

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, JUNE 13, 2012

I. CALL TO ORDER/ROLL CALL

- Mayor Pro-Tem Fulkerson called the meeting to order at 7:00PM. Council members in attendance: Morgan, Miller, Bhardwaj, Davies, Fulkerson.
- City Staff in attendance: City Clerk Gabriel Adams, City Manager Karen Suiker, City Engineer Rebecca Crow, City Planner Trever Parker, City Attorney Andy Stunich, TPW Director Bryan Buckman.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION

1. Government Code section 54956.9(b)(3): Pending Litigation
 - a. Discussion of pending litigation and contract issues.

IV. RECONVENE TO OPEN SESSION

Mayor Bhardwaj announced that the Council will not decide on agenda item 1 tonight. Further details are expected from Verizon, and the proposal will be reconsidered at the next meeting.

V. APPROVAL OF AGENDA

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

VI. APPROVAL OF MINUTES – May 09, 2012 cc, May 16, 2012 scc

Motion (Fulkerson/Davies) to approve May 09 minutes as written. Passed 4-0. Bhardwaj – Absent.
Motion (Fulkerson/Davies) to approve May 16 minutes as written. Passed unanimously.

VII. COMMISSIONERS REPORTS

Fulkerson: **RREDC**: Introduced Don Enebuske, Executive Director.

Davies: Reported on RCEA meeting and offshore wind power generating proposal.

Miller: Brief report on the Lighthouse terracing project controversy. Working with both parties to sort out the issues caused last week from work done to decrease erosion and reroute the trail entrance.

Morgan: Nothing to report.

VIII. STAFF REPORTS

Karen Suiker – City Manager

- Summarized staff report included in the Council meeting packet. Also noted the community wildfire education presentation at the Westhaven Fire Hall at 6pm tomorrow night.

Richard Johnson – Planning Commission Chair

- Announced the upcoming regular meeting agenda: 1) Addition to the Catch Café Building, 2) Addition to Library building by the North Coast Land Trust, and 3) Lighthouse terracing project.

IX. ITEMS FROM THE FLOOR

Stan Binnie – Trinidad

Explained membership issues regarding Trinidad Head Study Committee. Trinidad Rancheria needs a replacement since Shirley Laos is no longer a member, and there may be another opening in the near future. Also, the committee believes it should be pursuing the top 10 list of issues regarding the Head. They would like to hold a public meeting in the future to get public input on the list or add to it. At the next meeting on June 19, the Coast Guard will give the committee a tour of the lighthouse facility. The public is welcome to attend.

Robert Hemstead – Trinidad Rancheria

It's our understanding that Jacque Hostler is the Rancheria's alternate member of the Head committee. He asked the city to confirm.

X. CONSENT AGENDA

1. Staff Activities Report for May 2012
2. Financial Status Reports for April 2012
3. Establishment of a \$150 Planning Application Assistance Fee
4. Treatment Plant Monitoring Upgrade Contract Change Orders
5. Treasury Cash and Investments Report
6. Authorize the City Manager to Sign the Letter of Commitment for the Luffenholtz Creek Sediment Reduction Project.

- Motion (Miller/Fulkerson) to approve consent agenda. **Passed unanimously.**

XI. AGENDA ITEMS

1. Discussion/Decision regarding Verizon Proposal for Antenna Swap.
City Manager Suiker explained that this matter was considered by the Council at the May meeting with 4 of the 5 council members present, with no resulting action to approve or disapprove the request. Rather, the discussion focused on the exit strategy that has yet to be determined for when the agreement for the communication facilities expires in April 2017, although there is a five year renewable option.

The cell providers have previously been reminded of the agreement termination, and have been told that any extension or renewal is highly unlikely. In response to staff inquiry regarding alternative sites, Verizon Property Management Division has offered the following:

“The process for the eventual location of all telecom sites takes into consideration answers to the following questions: Is the site leasable, permissible, constructable? And does it accomplish its objectives for signal coverage? As any one of these variables is potentially a fatal flaw, until a site plan is made public with a planning application and resulting public hearing, site specifics are kept as proprietary information.”

The exit strategy is a separate issue from what is presented here, which is whether to allow Verizon to proceed with the antenna swap as proposed, under the terms of the Ground Lease currently in effect. That Ground Lease contains the following language:

“Whenever under this lease the consent or approval of either party is required, or a determination must be made by either party, no such consent or approval shall be unreasonably withheld....”

Should the Council elect to deny Verizon authorization to proceed with its request, such denial needs to be based on a reasonable position as it relates to the provisions in that lease and its permitted uses and improvements. Should the Council elect to authorize Verizon to proceed, the project would still be subject to whatever permits are deemed to be necessary, including a Coastal Development Permit.

Mayor Bhardwaj and City Manager Suiker explained that the Council discussed the issue in closed session, and determined that further information was necessary in order to proceed with a comprehensive discussion. The issue will be brought back to the Council at the July meeting. However, since this may come as a surprise to members of the public that attended this evening, comments will be received.

Public comment included:

Stan Binnie - Trinidad

Presented photos and an illustration depicting original vs. current equipment on the Verizon site. Also presented permit info and history of appeals, denials, and attempts to upgrade. Requested that the Council deny Verizon's request to upgrade the equipment.

City Attorney Andy Stunich suggested that it may be more efficient and effective if the city allowed Verizon to proceed with the permit process instead of acting as a roadblock. This will allow the process to unfold and – if appealed – force the State to make the final determination. In doing so, the City could be insulated from costly litigation. The City may not unreasonably deny the project from due process.

Kim Tays – Trinidad

Cited numerous ordinances that she believe prove the non-conforming status of the cellular site, and offered to share the references with the City Attorney. She reminded the Council that the Coastal Commission has the final say, and has ruled in denial of past improvement/upgrade requests. She argued that regardless of whether the City could face a costly legal battle, it should say no to Verizon because the burden would then be placed on the Friends of Trinidad Head to fight the project through the appeal process.

Robert Vogel – Trinidad Area

Moved to California 35 years ago. Flew a small plane all over the state, and found Trinidad to be the most beautiful area along the coast. The razor wire fence should be removed from the site. Argued that the facility decreased his property value. He stated that he's on the internet all day but opposes the project. He also suggested that if the city allows the upgrade, then it will increase Verizon's interest in the location as people will depend on the increased service.

Susan Stevenson – Trinidad Area

I live on Westhaven Drive. I'm an artist, and well aware of Trinidad Head's beauty and mystique. I rarely look at the cell site when I walk the Head. I bring family and friends up there regularly. I work internationally, and have had better cell coverage in other countries than I do here at home in Westhaven. I support this new technology and hope the Council will allow Verizon to proceed with the upgrade. I'm grateful for the service, and my business depends on it.

Larry Goldberg – Trinidad Area

I've lived here since the 1980's. The internet has dramatically changed our economy and improved our quality of life. This one facility on the Head replaces what would take 4 towers to replicate. I hate cell towers too, and people will likely oppose the alternate locations as much as they do the one on Trinidad Head. Maybe they should never have been built up there, but that argument should have happened in 1997. The beauty of this service is that it competes with Suddenlink. This battle is not worth the costly litigation it might cause. There are much better ways to handle it.

Cindy Lindgren – Trinidad Area

Good arguments from both sides. The main issue is that the Coastal Commission already denied any further development on Trinidad Head. Say NO. The Council should put something in writing and tell the corporations no.

Mareva Russo – Trinidad

I can see how this has become an issue. The only change allowed on that site should be back to its natural state.

Brad Twoomey – Trinidad

Gave a history of the site, and the U.S. Cellular application that started the battle. Argued that if you only had one day to enjoy Humboldt County, you would likely want to be in Trinidad, overlooking the Harbor and Trinidad Head. It should return to its natural condition.

Richard Garcia – Trinidad

Everyone wants good service, but no body want the cell tower in their back yard. Councilmember Morgan wants Verizon out, but what do you have in mind to replace the lost revenue?

Michael Stevenson – Trinidad Area

I was born and raised here. I left the area to become a lawyer. I moved back a few weeks ago. I consider myself a friend of Trinidad Head. I couldn't do what I do to earn a living here without Verizon cell service. I stream music, read the news online, and work from home – all the things that help ease my burden on the environment. It's a great trade-off. It's important to keep pace with technology. This battle shouldn't be Trinidad's battle. You've made a promise to improve the quality of life for the people of Trinidad. Your City Attorney is well qualified and informs you well. Weigh the pros and cons before jumping to any conclusions. Support the Verizon upgrade.

Marie Garibedian – Trinidad Area

I support the friends of Trinidad Head. Don't support this proposal. **Victoria Sackville** and **Jeff Musgrave** agreed.

Nick Kieselhorst – Trinidad Area

I've lived here all my life and the internet provided me with an opportunity to stay here and work. This is a good discussion, and we need to find a solution.

Council comments included:

City Manager Suiker noted that postponing this discussion until August may not be a good precedent to set.

Miller: Thanked the public for input. Explained that he will carefully consider all comments prior to the next meeting.

City Attorney Stunich offered to draft a letter to Verizon expressing the City's concerns and ask them to provide their legal explanation as to why they feel they have a right to proceed. **Council** agreed.

Fulkerson: There is value in hearing input in advance and be able to think about it. With any good decision will inevitably come some fall-out. The Seascape Restaurant may not have been the best decision for the Harbor area, but it's there. I use the internet all the time. This is tricky. Thanked the public for thoughtful, smart input. **Bhardwaj** agreed.

No decision was made. Discussion continued to the regular meeting in July.

2. Discussion/Decision regarding Water Treatment Plant Upgrade.

City Manager Suiker explained that the City received funding from the California Department of Public Health for the final planning and design of improvements to the water treatment plant. Rebecca Crow of GHD will be presenting an update on the proposed improvements. This information presented is the basis of the funding application the Council will consider authorizing the City Manager to sign.

In April 2012, the City Council approved submission of a Notice of Intent to apply for Proposition 50 funding through the California Department of Health Services (CDPH) for grant funds to complete the improvements proposed at the Water Treatment Plant. The application deadline is June 8, and staff will have met that deadline by submitting an unsigned application packet, followed by Council consideration of an authorizing Resolution at the June 13 Council meeting. This process was discussed and has been approved by staff at the California Department of Health Services. If the City is successful in this funding application, the proposed improvements would be 100% grant funded. Other grant funds would require a 20% city match.

City Engineer Rebecca Crow explained the proposed improvement components and the results that the project would produce.

There was no comment from the public or Council.

Motion (Fulkerson/Miller) to:

1. *Receive an update on the status of the water treatment plant upgrade project, and*
2. *Approve Resolution 2012-08 authorizing the City Manager to sign a Proposition 50 Grant funding application for Water Treatment Plant Improvements*

Passed unanimously.

3. Pubic Hearing to approve Resolution 2012-09; Adopting the final budget for Fiscal Year 2012-2013

City Manager Suiker explained that the proposed FY 2012-13 City of Trinidad Budget is being submitted to the City Council for adoption. A public study session that included a power point presentation of the draft budget was held on May 9, 2012. Key points related to that budget presentation include:

1. The draft budget assumes continuation of the .75% sales tax add on. If the ballot measure is unsuccessful, reductions will be necessary in the 2012-13 year. This could be as high as \$23,000, but will probably be less since some of the add on is paid the city in arrears. The add on tax generates about \$100,000 per year and expires March 31, 2013.

2. Funding is included for a 2% across the board salary adjustments for all staff (except City Manager), plus a six month 2.5% promotional progression in accordance with the procedures set forth in the Employee Policies Manual (total equivalent annual increase of 3.25%).

3. The draft budget reflects a reduction in the Records Manager hours from current 30 hours per week to 20 hours per week.
4. Health insurance costs were factored in at 10% increase. We have since learned that the actual increase to maintain the current policy will be 15%. Staff is reviewing other options to contain costs which might mean increased deductible and/or co-pays.
5. The draft budget assumes continuation of COPS \$100,000 to help offset law enforcement costs.
6. The law enforcement contract with the Sheriff will increase from \$179,976 to \$185,372.
7. The projection factors in a reduction in general fund attorney expense from the current budget of \$33,000 to proposed budget of \$25,000 based on current activity. This provides no contingency in the event of litigation or other unanticipated issue needing legal review and guidance.
8. Utility costs are anticipated to increase due to costs associated with the new library; however, that will be for less than the full year.
9. A new appropriation of \$2,006 is included to cover required permit fees (based on population) charged to entities owning and/or operating a storm water conveyance system.
10. This assumes no further unemployment payments for laid off police employees. The City has been required to continue such payment in the current fiscal year. It is anticipated that benefits will be exhausted in the new fiscal year.
11. \$3,000 is budgeted for cherry tree trimming and maintenance due to relinquishment of this responsibility by the Garden Club. This provides funding for annual trimming for about half of the 23 trees on city property (estimated between \$200 and \$250 each).
12. \$3,200 is provided for funding to improve/replace sound system in city hall and purchase a lap top computer for public presentation purposes.
13. \$4,300 is provided (65% general fund; 35% water fund) for purchase of radio communication system for public works staff.
14. Funding for replacement of two fire hydrants is provided, plus carry over funding for replacement of two hydrants budgeted in current year (\$5,000 x 4).
15. \$10,000 is set aside/reserve in public works for major equipment/vehicle replacement and/or grant match.
16. \$15,000 is set aside/reserve in water fund for capital acquisition/grant match.
17. \$10,000 is set aside/reserve in fire department for future capital acquisition.

Changes that have now been incorporated into the proposed budget based on Council discussion from the May 9 study session are as follows:

1. \$4,000 is allocated for initial distribution of Transient Occupancy Taxes: \$2,000 to the Museum Society and \$2,000 to the Chamber of Commerce. The allocation to the Chamber of Commerce may be revisited following the November election.
2. \$600 is included for membership in the Local Government Commission (web page attached).
3. The Planning expense is increased from the initial \$28,600 presentation to \$ 38,600 to reflect an additional \$10,000 toward an accelerated process leading to updating the General Plan. This will allocate a total of \$20,000 toward the General Plan process and is expected to accelerate completion of the task components by approximately 6 months.

With these changes, the proposed General Fund expenditures will total \$ 526,267 and the proposed General fund revenues remains at \$492,703, for a difference of \$33,564. There are sufficient carry forward funds to

absorb the difference between revenues and expenditures. There are a number of one time expenditures (including transfers to Public Works and Fire Department reserves as well as the General Plan work) that more than make up this difference between revenues and expenditures, so the current level of services can be sustained, subject to continuation of the sales tax ad on.

There were no public comments.

Council commended Suiker for her excellent work.

*Motion (Fulkerson/Miller) to incorporate the changes from the May 16 budget presentation, and approve Resolution 2012-09 Adopting the FY2012-2013 Annual Budget. **Passed unanimously.***

4. Discussion/Decision regarding support for Air Service in Humboldt County

Councilmember Julie Fulkerson introduced Don Enebuske, the new Executive Director of RREDC. Enebuske presented information regarding the need for additional air service in Humboldt County, and asked the Council to send a support letter.

*Motion (Fulkerson/Miller) to approve sending support letter for additional air service in Humboldt County. **Passed unanimously.***

XII. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

XIII. ADJOURNMENT

- Meeting ended at 10:00pm.

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Kathy Bhardwaj
Mayor