

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, FEBRUARY 10, 2016

I. CALL TO ORDER

- Mayor Fulkerson called the meeting to order at 6:00PM. Council members in attendance: Miller, West, Fulkerson, Baker. **Winnett was absent.**
- City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION – *No closed session.*

IV. RECONVENE TO OPEN SESSION

V. APPROVAL OF AGENDA

Motion (West/Baker) to approve the agenda as amended, taking Consent #5 as discussion item, and moving VDU discussion items to first and second.. **Passed 4-0.**

VI. APPROVAL OF MINUTES – January 13, 2016 cc

Motion (West/Baker) to approve the minutes as written. **Passed 4-0.**

VII. COUNCIL MEMBER REPORTS:

West: HCAOG is planning for budget shortfall in upcoming fiscal year.

Baker: Nothing to report.

Miller: Nothing to report.

Fulkerson: Introduced Pen-Air now offering direct service to Portland, OR from ACV.

VIII. STAFF REPORTS:

City Manager Berman submitted a report to the City Council at the meeting highlighting various accomplishments and project status for the month of January, including;

- Water line repair on View Street due to cherry tree roots.
- Ongoing Tsurai Study Area meetings.
- Rancheria/City consultation meetings underway.
- Future quarterly meetings with Sheriff supervisor regarding police service in Trinidad.

IX. ITEMS FROM THE FLOOR:

Susan Rotwein – Trinidad

Recognized Deputy Pam Wilcox for excellent police service. Also asked the Council to prioritize real health and safety issues such as law enforcement and the OWTS program.

Jonna Kitchen – Trinidad

Would like a staff presentation on the ratio of homes in Trinidad that are long-term, short-term, or other types of housing.

Mike Reinman – Trinidad

Ocean Avenue is a balanced mix of VDU's, long-terms, and owner-occupied homes. Also, Planning Commission meetings have been dysfunctional lately. Certain groups have paralyzed the process, making it unfair for people dedicating valuable time to attend.

Leslie Farrar – Trinidad

Meeting packets and minutes should be made available to the public earlier for meetings.

Ben Morehead – Trinidad Area/Land Trust

Asked the City to support a Resolution to approve the federal land on Trinidad Head as a Coastal National Monument. The Land Trust also continues to work on the Little River Trail connection project.

Shawn Townes – Trinidad Area

Claimed to be a very nice person, and one of 3 African-Americans living in the Midway RV Park. Stated she has been called terrible things by people in Trinidad, and is ashamed of the City, the State, and the Country.

Dan Cox – Trinidad

Ocean Avenue is not balanced. I have a drainage ditch on my side of the street, and both sides have properties with large hedges that need to be trimmed to make room for vehicles. The City should do something about that.

X. CONSENT AGENDA

1. Financial Status Reports for December 2015.
2. Declare Water Department Pumps, Motors, and Tank as Surplus and Authorize Staff to Donate Equipment to Phillippsville CSD.
3. Proclamation 2016-01; Engineer's Week February 21-27, 2016.
4. Acceptance of 2014-2015 Financial Report and Audit.
5. Approval of Amended City Manager Contract
6. Resolution 2016-01; Approving Grant Application from the Water Quality, Supply, and Infrastructure Act (Proposition 1).

Motion (Fulkerson/Baker) to approve the consent agenda items 1, 2, 3, 4, & 6.. Passed 4-0.

Motion (West/Baker) to approve consent #5 (now discussion #6) as submitted. Passed 4-0.

XI. DISCUSSION/ACTION AGENDA:

1. Discussion/Decision regarding Mid-Year Budget Update and Adjustments
City Manager Berman explained that the City has nearly spent all of the allocated expense for Planning related activities at the mid-year point, and that an additional \$20,000 will be needed to get through this fiscal year. The overage is caused primarily by Vacation Rental permits, amendments, and complaint related expenses.

Public comment included:

Steve Ruth – Trinidad

Use additional T.O.T. revenues to cover the extra expenses.

Don Allan – Trinidad

Suggested that Trinidad may be better served by hiring its own full-time planner.

Motion (Fulkerson/West) to approve adding an additional \$20,000 to this fiscal year budget for planning services. Passed 4-0.

2. Discussion/Decision regarding Little River Trail – HCAOG Funding Request.
City Manager Berman explained that in 2014 the State Coastal Conservancy funded the development of a feasibility study which analyzed potential non-motorized trail alignments from the southern end of Scenic Drive across the Little River to Clam Beach Drive. Creating a trail connection along this stretch of Humboldt County coastline would close a key gap in the California Coastal Trail (CCT) currently separating the communities of Westhaven and Trinidad from the Hammond Coastal Trail and Humboldt Bay communities. The trail connection would also eliminate the need for cyclists to utilize the Highway 101 Bridge over the Little River, and would improve mobility options and recreational opportunities. This project has been a priority for local residents, trail advocates and local and state agencies for almost three decades. The total project cost was estimated to be between \$3.9 and \$4.5 million.

The City has recently received presentations from the Trinidad Coastal Land Trust and the Redwood Community Action Agency about this trail project and the recent acquisition of a key property on the North side of the Little River by the Land Trust. Councilmember West has also provided reports from his role on HCOAG about the fact that other key agencies do not have the capacity to move this project forward at this time. The Council has indicated their general interest and support for the project.

The City of Trinidad has an opportunity to help move the project forward by taking the lead in applying for an Active Transportation Program (ATP) Cycle 3 grant for the Little River Trail Project. The purpose of an ATP project is to encourage/increase the use of active modes of transportation, including biking and walking and enhancement of public health, and it appears this project would be a good fit and is expected to be competitive. ATP Cycle 3 includes around \$230 million for projects in state fiscal years 19/20 and 20/21.

The cost to fund the development of the grant application could come from HCAOG, who currently is currently soliciting projects for their 2% Bicycle and Pedestrian TDA fund. HCAOG has \$18,821.51 available with project requests due no later than Monday, February 22, 2016.

Given that this project is well outside the City, staff is recommending the following requirements be addressed as this project moves forward:

- Support from the key landholders and partners including the County of Humboldt, Caltrans, Trinidad Land Trust, and CA State Parks, including potential funding support to meet matching fund requirements.
- The City being awarded funding from HCAOG which would be used to prepare the ATP grant application.
- The ATP application would need to minimize City funding, and provide significant reimbursement for City staff time on the project.
- The City cannot take on long term maintenance responsibilities for this project. (This may not be an issue if the project is phased so that construction is not part of this phase).

Should Council decide to proceed with the ATP application, they will have the opportunity to approve the application prior to its submission.

Schedule:

- HCAOG 2% Bicycle and Pedestrian TDA Call for Projects – Applications Due February 22, 2016.
- If HCOAG provides funding, the City will convene the key partners and stakeholders to help guide development of the grant application.
- ATP Cycle 3 Call for Projects - Expected late March 2016 through mid-June.
- Final grant application returns to City Council for approval.
- If funded, work under the grant would commence as early as July 2019.

City Manager Berman explained that he would work to minimize his involvement in this process and act as a facilitator instead of a project manager, allowing the other agencies involved to carry the workload. RCAA Don Allan agreed to take on the workload.

There was no public comment.

Motion (West/Baker) to:

1. *Authorize City Manager to submit a request to HCAOG for the 2% Bicycle and Pedestrian TDA to fund an ATP Cycle 3 grant application.*
2. *Authorize City Manager to initiate project coordination with County of Humboldt, Caltrans, Trinidad Land Trust, State Parks, and other partners*
3. *If HCAOG funding is awarded, authorize City Manager to proceed with the development of an ATP Cycle 3 grant application. **Passed 4-0.***

3. Presentation/Discussion regarding General Plan Update.
Continued to a future meeting.

4. Update/Discussion regarding Vacation Dwelling Unit (VDU) License Status and Enforcement
City Manager Berman explained that the City received 38 VDU License applications last summer. Many of these applications also included Onsite Wastewater Treatment System (OWTS) permit applications. This was the first round of licenses considered under the City's 2014 VDU Ordinance.

Current License Status

Of the thirty eight applications received:

- Thirty licenses have been issued.
- Two applicants have withdrawn their license application.
- Four licenses are pending over relatively minor issues, and the City has allowed these applicants to continue operating their rentals on a provisional basis as we work to resolve these issues. Three of the four are about disputes regarding the City's required indemnification form. The City attorney and applicant's attorney are working to resolve these disputes. The fourth involves a more complicated septic system that the City is confident is working, but we are waiting on an outside professional report to complete our necessary documentation.
- Two applicants are under direction from the City not to operate their VDUs until more substantial issues with their application are addressed. Both are working with the City to do so. There was a third applicant in this category that was able to resolve the issues and recently receives their license.

Staff will continue working with applicants to resolve the six license applications that have not been issued.

Existing licenses expire June 30th. Staff anticipates setting a May deadline for applications to renew existing licenses. That should provide enough time for staff to review the applications and get new licenses in place (or not, if the requirements are not met) by July 1st.

VDU Ordinance Enforcement Update

City Manager Berman explained that the VDU Ordinance provides two primary tools for enforcement. The first is the licensing process, where staff can withhold licenses unless and until applicants satisfactorily demonstrate compliance with the Ordinance. The second mechanism is to document significant violations of the Ordinance, whether prompted by complaints or proactive observations by staff. If three such incidents arise within a year, staff can propose remedies up to and including revocation of the VDU License. Such proposals require the approval of the Council.

The licensing process allows the City to ensure adequate parking and wastewater systems are in place, to limit the number of guests based on the home's capacity, to require 24 hour contact information for the City and neighbors, and to require the owner to agree to fully abide by the VDU Ordinance as a condition of the license.

The City has conducted a number of site inspections to resolve questions regarding parking and second units. Some of these have been prompted by complaints, others by information in the VDU License applications.

Here is a sample of the main complaints received this year (since July 1 2015):

- Problems with online listings presenting information that is inconsistent with the Ordinance and licenses. (Many, but steadily resolved by managers)
- VDU guests with an unleashed dog that threatened the neighbors. (once)
- At one property, parties occurred twice in one month that disturbed many neighbors, and in one case required our Sheriff's Deputy to respond in order to help clear the house.
- There have been a number of complaints regarding potential violations of the 'one VDU per parcel' condition of the Ordinance. However staff see these as largely complaints about the City's guidance and interpretation of the law, rather than about specific VDUs. After the City Attorney provided the current guidance on this issue in November, staff conveyed that to license holders and they responded to bring properties into compliance in a timely fashion.

Most of the VDUs have had no specific complaints filed with the City about their operations.

The larger party referenced above is the first incident deemed a 'significant violation' by staff under the VDU Ordinance. Staff and the property owner have had substantial discussions about what steps are appropriate to prevent this from recurring. If two more significant violations occur at this property by next fall, the Ordinance provides broad discretion to the Council to address it.

The City's initial review of the license applications in 2015 was focused on the most substantive issues – insuring there is a functional septic system, setting the proscribed limit on the number of guests, and where applicable, addressing issues about possible unpermitted construction.

Both the applicants and the City were (and are) working through the first round of implementation. The timing was not ideal, as VDUs were operating while the applications were under review, and the added workload of reviewing OWTS permits for many of the properties further slowed our initial licensing effort. In that situation, staff chose to prioritize getting licenses in place to regulate occupancy limits without resolving every possible issue. For instance the Ordinance sets specific requirements on external signs, and licenses were issued with a note that many signs are not yet in compliance, and the City expects owners to address them in a timely fashion.

Looking Ahead on Enforcement:

Staff's plan to address the remaining issues is to use the next round of licensing as the primary tool to achieve full compliance with the Ordinance. Staff will set an early application deadline for license renewals, and provide clear guidance to licensees that the City will require full compliance with the Ordinance in order to grant their license renewal. A checklist of Ordinance conditions will be included in the renewal application notice to help owners ensure they are compliant. Problems with signs, late renewal fees, late septic inspection reports, and the like will all be considered adequate basis for withholding license renewals until resolved. Unlike last year, we intend to get license renewals back to applicants ahead of the new fiscal year, and if the application and the property are not in compliance, that license will be withheld and the VDU will not be allowed to operate starting July 1st until the issues are resolved and the license renewal can be issued.

Council comments included:

Baker: For the record, I voluntarily pulled my VDU application/permit to avoid conflicts and prohibit me from participating in these discussions. Also asked about significant violations, and confirmed that the City Manager has discretion but the owners in violation could appeal staff decisions to the Planning Commission and/or City Council. Requested that a public discussion about legal public parking be scheduled for a future meeting.

Miller: Asked that the comments tonight remain civil and productive.

Fulkerson: There has been leniency and flexibility this year, but beginning July 01 everyone must be in compliance to maintain their licenses.

Public comment included:

Pat Morales – Trinidad

Why are their 3 VDU's operating without having submitted their indemnity forms? Why are exceptions being made? Who makes the exceptions? Why are the apartments still being rented? **CM Berman** explained that some of these issues are complicated legal ones that are currently being discussed, confirmed that a significant violation was determined for a large-scale party held at a rental, and that the City Attorney confirmed that it was ok to rent both apartment units as one.

Kathleen Lake – Trinidad

Concerned that some people haven't abided by the rules. We changed the complaint process with the City Manager in December, but there is still a lot of confusion and poor follow-through. It does not support the communities needs, and VDU's are commercial operations that violate our communities.

Adora King – Trinidad

Thanked Jim for bringing up "significant complaints". Many types of complaints are clearly defined, and there needs to be a clear definition of what this means. I have a VDU license, but I don't know how to make a complaint. I recently received a letter notifying me of VDU's operating near me. I don't know what to do with it? **CM Berman** clarified that the notification letter identifies the owner, manager, and 24-hour contact for the rental as well as the various ways to submit complaints.

Jonna Kitchen – Trinidad / Trinidad Retreats

The Planning Commission & Council meetings are too casual, and the Commissioners need training. She asked the City for a comparison list of all the complaints submitted in 2015 and how many were significant?

We focus on testimony, not facts. There are many problems that are perceived, not real. We as owners and managers can't prevent problems but we can mitigate them. The complaint process should be uniform. We have the ability to evict our tenants, unlike long-term managers. This is a very subjective process, and if we read between the lines we'll notice that 9 out of 10 complaints submitted to the city are from the same people, directed at the same people.

Steve Ruth – Trinidad

The moratorium should be extended. How many VDU licenses are issued to corporations, locals, or out of area residents? Is the city collecting enough in fees to cover the cost of permit processing and enforcement? Could the city consider retaining deposits that are used to settle complaints or violations?

Tom Davies – Trinidad

People in town have come to us concerned that complaints could be used against them, so we complain for them. The \$100 VDU fee is minimal. We feel forced to complain to make Trinidad livable for all residents.

Susan Rotwein - Trinidad

We don't have a complaint process. Complaints drive the process. Ocean Avenue has vehicles on it that haven't moved in months. The City should deal with that first.

Don Allan – Westhaven

There should be an online complaint tracking process. I'm disturbed by the dismissiveness of complaints. Every vacation rental should have a responsible and responsive manager available 24/7.

Dorothy Cox – Trinidad

Ocean Avenue has a few reporters that report complaints regularly. We don't want to be tattlers, but we are residents that want to enjoy our homes.

Brendan Brisker – Westhaven

Submitted a letter including photos of cars in front of a vacation rental on his street in Westhaven, submitted to Supervisor Ryan Sundberg. It also included comments in support of banning vacation rentals in residential zoning districts. Suggested that the city consider an IT parking ticketing system?

Dan Cox – Ocean Avenue

Why can't tenants be required to park in designated off-street parking spaces?

Alan Grau – Trinidad

Significant and minor violations should be defined, and all VDU license applications should include neighbor input.

Mike Reinman – Redwood Coast Vacation Rentals / Trinidad property owner

I still have not received a letter in writing from the City regarding the alleged significant violation that occurred at my property on Parker Creek Road months ago, yet I'm hearing about it formally for the first time tonight. I'm concerned with how violations are defined & dealt with. I would like to see the City better define the levels of violations, and violators be penalized, not the rental companies.

Reid Kitchen – Trinidad Retreats / Trinidad Resident

Thanked the Council, Planning Commission, and Staff for all the hard work they've put into this process. It is difficult to understand why the ordinance is being re-evaluated after 7 years of work put into the existing ordinance that hasn't been in effect for barely 6 months. Staff is overwhelmed and I hope we can reach a point where this settles down, finally, so other priorities in the City can be addressed. As a Trinidad resident and business owner, I want to work with the community to find solutions.

Leslie Farrar – Trinidad

The VDU application fee should be raised. Water use should be monitored. Audits should be done of occupancy taxes collected. Checkboxes should be on the applications. Deposits should be collected. Violations should be dealt with within 30 days.

Council comments included:

Fulkerson: The current ordinance is the product of many years of hard work and an incredible amount of resources. My thoughts are:

- Indemnity agreement should be for all, or none.
- The complaint process is VERY clear. The system is also clear.
- Misbehaving guests are the owner's responsibility.
- The \$100 VDU fee is way too low.
- We can't force people to not park on city streets, so let's not go there.
- I'm surprised at the owners response to the Paloma complaints.
- I take offense to complaints about staff and commissioners. This community is not falling apart, and everyone working on this issue is trying their best to see all sides.

Baker: The license fee must be increased. Complaints need to be more clearly defined. There needs to be better enforcement of current regulations. Would like to see construction drawings for Ocean Ave and parking restrictions/regulations discussed at a future meeting

Moved on to agenda item # 5 regarding VDU amendment process...

5. Update/Discussion regarding VDU Ordinance Amendment Process and Status

City Planner Trevor Parker explained that the Planning Commission has met three times to discuss amendments to the City's VDU ordinance since the Council passed it to them in October 2015. A special Planning Commission meeting is scheduled for Thursday February 2, 2016.

Below is a summary of the discussions to date. The staff reports and minutes of these meetings are available on the City's website.

- **November 4, 2015** – Planner presented background information along with the list of issues identified by the VDU Committee and City Council in the staff report. I also added a couple of issues that staff identified in the existing ordinance as opportunities for improved clarity. I did not provide any draft amendment language, instead asking for more direction first. The Planning Commission took public comment, asking people to focus on whether they support a cap, and what kind of cap they would prefer. Following public comment and discussion, the Planning Commission requested additional information from staff. The specific questions included: 1) the legality of a cap; 2) additional information about the Coastal Commission's stance on VDUs; and 3) examples of successful VDU regulations and caps in the Coastal zone.
- **December 3, 2015** – I provided a wide variety of information, including excerpts from Coastal Commission staff reports and some specific information regarding the City's General Plan and VDUs in Trinidad. My research showed that the Coastal Commission has overturned a number of bans on VDUs in the Coastal Zone, but that they have approved a variety of regulations and limitations on VDUs. I provided case studies from about a dozen coastal jurisdictions. The discussion followed a similar format as the previous meeting. One of the recurring issues was that of clustering of VDUs in certain areas. I requested some specific direction from the Planning Commission so that I could start drafting sample amendment language. The Planning Commission requested some draft language focusing on a City-wide cap with a distance restriction in the UR zone to address clustering. The Commission also provided some direction on grandfathering and attrition, license activity requirements, license terms and waiting lists. Enforcement was another issue that they wanted to address more fully.
- **January 20, 2016** – For this meeting, I provided some suggested amendment language, but not in ordinance form. I arranged it by the same list of issues that were originally presented in November. I also provided an attachment that included sample ordinance language from a variety of places that addressed many of the issues under consideration. I also provided a couple of maps showing what a distance restriction might look like. In general, the Planning Commission liked the suggestions in the staff report and directed me to start incorporating that into the existing ordinance as an amendment. That will be presented at the regular February meeting of February 17, 2016. However, the Planning

Commission was worried about the timeline considering the eventual expiration of the moratorium. Therefore, they also decided to schedule a special meeting for February 4th to discuss enforcement in particular, although the full range of issues can be addressed at that meeting as well.

The following is a potential timeline for this process. It is a complex and divisive topic that will take time; but I think there is some breathing room to work through the important issues, even considering the moratorium deadline. Working backwards:

- The moratorium can be extended until June 30, 2017;
- If City staff have been working closely with Coastal Commission staff, certification of the ordinance can likely be achieved within 2 months (depending on their meeting schedule) = April 1, 2017 amendment application submittal;
- It may take a month to prepare the application = March 1, 2017 for final City Council action;
- Two readings before the Council for ordinance adoption = January 1, 2017;
- 4 or 5 monthly meetings for Council hearings and discussion = August 1, 2016.

City Manager Berman explained that the City received a response letter today from the Coastal Commission that addressed various questions the City is dealing with. He also noted that to avoid the risk of passing discussions from the Planning Commission to the Council repeatedly, its best for the Planning Commission to address a wide range of questions so the Coastal Commission doesn't take issue with the process.

Council comments included:

Baker: Read a determination made by the Coastal Commission that defined VDU's as a residential use.
Planner Parker confirmed that the Coastal Commission has overturned all-out bans on VDU's in other coastal cities.

West: I would like to hear more from the homeowners living here full time. Ocean Avenue seems to be experiencing significant issues with VDU's. Some of the businesses running VDU's are doing a great job, but we should consider distancing VDU's in areas where they're clustered on Ocean and View Streets. We should protect neighborhoods that are having trouble with VDU's through the zoning process. I'm feeling there is a lack of balance that needs to be addressed.

Public comment included:

Alan Grau – Trinidad

Presented a comparison of San Luis Obispo and Trinidad. The City should be willing to pay for enforcement.

Mike Pinske – Trinidad

Added to Planner's report of PC progress. Noted how complicated this has become, and how helpful the newly created subcommittees will be. License fees should be updated immediately.

Susan Rotwein – Trinidad

I'm beginning to see this as a vilification of VDU's. I feel like being able to get out of my car at night and feel safe is far more important, but when it comes to VDU's there should be a cap relative to the housing inventory (including trailer parks). There is no emergency. The moratorium should be lifted at the next meeting and the Council should work quickly to complete this process.

Steve Ruth – Trinidad

I'm in favor of owner occupied rentals.

Kathleen Lake – Trinidad

Read from a Planning Commissioner Handbook – roles of commissioners. Owner-occupied option is the best option for Trinidad. A cap only separates the people from have the licenses, from those who don't. It's unfair.

Jonna Kitchen – Trinidad Resident / Trinidad Retreats

I support a cap based on housing statistics, and I also support neighborhood density restrictions. Vacation rentals have been operating in Trinidad for over 20 years. Permit transferability and owner-occupied requirements are very dicey issues.

Lisa Espejo – Trinidad Planning Commissioner

The residents have invested a lot in this community too. I don't want to rush this decision. We're talking about parking management, a need for evening law enforcement, and needing an updated map of VDU's on Ocean Avenue.

Don Allan – Westhaven

Thanked the Council. In the spirit of compromise, I can support the owner-occupied requirement for residential vacation rentals. I'm disappointed to hear that lawyers are challenging the moratorium.

Tom Davies – Trinidad

I disagree that this meeting should take the place of a future Planning/City Council meeting. Capping the number of vacation rentals is not fair or equitable. Owner-occupied vacation rentals in residential zones will likely not cause problems for the community. Had I known that the VDU Ordinance was designed to legitimize short term rentals, I never would have volunteered on the committee that helped author the document.

Leslie Farrar – Trinidad

This 3 minute format isn't an adequate to format to communicate from. I haven't heard any nasty comments. The VDU Ordinance needs a complete remodel. Issues are seemingly glossed over by staff and managers, but amending the crumbling ordinance seems futile.

Council comments included:

West: Balance is needed, and community input is critical.

Fulkerson: This is one of the most difficult ordinances we've had to write in a very long time. We have a long list of input, and eventually we'll have to make some tough decisions. Based on what I've heard tonight, if we approved an unlimited amount of owner-occupied rentals we might have found a balance.

Baker: Would it be possible to have a Town Hall style meeting so people can exchange ideas and feelings about this topic more casually? Trinidad has a history of not following its own laws and regulations.

Fulkerson: Disagreed with Baker, stating a Town Hall meeting is not a good idea. City Council and Planning Commission meetings are much better forums for the type of discussions where people need to find compromise.

Miller: I'm intrigued by the way Cannon Beach Oregon handled vacation rental issues. 5-year permits with a finite cap.

No decision was made. Informational discussion only.

XII. ADJOURNMENT

Meeting ended at 10:45pm.

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Dwight Miller
Mayor