

**MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**  
**WEDNESDAY, JULY 14, 2010**

**I. CALL TO ORDER/ROLL CALL**

- Mayor Binnie called the meeting to order at 7:00PM. Council members in attendance: Morgan, Ratzlaff, Binnie, Bhardwaj. **Fulkerson – Absent.**
- City Staff in attendance: City Manager Steve Albright, City Clerk Gabriel Adams, City Attorney Paul Hagen.

**II. PLEDGE OF ALLEGIANCE**

**III. ADJOURNMENT TO CLOSED SESSION**

Real Property Negotiations: Section 54956.8, Status of the Lease/Sale of 12.5 Acres of City Property  
Parties: City of Trinidad and the Yurok Tribal Council

**IV. RECONVENE TO OPEN SESSION**

No report out from closed session.

**V. APPROVAL OF AGENDA**

*Motion (Fulkerson/Bhardwaj) to approve the agenda with the following changes:*

- *Continue discussion item 5 to a future meeting. **Passed 3-1 (No - Morgan)***
- *Hear item 3 as discussion only. **Passed 4-0.***

**VI. APPROVAL OF MINUTES**

**June 09, 2010 cc**

*Motion (Fulkerson/Bhardwaj) to approve all the minutes as written. **Passed unanimously.***

**VII. COMMISSIONERS REPORTS**

Binnie:

- **Misc:** Announced that he will not run for a second term in November 2010. Introduced Humboldt County Sheriff Officer Scott Hicks, Trinidad's police officer for the next 6 months.
- **Gateway:** New street lights installed at Museum will also be installed along Main Street.

Bhardwaj:

- **Planning Commission:** Tree removal on Frontage Road, Lake project continued, California Coastal Trail report.
- **Misc:** Requested that an item be placed on the August agenda regarding the removal of Planning Commissioner Sam Pennisi for his alleged involvement in clearcutting a section of city property within the 12.5 acre Tsurai Study Area below his home along the Wagner Street Trail. The **City Attorney** and **City Manager** suggested waiting for the investigation to be conducted. **Hagen** explained that if the Council wishes to remove any appointed Commissioners, they could do so with or without cause. If there is a cause, a hearing should be conducted to allow the individual an opportunity to defend themselves. He also added that the details of the investigation will not be made available to the public nor the Council.

Morgan: Requested that Chamber President Richard Johnson report on the Fish Festival. Also gave a brief report on the Humboldt Lodging Association and the BLM Gateway Committee.

Fulkerson: Absent.

Ratzlaff: Brief report on RCEA energy grant for Town Hall.

**VIII. STAFF REPORTS**

City Manager - Albright: Summarized staff activities report and highlighted various other accomplishments. Also added the following information on current projects:

- Edwards Street safety improvements have been completed.
- 2002 Per Capita Bond Act funding for Saunders Park is available and project should begin soon.
- Gateway Project construction will likely begin this fall.

- Trinidad Pier Septic/Restroom project is underway and progressing rapidly.
- Jim Marshall's building permit was issued last week for the Hector Street property.
- Draft Supplemental EIR for Moss Subdivision is available and ready for public comment. The County sent a referral this week inviting the City to comment. Planning Commission may need to discuss the project, but there's no doubt that the Council will be discussing it as well on a future agenda.

City Clerk - Adams: Announced that the filing period for nominees for the upcoming November 2010 City Council election is open and will close August 06.

## **IX. ITEMS FROM THE FLOOR**

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

### **Pat Morales – Trinidad**

Commented on Councilmember Morgan's request for Planning Commission to remove a condition previously imposed on his B&B to wash laundry off-site due to potential septic overload. She criticized his letter of request included in the upcoming Planning Commission meeting packet, read a detailed statement that will be included in the public record, and also requested that the city follow up on the both the Mike Reinman and Mike Morgan ongoing complaints.

### **Allen McCloskey – Yurok Decedent & Chairman of Native Springs Water**

Requested that the Tsurai Study Area property transfer discussion be postponed until the management plan team reconvenes. He also stated that Trinidad residents are all guests on native soil and demanded an explanation as to why city staff delayed reporting the clear-cutting incident to authorities, and demanded Pennisi's resignation.

### **Jim Popenoe – Trinidad Area Resident**

Assisted the Tsurai for many years to develop a vegetation management plan for the 12.5-acre site. Suggested establishing photo monitoring points and explained their usefulness as a management tool. It will be incredibly expensive to mitigate damage done to the clear-cut hillside below the Pennisi residence. If something is not done, competing vegetation will take over and become even more dense.

### **Janine Volkmar – Westhaven**

The Library Bling Fundraiser at the Trinidad Town Hall on Saturday was an amazing success. Over \$4000 was raised. Thanked Cheryl Gilmour, Barb Ratzlaff, and Debi Marshall for their help.

### **Glenn Saunders – Trinidad**

Read from a memo he found at home from Jeff Guttero to the City Council (dating back to approximately 2004) explaining the conditions John Frame agreed to during settlement talks regarding the Wagner Street Trail.

### **Mariva Russo – Trinidad**

The lack of awareness, attention, and respect to Yurok Ancestral Land shows it is not a good time for Planning Commissioner Sam Pennisi to remain on the Commission. Please ask him to resign.

### **Naomi Silvertree – Trinidad**

The ancestral site is a world heritage site. She explained the criteria for declaring a world heritage site, and read the following statement regarding the Pennisi Incident: *The only thing I learned about the native peoples of this continent when I was in third grade was that they made ceramics and lived in teepees and long houses. We were not told of the wars of conquest, the broken treaties, and the taking of the millions of acres that was once their home. This is one more pitiful example of this lack of honor.*

### **Kim Tays – Trinidad**

Urged the Council to take action to remove Sam Pennisi from the Planning Commission as soon as possible because of his suspected involvement in the desecration of and extensive vegetation removal on the Tsurai Ancient Village Site, on City property, and along a public trail. She also requested that the City pursue civil and criminal actions against Pennisi, to the full extent of the law, and for his blatant disregard for the laws, for the destruction of a sensitive coastal environment and damage to the natural vegetation that provided protection for wildlife, and the destruction of an important historic and cultural site. She also read a statement from **Ken Miller** who's comments echoed hers.

### **Tim Weichel – Pennisi's Attorney**

Attending tonight on behalf of Sam Pennisi and Sharon Ferrett who regrettably could not be here. My clients acted in good faith with City permission. Asked the City to reconsider hiring LACO Associates to essentially develop an erosion control plan, and basically minimized the extent of the damage and gravity of the incident he's representing the Pennisi's for. Nothing was dug up, the work was all done by hand, and nothing was killed, he added. In a few short years the hillside will be green again. As an alternative to the LACO study, we should meet on site and discuss other possibilities. The Pennisi's are willing to participate, and accept their fair share of responsibility. They are extremely sorry for what happened, but assure the City that the action was taken to reduce a fire hazard.

**Lori Keating-Wright**

I was extremely upset to find out Wagner Street was a private road, and upset that John Frame has complete control of the street. I was also disappointed to find out other Wagner Street residents were responsible for desecrating the hillside along the Wagner Trail. The attitude of these people is disturbing.

**Robert Vogel – Trinidad Area Resident**

The claim that Mr. Weichel made that the Pennisi's clear-cut did not destroy vegetation on the hillside is wrong. That is not my impression.

**X. CONSENT AGENDA**

1. Staff Activities Report through June, 2010
2. Financial Status Reports for May, 2010
3. Update Report on Code Compliance and other Enforcement Complaints

*Motion (Bhardwaj/Ratzlaff) to approve the consent agenda as written. Passed 4-0.*

**XI. AGENDA ITEMS**

1. Presentation and Acceptance of the FY2009 Annual Audit

City Manager Albright explained that the firm of Marcello and Company has performed the annual fiscal and management audit for the City of Trinidad for seven years. The principal in the firm, Ralph Marcello, has personally performed these audits and is exceptionally aware of the City's practices and finances. He performed the audit again this year and has offered to again prepare the audit for the FY2010 year (July 1-June 30, 2010).

In addition to a complete review and check of the City's finances, the auditor prepares a management letter that offers recommended changes to practices used by the City in its financial management. There are fifteen (15) recommendations this year, and staff agrees that all of these recommendations be implemented to the extent possible.

There were difficulties in completing the audit this year, and those difficulties can be grouped into three areas:

1. The increasing complexity of the City's financial records, based on a growing number of "fund accounts" that were never previously established;
2. The immediate need to improve record keeping by upgrading the accounting software used by the City's contract accounting firm; and
3. The fact that this is the first year that the new accounting firm was responsible for the preparation of the year-end financial statements and the integration of those statements with the financial audit.

Since these difficulties were either addressed during the preparation of the audit or will be addressed in the near future, staff is confident that next year's audit will go much smoother, despite the growing complexity of the City's financial responsibilities. Staff remains very pleased and satisfied with the work and the "team" that is dealing with the finances on a day-to-day basis and in the annual review

Recommended Actions:

1. Accept the FY2009 Annual Financial Audit;
2. Instruct the staff to implement the recommendations in the Audit Management Letter; and
3. Authorize the staff to execute an "Audit Engagement Letter" with Marcello & Associates to perform the FY2010 Financial Audit within the limitations of the approved FY2011 Budget.

There was no public or Council comments.

*Motion (Bhardwaj/Ratzlaff) to:*

1. *Accept the FY2009 Annual Financial Audit*
2. *Instruct the staff to implement the recommendation in the Audit Management Letter*
3. *Authorize staff to execute an Audit Engagement Letter with Marcello & Associates to perform the FY2010 Financial Audit within the limitation of the approved FY2011 Budget.*

**Motion passed 4-0.**

2. First Reading of Ordinance 2010-03 for the Accessory Dwelling Unit Ordinance

City Manager Albright explained that this is the first reading of an ordinance to establish and regulate accessory dwelling units in the City of Trinidad.

The proposed ordinance was prepared and considered by the Trinidad Planning Commission in 2008. It went through extensive review at the Planning Commission level and was forward for City Council consideration nearly over years ago. At the time, it was agreed that the Council not consider the ordinance until work had been completed in preparing and adopting the Onsite Wastewater Treatment System Ordinance because the two are related. That was adopted by the Council several months ago.

If the Council agrees, a public hearing will be set for Ordinance adoption at the meeting in August. At that time, Trevor Parker and representation from the Planning Commission will be at the meeting to address the proposal and the process that was completed to take the issue through the Planning Commission.

Public comment included:

**Richard Johnson** – Planning Commission Chair

There was a lot of interaction between our local coastal plan, the state housing mandates, and other agencies when drafting this ordinance. The path was not entirely clear but we're fortunate to have a draft together considering all the complications.

**Brad Twoomey** – Trinidad

Will there be second reading for further discussion? **Albright** explained that this ordinance is not part of the General Plan, but the Plan may impact this ordinance. Changes can be made to the draft prior to the next reading.

*Motion (Bhardwaj/Morgan) to set a public hearing to adopt proposed Ordinance 2010-03, Accessory Dwelling Unit Ordinance, for August 11, 2010 at 7:00pm. **Passed 4-0.***

3. Proposed Council Policy for Commenting on County Land Use Issues

City Manager Albright explained that in June, the City Council again discussed how and when the City of Trinidad should comment on land use proposals in the adjacent County areas. Staff had proposed written policy direction. After lengthy discussion, the Council requested that staff return with a more simplified approach to the policy statement.

Two basic questions are addressed in the proposed policy:

- What type proposals being made to the County merit comment from the City of Trinidad?
- Who should comment on a proposal (staff, Planning Commission, or City Council).

The City of Trinidad receives a limited number of referrals for comment on land use or environmental review actions that are within the County's jurisdiction. There is no mandate that the City respond to a notification of a review period, and in fact most notification that have been received in the past at Town Hall have not generated a formal response from Trinidad.

Some proposed actions that are within the County's jurisdiction are still very important to the city of Trinidad. These may rise to a level where the City may want to, at minimum, point out to the County that some potential impact needs to be addressed in the County's review process. For example, a project which may impact drinking water quality or quantity, surface drainage, traffic, municipal services, or other environmental issues may deserve attention from the City. On the other hand, a project proposal which is likely only to impact the specific

property, such as a variance from a side-lot setback requirement, would have minimum if any impact on the City of Trinidad.

Most jurisdictions leave the determination of whether or not to comment up to its professional planning staff. It is rare to see one jurisdiction actively support or oppose the actions of another jurisdiction unless a highly controversial proposal is involved. That has been the case only two times in the last three years in Trinidad, so this review and comment process is not likely to happen often. If the review process is intended to bring to light project impacts and potential problems, then the comment period is the City's opportunity to do just that.

Public comment included:

**Robert Vogel** – Trinidad Area Resident

Requested a few minor changes and submitted them to the Clerk in writing for consideration. He suggested that the Planning Commission Chairman be included to areas of the policy where City Manager appears. He also asked that any resident of Trinidad be allowed to appeal a project or recommendation made by the Planning Commission to the City Council. The policy should be consistent with current policy.

**Steve Ruth** –Trinidad

Disturbed that the City is even considering such policy. We should place more trust in staff to review and make recommendations to project referrals. Also, an escape clause should be added in case the PC can't schedule a meeting to discuss a project before the comment period closes.

Council comment included:

**Bhardwaj:** Fulkerson was instrumental in seeing this agenda item was discussed and a policy developed. She is absent tonight and I feel it is important to postpone any decision until she is here to review and approve it. The Council agreed.

*No decision was made. Discussion continued to a future meeting.*

4. Approval of Agreement to Stabilize the Damaged City Property

City Manager Albright explained that as a result of the recent cutting of trees and shrubbery on City property along the Old Wagon Road Trail, city staff has requested and received a proposal from LACO Engineers. The proposed work would be an assessment of the damage and proposed emergency actions to address the damage prior to the next rainy season. The product will be an assessment of the damage (plant, geologic, and slope stability), recommendations for short-term actions to stabilize the area, and a format that will allow the City to immediately contract for work on the site.

This will be an intense two-week effort on the part of LACO. That firm was selected because its staff has the professional expertise needed and an existing knowledge of the site. The quoted cost to do this work will not exceed \$4,200. This is a time and materials contract. The City staff and LACO will be cooperating with representatives of the Tsurai Ancestral Society and the Yurok Tribe in doing the work. City staff is also keeping a record of costs incurred on this effort in the case that full restitution from the responsible parties in this incident can be pursued.

Public comment included:

**Mike Nelson** – LACO Planning Director

Our Geologist's are standing by and will be prepared tomorrow morning to begin work on the site. We will take an impartial, scientific approach to assessing the damage and have our recommendations prepared within 2 weeks. The results of our study will produce a draft work plan for stabilization of the site in anticipation of the winter rains. The Council will be able to take this plan and, if desired, request bids from contractors to perform the stabilization work.

**Robert Borher** – Yurok Tribal Attorney

The Yurok Tribe supports this project and the transfer of the site to the Yurok Tribe as well. The Tribe also requests to be kept in the loop as the projects develop.

**Kim Tays** – Trinidad

Will, or when is the fence planned to be removed? Albright explained that is was likely that the chain link fence installed to protect the clear-cut site from further damage will not be removed for quite a while.

Motion (Ratzlaff/Bhardwaj) to approve the service agreement with LACO Associates for an amount not to exceed \$4200. **Passed 4-0.**

5. Status of the Lease and Transfer of 12.5 Acre Tsurai Study Area Site  
*Continued to a future meeting.*

**XII. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS**

- **City Manager Albright:** Postpone the tentative public workshop scheduled for July 28 regarding Transfer of Tsurai Study Area property.
- **Bhardwaj:** Discussion/Decision regarding the removal of Sam Pennisi from the Planning Commission.
- **Binnie:** Discussion/Decision regarding authorizing the City Attorney to proceed with seeking full restitution for all costs associated with the clear-cutting incident from Sam Pennisi.

**XIII. ADJOURNMENT**

- **Meeting ended at 9:55pm.**

**Submitted by:**

**Approved by:**

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**Gabriel Adams**  
City Clerk

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**Stan Binnie**  
Mayor