

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, APRIL 09, 2014

I. CALL TO ORDER

- Mayor Fulkerson called the meeting to order at 6:00PM. Council members in attendance: West, Miller, Fulkerson, Baker, Davies.
- City Staff in attendance: City Manager Karen Suiker, City Clerk Gabriel Adams, City Engineer Rebecca Crow, City Planner Trever Parker.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT 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.

IV. RECONVENE TO OPEN SESSION

No report out from closed session.

V. APPROVAL OF AGENDA

Motion (Miller/Baker) to approve the agenda as amended. Passed unanimously.

VI. APPROVAL OF MINUTES – March 12, 2014 cc

Motion (Davies/West) to approve the minutes as written. Passed unanimously.

VII. PROCLAMATIONS – None.

VIII. COMMISSIONERS REPORTS

West: HCAOG Railroad and trails update.

Miller: Nothing to report

Davies: Nothing to report.

Baker: Nothing to report.

Fulkerson: RREDC; Summer flight cancellations are not ACV's fault. Runway construction at SFO is the cause.

IX. ITEMS FROM THE FLOOR

Pat Morales – Trinidad

Read a statement criticizing the city and various policies such as bed tax collection and recovery, along with vacation rental oversight.

Melissa Zarp – Trinidad Chamber of Commerce

Announced the upcoming stormwater collection and treatment infrastructure project meeting held for business Q&A.

IX. CONSENT AGENDA

1. Financial Status Reports for February 2014.
2. Staff Activity Report – March 2014

Motion (Miller/Davies) to approve the consent agenda. Passed unanimously.

X. DISCUSSION AGENDA

1. Introduction of Sheriff Deputy Pamela Wilcox and Law Enforcement Activity Report.
City Manager Suiker welcomed and introduced Deputy Wilcox. Wilcox gave a brief report of her first month on duty and explained how happy she was to be assigned to Trinidad.

Report item only. No decision was made.

2. Discussion/Decision regarding Franchise Agreement for Solid Waste and Recyclable Materials Collection in Trinidad.

City Manager Suiker explained that at the City Council meeting of July 31, 2013, the Council adopted an ordinance to provide for flow control of solid waste within the City limits. Flow control is required to be considered for membership in the Humboldt Waste Management Authority (HWMA). The City Council first adopted a Resolution in 2008 requesting membership consideration into HWMA, and subsequently reaffirmed its desire to join HWMA in January of 2010.

In addition to a demonstration of flow control, membership in HWMA also requires the entity to enter into a franchise agreement with a service provider, and on July 31, 2013 the Council authorized staff to sole source negotiate with Humboldt Sanitation on a franchise agreement to be brought back for council consideration in the future. That agreement has now been prepared and is presented for Council consideration.

The proposed franchise agreement provides for an exclusive contract for collection and transportation of solid waste and recyclable materials in the City of Trinidad for a period of ten (10) years with a five-year renewable option. The agreement provides for the payment of a franchise fee equivalent to nine (9%) of the total gross receipts, less recycling receipts, arising from the Contractor's operations. This is the same arrangement currently in place between the County of Humboldt and Humboldt Sanitation and is expected to generate about \$7,000 annually to the City. The rates charged to customers shall be the same rates as charged to customers under the franchise agreement for the northwestern area of Humboldt County between the County of Humboldt and the Contractor.

Services provided to the City in exchange for the exclusive franchise include the collection of city-generated garbage and recycling at no charge to the city, city staff self-haul of city-generated green waste and city-generated electronic waste, provided collection services are provided at the contractor's facilities. Additionally, the contractor will provide, at no additional cost, up to two 40-yard bins twice per year to be used for residential green waste pickup, and one bin twice a year for residential bulky waste, to be placed at a mutually beneficial location and staffed by Contractor. Execution of this agreement will complete the requirements to be considered by membership in HWMA.

There was no public comment, and only a brief discussion from Council regarding logistics.

*Motion (Miller/Baker) to authorize the City Manager to execute the attached Franchise Agreement with Humboldt Sanitation. **Passed unanimously.***

2. Discussion/Decision regarding Stormwater Improvement Project Bid Award and Contract for Labor Compliance Services.

City Manager Suiker introduced City Engineer Rebecca Crow. Crow explained that in 2011, the City entered into a \$2.5 million grant funding agreement with the State Water Resources Control Board (SWRCB) to help address polluted stormwater discharges to the Trinidad Bay Area of Special Biological Significance (ASBS). The goal of the Trinidad ASBS Stormwater Improvement Project (the Project) is to reduce polluted stormwater runoff from entering into the ASBS by modernizing the City's stormwater system. The design of the new stormwater system was developed to collect, treat, and infiltrate City stormwater runoff in the upper portion of Trinidad. The Project will help the City meet the requirements of the California Ocean Plan's prohibition of waste discharge into the Kelp Beds at Trinidad Head ASBS.

The project was put out to bid in February 2014 and the City received four bids at Friday March 28, 2014 bid opening. The low bidder at \$1,699,000 for all of the stormwater elements was Wahlund Construction Inc., who is duly licensed and submitted all appropriate paperwork with the bid. The City has \$1,210,100 available in grant funds for construction. GHD confirmed with the SWRCB that no additional grant funds are available for construction and so the City should construct the most valuable improvements within the existing funding.

The Bid documents allow the City to "not award any or all items". Thus, GHD recommends not awarding bid items Nos. 10, 11, 12, and 13 which are the improvements proposed along View Avenue, Hector Street, East Street, and West Street. Removal of these bid items and reduction of the associated mobilization costs to the contract limit of 8% reduces the low bid project cost to \$1,085,900 which would allow for a contingency of

\$124,200 or 11%. Removal of the bid items does not change the low bidder for the project. The components remaining in the project include improvements along Trinity Street and Ocean Avenue, and retain 84% of the original project stormwater reduction benefits during a 50-year storm event.

It is recommended that the City award the contract to Wahlund Construction Inc., and authorize the City Manager to negotiate change orders as may be required throughout the project to address situations as they may arise and to keep the project within available grant funding limits. And, authorize the City Manager to sign the construction contract and issue the notice to proceed once all contract documents from the Contractor have been reviewed, approved, and signed.

In addition, the City needs to implement a Labor Compliance Program (LCP) and retain a Labor Compliance specialist for monitoring. Attached is a scope from North Valley Labor Compliance Services (NVLCS) to perform the required plan development and monitoring services. NVLCS has been used by several local agencies including the Humboldt Bay Municipal Water District.

The LCP requires the City to pass a resolution directing the LCP to be developed and authorizing North Valley Labor Compliance Services to submit the plan to the Department of Industrial Relations. In addition, the City will need to identify a labor compliance attorney in the plan who will work for the City in the rare instance that a contractor refuses to comply with labor laws. The labor compliance attorney would not be engaged in the project or receive any fees unless a prevailing wage issue went to court.

There was no public comment.

Council thanked GHD for their work and expressed excitement to see this project underway.

*Motion (West/Davies) to approve the following recommendations: **Passed unanimously.***

1. *Authorize the City Manager to award the contract to Wahlund Construction Inc. in the amount of \$1,085,900.*
2. *Authorize the City Manager to negotiate change orders as may be required throughout the project to address situations as they may arise and to keep the project within available grant funding limits.*
3. *Authorize the City Manager to sign the construction contract and issue the notice to proceed once all contract documents from the Contractor have been reviewed, approved, and signed.*
4. *Authorize the City Manager to execute a contract with North Valley Labor Compliance Services for labor compliance.*
5. *Adopt the resolution authorizing North Valley Labor Compliance Service to develop and submit the Labor Compliance Program to the Department of Industrial Relations.*
6. *Authorize the City Manager to develop and execute an agreement with a Labor Compliance Attorney for inclusion in the Labor Compliance Program per the Department of Industrial Relation requirements.*

4. Discussion/Decision regarding Draft Vacation Dwelling Unit Ordinance.

City Planner Trever Parker explained that the City Council originally adopted the Vacation Dwelling Unit (VDU) Ordinance in 2011 and submitted it for certification to the Coastal Commission. Since that original ordinance adoption, City staff and Coastal Commission staff have had several discussions and negotiations that resulted in changes to the ordinance. Because of the number and extent of the changes, City staff wanted to bring this back to the City Council for review and concurrence prior to Coastal Commission action. The Council reviewed the amended ordinance on February 19, 2014. Some additional comments and concerns were brought up. A few additional changes to the ordinance have been made to address those comments as well as a fix a couple of typos and minor clarifications.

Only a brief comment was made about the water use restriction, pointing out the fact that it did not provide an allowance for irrigation. Therefore, Parker explained, she altered the language to allow more flexibility, though it will also be somewhat more difficult to enforce. However, with the added oversight of septic systems under the OWTS Management Program, she felt septic systems will be adequately monitored and protected. There was also a question about the definition of a bedroom, and she moved the language regarding determining the allowable number of bedrooms from the water section (6.26.D.3) to the occupancy section (6.26.D.1).

The City Attorney had some concerns about the ambiguity of the language in sections 6.26.D.5, 8, 9 and 10 (Appearance and Visibility, Visitors, Noise and Traffic respectively). He stated that the restriction on visitors between 1am and 4am could be prohibitive in an emergency, and that the issue could be dealt with in other

sections. The Attorney was also concerned about the enforceability of the existing language in sections 5, 9 and 10, and suggested altering the language to refer to 'interfering with the quiet use and enjoyment' of other properties and to add the language regarding determining reasonable noise.

Finally, a number of comments centered on the enforcement and violations sections. It appeared that not enough detail had been included to ensure a fair process. Most of the new language was suggested by the City Attorney

The recommended action is to consider concurrence with the proposed changes, after which Coastal Commission staff will present to the Coastal Commission hopefully at their May 2014 meeting and advise that all are in agreement with the proposed amendments. The Coastal Commission action would then be to reject the City's original ordinance, but certify a new ordinance as amended. Then it would come back to the Council for official adoption, first and second reading.

Public comment included:

Susan Rotwein – Trinidad

Opposed to signage requirement because they are controversial, and could compromise the safety and security of the homes they are attached to, arguing they are beacons to criminals. Business license notification process will disclose contact info for the property manager. Signs should be optional.

Jonna Kitchen – Trinidad Retreats

Concerned with a home they represent on Ocean Avenue that has no off-street parking. It is already booked through the summer. Also, none of our comments from the last meeting were incorporated into this new draft, and very concerned with the "negligent" clause and how that could be used by neighbors to frivolously harass the owners/managers.

Mike Reinman – Redwood Coast Vacation Rentals

Maybe the tenants should be cited by the city instead of the property managers? Tenants are subject to laws too. We do weekend drive-by's, and have 24-hour property managers. I agree with Jonna Kitchen with regards to being declared and held negligent by frivolous complaints by neighbors.

Adora King – Trinidad

Should house swaps be subject to the same laws? Signs should be required so complaints can be addressed immediately.

Council comments included:

Fulkerson: Not every VDU is the same. My issue with VDU's aren't parking, signage, etc. If we're not going to put a cap on the number of VDU's allowed, we should consider much higher licensing fees. We also need to move this ordinance along NOW, not later, so we should reach a consensus tonight if possible.

Miller: I support house exchanges and one-time rentals to be excluded from VDU application requirements. I also agree that signs should be optional due to vandalism potential, I support a higher VDU application fee, a possible cap discussion, and grandfathering certain units into the off-street parking restriction that have been in operation for 5-years + following adoption of this ordinance.

Davies: I agree with and support Miller's comments, but argued that both the main house AND second unit on the property should not both be allowed to operate as VDU's at the same time.

Baker: I also agree with Miller. Trinidad has character that may change if we don't do something soon to regulate VDU's. A cap might be good at some point, and grandfathering existing units into the system is a good idea.

City Manager Suiker suggested that we review putting a cap on VDU's thoroughly before acting on it. He agreed to review case law and work with the City Planner to develop the proper regulations for limiting the number of VDU's in town.

City Manager Suiker explained that cap concerns should be considered with the upcoming budget process.

By consensus, the Council agreed to the proposed changes in the VDU regulations and asked staff to proceed moving the draft ordinance to the Coastal Commission staff for review and consideration.

XIII. ADJOURNMENT

- Meeting ended at 8:50pm.

Submitted by:

Gabriel Adams
City Clerk

Approved by:

Julie Fulkerson
Mayor