom – Trinidad

The truth is that the Council is afraid to direct traffic to the Wagner Street Trail in fear of Frame's reaction.

Mayor Lin responded, stating that the City must honor the 1994 Settlement Agreement. The intent of the agreement was to divert traffic from the Wagner Street Trail. We must protect ourselves from future litigation by living up to the agreement.

Glenn Saunders – Trinidad

If we identify the trails equally, the City will be protected.

Cyndi Lindgren – Patrick's Point

It seems as if the City has nearly bankrupted itself due to disagreements with Frame. To take an immature position and wave a sign in someone's face is short-sighted. The City should not behave in such a way, nor spend its money to provoke any individual.

Council/Staff Comments

City Attorney Guttero – In the 1994 Settlement Agreement Mr. Frame bargained for and received the ALM Trail as a primary trail and the others secondary for the singular purpose of routing traffic away from Wagner Street. We are obligated to further the spirit and intent of the agreement. Designating Parker Creek as temporary-primary gives me the best shot to defend the City. I feel this is a conscious effort to honor the agreement. The Council should seriously consider your proposal.

Cuthbertson – The 1994 Settlement Agreement also stipulates that all trails would be signed equally.

Heyenga – We are mixing two issues. In the 1994 agreement we intended to sign the secondary trails. We're simply designating out Parker Creek as primary.

Lin – The Council's responsibility is to create policy, not micro-manage. The proposed policy is to "effectively direct the traffic." The Trail Commissioner and staff are responsible for determining the best method of implementing the policy. The Council should not micro-manage.

Cuthbertson – The design and text of the sign is very important, and a decision that should be made by the Council. We should proceed cautiously.

Heyenga – If we're trying to avoid legal complications we should approve the policy, and the details of the plan.

Marlow – The City Attorney's guidance and advice will be considered throughout the process.

Bowman – I'll support this proposal since we intend to discuss signing the secondary trails.

*Motion (Lin/Marlow) to designate the Parker Creek Trail as the "temporary primary trail" and install signs to effectively redirect the flow of traffic to the Parker Creek Trail. This temporary measure will be terminated when the ALMT is re-opened. **Passed unanimously***

2. Discussion/Decision on secondary trail signs during temporary closure of Axel Lindgren Memorial Trail. (Heyenga)

Introduction

Heyenga explained that at the February 28 Council meeting the Council reached a consensus that a clear secondary trail should be designated while the Axel Lindgren Memorial Trail (ALMT) was temporarily closed. Residents and visitors need to know how to access Old Home/Indian Beach until the primary trail is reopened.

Three secondary trails lead to that beach: Old Wagon Road, Groth Lane, and Parker Creek. Parker Creek already has an easily read sign and the other two trails need similar signs. However, additional signs may be necessary since the actual Parker Creek and Old Wagon Road trails are not visible from View or Ocean Streets.

Parker Creek Trail actually has two distinct sections: upper and lower. The upper part starts at the end of Parker Creek road and users enter the Road at View Street and pick up the actual trail when the road turns south. The lower trail begins where the Old Wagon Road and then Groth Lane trails intersect it. At those points the Parker Creek Trail is the "only" route to the beach.

However, to say that the Parker Creek Trail is the "only" way to the beach, as was stated at the prior Council meeting, is misleading. Both the Old Wagon Road and Groth Lane secondary trails provide access to the beach and in many cases are a shorter more convenient route than going to View Street and Parker Creek Road.

The proposal is to identify Old Wagon Road and Groth Lane as secondary access points to the beach and sign them in an easily visible manner.

Council Questions for Clarification

Lin – Why hasn't the 1994 Settlement Agreement been honored?

Cuthbertson – All signs have been made and are ready to be installed. We were advised by our previous attorney not to install them due to the litigation, and have recently been advised not to install them until the Management Plan is complete.

City Attorney Guttero – The 1994 Settlement Agreement requires that secondary signs are equal, and have to be made with consultation with Mr. Frame. I have at least 3 letters that Heyenga wrote to Mr. Frame asking him to consult with the design of the signs and he never responded.

Marlow – I have consulted with Frame recently. We couldn't reach an agreement.

Guttero – Consultation does not equate with approval. Heyenga never received a response.

Glenn Saunders – Trinidad

The sign recently installed at Parker Creek and Ocean is on my property, along with the stop sign. They were not installed with my approval.

Mike Pinske – Trinidad

I was involved with signage issues in 1994. If you install any signs near Wagner Street, be prepared to have them removed without your approval.

Richard Johnson – Trinidad

It appears that the Council is trying to avoid confrontation with Mr. Frame. Due diligence requires us implement the 1994 Settlement Agreement. The City should contact Mr. Frame once again and make it clear that it's trying to resolve the matter.

Jim Gould – Trinidad

The real issue is whether or not the Council has the courage to pick a fight with Frame once again. If the Council is not willing to risk going back to court, why waste any more time talking about it.

Council Comments

Bowman – According to the 1994 Settlement Agreement, we're out of compliance. Agreeing to this proposal will bring us back into compliance? Do we want to risk litigation?

Cuthbertson – Worried that if we allow Frame to control the City, other residents will follow suit. All residents should be treated equally, and all trails should be identified equally.

Lin – When I arrived in Trinidad, our General Fund was nearly depleted. We recently settled with Mr. Frame, and are beginning to improve our financial situation. Do we want to revert back to our old ways, or move on? What are our priorities? New residents wonder why we are wasting our money on a fight with one resident. There are much better ways to spend our money. John Frame is defending his principals with his own money. If you want to fight – fight with your own money, not the City's. This is not the right time to proceed with signing all our trails.

Heyenga – The recent settlement agreement was signed by all parties in good faith. A disaster occurred to our primary trail and we're simply trying to temporarily resolve the issue – not pick a fight with Mr. Frame. I propose the following motion:

To direct the Trail Commissioner to consult with John Frame as per the 1994 Settlement Agreement and install signs directing trail users to Old Home Beach. Signs on Parker Creek, Groth, and Old Wagon Road shall be identical in size and design, and more signs may be used to indicate the location and primary nature of the Parker Creek Trail as a temporary, primary trail.

Marlow – There's always a threat of litigation. When we go to court we hope to be in the best possible position. We know that the trail markers will eventually be installed, but to be in the best possible position we should

identify Parker Creek trail and open the ALM Trail as soon as possible. Further, any signs that go up that impact the Tsurai Study Area trigger Policy 69. In the absence of a finalized Management Plan, I doubt the Tsurai will give their consent. We are picking a fight.

Bowman – If we're afraid of legal consequences and won't finish what we start, why bother? I'd like to hear what our City Attorney has to say.

Guttero – Stay out of litigation you can't afford. Otherwise, direct the Trails Commissioner to work closely with me throughout the process in order to situate us in the best position to defend ourselves. I've been assured we'll face a lawsuit if we put up the signs. There are many fronts ahead that - if ignored - may prevent us from looking favorable in court. If you put up the signs, you'll risk litigation. You have to pick your fights. Is this the one you want to pick? How about the tree-cutting issue? Take your pick, but be prepared to pay for it.

Bowman – This Council doesn't have the collective will to finish the fight. If the majority votes yes and we're threatened with litigation, we might have to re-consider our decision. I'm willing to take the risk and find out. I can well imagine the consequences, but we'll have a second chance to reconsider.

Motion (Heyenga/Cuthbertson) to direct the Trail Commissioner to consult with John Frame as per the 1994 Settlement Agreement and install signs directing trail users to Old Home Beach. Signs on Parker Creek, Groth, and Old Wagon Road shall be identical in size and design, and more signs may be used to indicate the location and primary nature of the Parker Creek Trail as a temporary, primary trail.

Motion passed by the following vote:

3 Yes: Bowman, Heyenga, Cuthbertson

2 No: Lin, Marlow

3. Discussion/Decision regarding Axel Lindgren Memorial Trail repair plan. (Marlow)

Introduction

Marlow explained that there are four separate elements to repairing the trails.

- **Bank Stabilization** – This project is time-sensitive and should begin in May. I'll be meeting with Steve Fisher of State Parks to review the CCC plan for re-vegetating the bluff. If he concurs with the plan to stabilize the bank, I'd like to send a job plan to the Hoopa Americorp to schedule work in May. Along with stabilizing the bank, they will take out and replace the non-native shrubbery at the Tsurai Monument. We estimate this project should cost around \$2,000. I'm asking the Council for authorization to proceed with this phase of the plan.
- **Trail Re-Route and Beach Access** – The proposal includes a puncheon, bridge, steps to the beach, and an optional switchback. This project does not require immediate action from the Council.
- **Handrail project** - The CCC can do this project for much less than previously quoted during the solicitation of Park Bond proposals.
- **Van Wycke Trail Repair** - As explained earlier by Sungnome Madrone, the proposal will be brought back to the Council for discussion.

Public comment included:

Sungnome Madrone – Fox Farm

Any planting should be done as soon as possible, not in the summer. The Council may also wish to consider piling heavy gravel at the foot of the existing access instead of re-routing the trail. This would involve improving the foot of the Groth/Parker Creek access to allow heavy machinery to access the beach.

Tom Odom – Trinidad

Willow might be a better option for re-vegetating the bluff instead of alder.

Council Comments

Lin – At a recent repair meeting, the Conservancy explained that they support re-routing the trail. If we seek their assistance, we must consider their opinion.

Marlow – The proposal to re-route the trail is supported by the Tsurai. The proposed location is more aligned with the traditional trail path. At the moment, I'm only asking for authorization to proceed with the bank stabilization project.

Heyenga – First, the Tsurai Monument has nothing to do with the ALM Trail. Second, the Tsurai has objected to everything the City or Civic Club wants to do along the bluff until the Management Plan is in place. How is it we can now do a substantial amount of work in the area without their objection? This inconsistency does not show good faith in dealing with the City. I object to the lack of fairness in consideration of the City's interests. If this is approved, the next time the City or Civic Club wants to remove vegetation in the Study Area, we should not prevent that from happening based on a statement that the Management Plan is not in place.

Marlow – We have approval from the TAS Chairman.

Cuthbertson – The proposal to include the Tsurai Monument is simply an attempt to economize and save the City some money.

Motion (Marlow/Bowman) to authorize the Trail Commissioner to send application to the Hoopa Americorps in order to complete bank stabilization & re-vegetation of the ALM Trail and the Tsurai Monument.

Passed unanimously.

4. Continued discussion/decision regarding tree-cutting on or above the Tsurai Study Area. (Cuthbertson)

Introduction

Cuthbertson explained that the City Engineer has reported back to the Council regarding this issue. The trees in question may be on City property. Do we want him to pursue a survey to identify the City's boundary line? The Council must decide how to proceed. My concern is that activity is occurring in or around the Tsurai Study Area without approval of the Council and/or Tsurai. The City has specific procedures in place for removing trees. The procedure was ignored.

Council Questions for Clarification

Lin – This area has been surveyed a number of times, but there are many discrepancies. How much should we spend on this issue? We already authorized the City Engineer to spend up to \$500 investigating the issue.

Marlow – If the trees were on his property, we can't prove their size. Based on the City Engineer's report, the trees may be on City property. Vandalism and theft are serious crimes. If we wish to proceed with an criminal investigation, the Police Department should lead the effort – not the City Council. This issue should be kept private, not in the public domain. This will allow the Chief to immediately notify Frame that we are investigating a possible violation. Furthermore, Heyenga should not participate in this discussion since Frame filed a personal lawsuit against him.

Heyenga – the Council should pursue identifying the property line, not the Police Department. This is one of the few areas in town where a property line is disputed. Let's find out how much it will cost to identify the property line. The area below Frame's house is a special environment and covered by the Management Plan. The City needs to know the southerly most property line.

Bowman – A familiar scenario is developing once again. The line will be disputed in court. Are we prepared to spend the money to prove we're right?

Cuthbertson – Everyone should be treated equally. If we don't go after Mr. Frame, we shouldn't go after anyone else for doing the same thing.

Lin – Our laws should be applied equally to all residents. However, let's not beat around the bush. How much money are we willing to spend? We're wasting our money.

Guttero – We're walking a slippery slope. Pretty soon we'll be committing more money to this issue. Are we willing to litigate this? Mr. Frame is willing to fight over the property line.

Motion (Heyenga/Cuthbertson) to direct the City Engineer to contact Ken Omsberg and request that he develop a cost to flag the eastern boundary extension of the South line of Edwards Street.

Motion Passed by the following vote:

3 Yes: Bowman, Heyenga, Cuthbertson

2 No: Marlow, Lin

5. Discussion/Decision on proposed ordinance regarding the sale or transfer of City property. (Heyenga)
*Motion (Heyenga/Bowman) to bring back this item at the second meeting on March 28, and direct the City Attorney to attend the meeting. **Passed unanimously.***

6. Discussion/Decision regarding contract renewal with City Attorney for legal services. (Lin/Attorney)
Continued to a future meeting.

7. Discussion/Decision on 2nd Quarter financial report and approval of line-item changes. (Cuthbertson)
*Motion (Cuthbertson/Heyenga) to direct the Finance Commissioner to meet with the CPA and make adjustments to the budget. **Passed unanimously.***

8. Discussion/Decision regarding policies and protocols to implement SB18. (Heyenga)
Continued to a future meeting.

9. Discussion/Decision to adopt a policy regarding agenda items. (Heyenga)
Continued to a future meeting.

10. Discussion/Decision regarding proposed animal ordinance. (Heyenga)
Continued to a future meeting.

11. Discussion/Decision regarding Gould application for a Torie Gate leading from Galindo Street to the applicant's back yard. (Bowman)
Continued to the second meeting in March.

12. Discussion/Decision regarding appointing a representative to FEMA?
*Motion (Heyenga/Lin to authorize the Mayor & Police Chief to sign the resolution as required. **Passed unanimously.***

XII. ADJOURNMENT

- Council adjourned at 12:05 am.

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Chi-Wei Lin
Mayor