

# Pyramid Lake Paiute Tribal Council

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## PYRAMID LAKE PAIUTE TRIBAL COUNCIL SPECIAL MEETING MINUTES Tribal Chambers ~ Nixon, NV April 17, 2020

### Members Present

Anthony Sampson Sr., Tribal Chairman  
Janet Davis, Councilmember  
Judith Davis, Councilmember  
Cassandra Darrough, Councilmember  
Carolyn Harry, Councilmember

Sherry Ely-Mendes, Vice Chairman  
William Miller, Councilmember  
Irwin Mix, Councilmember  
Michele Smith, Councilmember  
Georgina Wadsworth, Councilmember

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*Note: Due to COVID-19 Tribal Council meetings are closed to the public to ensure the health and safety of attendees. Councilmembers attended in person, keeping to 6-foot distancing, and via audio conferencing.*

### **CALL TO ORDER**

Tribal Chairman Anthony Sampson Sr. called the April 17, 2020 Special Tribal Council meeting of the Pyramid Lake Paiute Tribal Council to order at 6:09 p.m.

### **ROLL CALL**

Roll call was taken by Brenda A. Henry, Tribal Secretary. Vice Chairwoman Ely-Mendes and Councilmember Janet Davis and Darrough were in attendance via audio conference. All Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

### **APPROVAL OF AGENDA**

Chairman Sampson Sr., requested the following changes to the agenda:

1. Addition under Consent Agenda #6 Approval Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP March 2020 Invoice.
2. Addition under Unfinished Business #1. Discussion Tribal Development Services (TDS) Agreement with Resolution.
3. Addition under Comptroller #1. Discussion of Stimulus Payment Options
4. Addition under the Executive Officer brief a. Review/Adopt/Approval ASection 15F Furlough Policy Amended and b. Discussion/Approval to place Non-Essential Employees on Furlough.

Councilmember Judith Davis made a motion to *approve the agenda with the changes*. Councilmember Janet Davis seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

## CONSENT AGENDA

The following items were listed under the Consent Agenda:

1. Approval of Minutes: March 6, 2020 Regular
2. Approval MassMutual Pyramid Lake Paiute Tribe Retirement Plan Trustee Resolution.
3. Approval Office of Special Trustee for American Indians Trust Account Authorization Resolution
4. Approval Wes Williams Invoice #3574
5. Approval Ratification POLL VOTE –SAMHSA Grant Submission with Resolution
6. Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP March 2020 Invoice.

Councilmember Wadsworth made a motion to *approve the consent agenda*. Councilmember Judith Davis seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**. **RESOLUTION NO.: PL 049-20 SAMHSA Grant, RESOLUTION NO.: PL 050-20 MASSMUTUAL AUTHORIZED TRUSTEES, RESOLUTION NO.: PL 051-20 OST TRUST ACCOUNT UPDATE**

## PRESENTATION

### 1. Quarles & Brady LLP Update. Pilar Thomas

Report update for February and March.

CEMEX. Cemex submitted a copy of their draft Mining Plan of Operations (MPO), as required under the lease and Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM) regulations. She brought on Marian LaLonde, a partner in the Tucson office, who represents several other tribes on mining leases, to review the MPO for compliance with the regulations and lease terms. They had a call with Chris Mixson, Donna Noel and the Chairman to go forward with a response letter to CEMEX regarding the Tribe's comments. They also sent a demand letter to CEMEX regarding actions they were asked to take which they haven't completed. They've been reviewing the mitigation measures they want to negotiate with CEMEX to put in the mining plan. She would like to setup a workshop with Tribal Council to review the MPO and potential negotiation points with CEMEX to complete the MPO. There are major issues with the MPO including the fact it does not effectively give the opinion of the Water Team. It does not effectively deal with the water issue and other environmental issues with the mine. Once the MPO is finalized, it will be presented to Council for final review and approval, then submitted to the BIA and BLM for approval.

She has also been monitoring the implementation of the CARES Act and other legislation related to COVID-19. She provided information to the Chairman and the Executive Team regarding certain funding opportunities, including the SBA loan programs, tax credit programs and the Title V stabilization funds. These programs are to assist the tribe in lost funding due to lost revenue and costs of fighting COVID-19.

The Executive Team was interested in starting a tribal code recodification project, the tribe has built the code with ordinances, but we don't have a complete comprehensive version of the code in

one place. She proposed they go to BIA, Office of Justice Services, for tribal court support, which provides funding to tribal courts to do tribal reclassification projects. A letter was submitted through the Tribal Court to BIA, not sure if the letter has been submitted yet, but they request a substantial amount of the funds. She also including funding for the tax and water attorneys to work on their portion of the code as well as a project manager and for IT for an electronic version for upload to the tribal court website.

### **Contract Review Activities.**

The Comptroller requested she develop a model construction contract that is compliant with both the Tribe's procurement policy and federal grant procurement requirements.

The Business Officer requested she review a proposed extension of an easement for the Kinder Morgan pipeline. The easement has expired, she drafted a new Easement Agreement with special compliance provisions for a hydrocarbon pipeline, for negotiation with Kinder Morgan. She informed the Business Officer he can use this new Easement Agreement for any future pipeline agreements on the Reservation.

The Business Officer also requested she review a draft lease from Commnet. She drafted a short response with a recommendation for several changes to the proposed lease, including new bonding provisions, clarification of compensation, and requested waivers.

Given the multiple pending requests to approve new or renewed leases (Verizon, Commnet, AT&T), she began a draft model cell tower/communication lease that creates consistency for all the cell tower leases on the Reservation.

### **Cannabis Regulatory Matters.**

Ms. Thomas provided a summary of the latest cannabis regulatory matters and they had a call to update Council on the latest potential imminent legal activity.

### **NextEra Solar Projects.**

She emailed Council that BIA approved the Grant of Easement on March 27<sup>th</sup>, thereby triggering several payments and other actions by Dodge Flat. Dodge Flat should have now paid the Tribe \$15,000 as well as the conveyance of two parcels. The parcel conveyances should be completed this month with payments due by April 17<sup>th</sup>. The approval also triggers a \$60,000 payment from Dodge Flat, due in mid-May, under the Community Benefits Agreement. She also sent a checklist to Council and the Executive Team summarizing the Dodge Flat obligations, especially payment obligations to the Tribe.

## **UNFINISHED BUSINESS**

### **1. Discussion Tribal Development Services (TDS) Agreement with Resolution.**

There was a discussion on whether they can speak in open session but it was confirmed permission was given to forward documents to the Water Team and certain directors.

Chairman Sampson Sr., explained that after their last meeting they reached out to THPO, Land Resources Manager, the Water Team and Tax department.

Richard Frazier, Land Manager, said his concern was mainly about the process on how Numu's request got to Council. It didn't go to the Land & Resources Committee for recommendation or discussion. His main question was what was presented to Council at the December 6, 2019 meeting that was approved. His concern was that in asking for a land assignment they didn't go through the Land & Resources Committee. He doesn't know about any boundary information other than what he read a couple days ago and also in the description from Numu Inc. report, they're listing a couple areas which is confusing to what is actually requested and noted that land assignments are for individual members. The issue at this stage is can they do what they are proposing to do on a land assignment as opposed to a lease. This needs to be clarified. He provided these comments in his report including a map overlay of the 890 acres requested by Numu Inc., over the Land Use Plan and the Title Land Assignments. At this point, Council has already approved the assignment with resolution. Vice Chairwoman Ely-Mendes said when the proposal was original presented they used what was in the Land Use Plan for industrial commercial parks that was already set aside which includes a map and that's what it would be used for. The main issue now is the allowance to move forward on the deal and they can work on the details along the way. Councilmember Harry asked since this is related to economic development was there any language in their LLC corporation that designated lands? She knows we have the Land Use Plan, is that one reason why they wouldn't have to go through the Land Assignment process. Vice Chairwoman Ely-Mendes said that yes they can do that for economic development since Council passed it and the land was put aside for that purpose. Councilmember Mix said the Housing Authority had to put in for land and they went through the Land & Resource Committee process. Mr. Frazier said that all tribal departments goes through the process as a matter of record. He's not sure the Dodge Flat area was fully approved, it was conceptual at the time and he's not sure if it was approved by resolution. Vice Chairwoman Ely-Mendes said this is a business arm of the tribe it's not a tribal department and it's for economic development and she thinks prior Councils set aside that property for that use in particular in anticipation of getting the funds the Tribe needed to do economic development. She thinks they may be talking about two different processes. Councilmember Harry asked do we lease it or assign it. Chairman Sampson Sr. said according to the ordinance it can be leased. Ms. Thomas said any lease, no matter how short, has to be approved by the Secretary of the Interior. With a land assignment, Council can put any restrictions in the resolution. There are issues with environmental and tax and since they now know about them they can work on those restrictions and resolutions with Numu Inc. Ms. Thomas reminded Council of the 3 documents that goes with the Numu Inc. proposal: the development agreement which they are still working on some of the language, land assignment/service plan document which assigns along 3500 acres in phase 2 to Numu Inc., and the resolution. Chairman Sampson Sr., ask Council if they would agree to allow the department comments be forwarded to Numu Inc., to further work on the language. Ms. Thomas said she will forward the comments to Numu Inc., and they'll have a workshop on Tuesday with departments. In regards to the limited waiver of sovereignty, she would like Council's opinion on it. Vernelda Frazier, Tax Director, said the Tribe has an agreement with the State of Nevada on taxes, if we start sharing with developers that might hurt the agreement the Tribe has with the State of Nevada. Councilmember Judith Davis said with the discussion, all the comments need to go to the Chairman and Ms. Thomas so they can get these comments together and share with Numu Inc.

#### **NEW BUSINESS**

### **1. Selection Pyramid Lake Housing Board of Commissioners (1 vacancy)**

Posting for the Pyramid Lake Housing Board of Commissioners was for two vacancies. Two (2) applications were received for this posting. Tribal Council chose Edward Ely by ballot to fill the vacancy.

### **2. Selection of Gaming Commissioner (2 vacancies).**

Posting for the Gaming Commission was for two (2) vacancies. There was 1 application received. Tribal Council chose to repost the Gaming Commission for another 30 days.

**COMPTROLLER.** Jill Mix, Comptroller

### **1. Discussion Stimulus Payment Options**

Ms. Mix said in order to get access to the Economic Development Funds they would need a resolution which states the amounts and submit to BIA with the 1034 form.

Councilmember Judith Davis asked according to Ms. Mix's report for Ramah and Vidler, it notes "leaving the Tribe with \$439,000, we will need funds for Grants that do not allow 33 days of paid admin leave", what's that dollar amount? Ms. Mix said they don't know because the information is slowly coming in, so far most of the funding agencies said as long as there's a policy on administrative leave they are ok, there's only one agency that denied the Tribe which only one person is being paid out of it, but she's working with the director to see if they can recode the salary from another line item. We shouldn't be looking at a big dollar amount to cover.

Ms. Mix stated all Tribe's will be getting a share of the \$8 billion. If the Tribe wants to do a distribution faster by saying it's a welfare payment and it wouldn't be taxable. It's supposed to be in the bank on April 27<sup>th</sup>. What the Tribe gets was based on a questionnaire which included, amount of tribal membership, land base, and amount of employees since January 2020, it was submitted a couple days ago with the Tribe's banking information. They have not informed the Tribe on how it was going to be allocated. The funds are given to Tribe's for support for the pandemic.

Douglas Williams, Executive Officer, explained with \$1,800 per tribal member 18 and over as of January 1, 2020, with 1,953 members for a total of \$3,515,400. Spoke with Jerry Emm, BIA, and we can mirror the first distribution.

Mr. Williams said they are using the Ramah funds for the Cannabis expenditures and continued administrative leave. Chairman Sampson Sr., said they would also need to get the recommendation of the Economic Development Committee because they were a part of the distribution to BIA. Ms. Mix said they can go through the Economic Development Committee as a courtesy but they don't have to if the Economic Development Plan (EDP) allows it.

Vice Chairwoman Ely-Mendes said if we're trying to help people with their immediate needs since they may be furloughed, then Council needs to make a decision to help them and then when we

find out how much the Tribe will receive from the COVID-19 funding, which is an unknown number, then we can put that back towards economic development. Ms. Mix said once you withdraw the funding from Office of Special Trust (OST) you can't put it back in. You can wait until you see what the Tribe will get from the COVID-19 funding, since we don't know when this is going to end, put the request into OST now because we don't know how long it's going to take, and if you decide to withdraw at the end of the year you can still do it.

Councilmember Harry said we need to go with what's the most expedient since there's a lot of families out there who didn't qualify for the stimulus payment since they had no income.

Councilmember Judith Davis said if that is the route Council wants to go with she would like to request a report with numbers for the first May meeting. Ms. Mix said they should also pass the resolution so they can start working on the use of the Economic Development Plan because we're unsure of what BIA may require of the Tribe. She will prepare a resolution for the EDP and have it ready for the next meeting.

Ms. Mix restated what will occur regarding providing assistance to tribal members. Within the next week they will find out what the amount of funding will be provided to the Tribe for the COVID-19 funding. In the mean time she will prepare a resolution to withdraw funds from OST. The funds should be deposited any time from April 24<sup>th</sup> thru the 27<sup>th</sup>.

## **EXECUTIVE TEAM**

**Executive Office.** Douglas Williams. Report submitted.

**a. Review/Adopt/Approval Section 15-F Furlough Amended Policy.** Lesley Hawley, Human Resources Manager.

Ms. Hawley said she created a policy specific to COVID-19, it gives the Tribe a guide to follow if Council decides furlough is the action to take. It's specific to identify essential and non-essential, giving departments an idea on who they would furlough. Putting more power to the departments to participate in this action and then how they would break it down from processing and ensuring a timely response for employees to file for unemployment. It would also include how the employee would be brought back to duty. It identifies employee benefits will continue and references employees that have self-insured employee elected would have to enter into payback agreements. Council does have an option under the stimulus as well to compensate your employees for employee elected health insurance benefits. Section 15 is specific to the pandemic and it would have to be in place prior if the decision is to take furlough action. Councilmember Judith Davis asked if this went through the Personnel Committee. Ms. Hawley said they have permission for the Personnel Committee to meet on April 20<sup>th</sup> and they will be reviewing everything that Council has approved and anything else that will come up. She has forwarded advance copies to the committee chairperson. These are internal and administrative policies, it's something specific if they end up in situations of liability, this is what they would follow. This is an essential contingency plan. One of the things they wanted to identify was unemployment, the Tribe will cover health insurance. Usually if employees are furloughed or laid off, all benefits are stopped but because of this situation the Tribe will fund health insurance, 401k, gap, and whatever

is specific but unless your actually in a FMLA family leave status any types of leave are now on hold. Chairman Sampson Sr., asked about those departments who are considered non-essential but are funded by grants. That's the reason she wanted the directors to have that power to make those decisions since they know what their departments needs are and have communication with their funding sources. Vice Chairwoman Ely-Mendes said you don't have to be deemed essential or non-essential they just have to know their funding source is going to cover them during this time. She would have expected that each department head would have already talked to their funding source about what their options are. Each department should already know if they're covered or not. Everything is changing, what they were told a month ago is different in what they are telling them today. Everything is expanding so they can assure everyone has coverage. Right now they have employees being denied unemployment even though they have quarters, it's specific to whomever is processing unemployment. When they furlough an employee, they can't tell them they're guaranteed unemployment because they're not but what she's done is she reached out to MassMutual and asked them if there is hardship options, so there's an option for those who have a 401k who can withdraw with limited liability, they will be responsible for the budgeting and payback with zero interest. For those with existing loans they can delay payment.

Councilmember Judith Davis made a motion to *approve the Personnel Policy and Procedures, Section 15 Furlough Amended*. Councilmember Miller seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with one (1) **abstention** (Wadsworth). **Motion carried.**

**b. Discussion/Approval to place Non-Essential Employees on Furlough.** Douglas Williams, Executive Officer

Councilmember Janet Davis asked if Mr. Williams would explain why they would be running short of funds. Mr. Williams said the funding they used to pay the employees is based on a projected revenues, one of the high revenue sources could be running out of funds by the end of the year. The policy they just approved will help with all the employees that may be furloughed. Councilmember Janet Davis asked if there was a dollar amount, she would like to know where we stand now. Everyone on a grant should be submitting a scope of work every month. Councilmember Harry said they received a lot of comments from directors who had concerns about a furlough. Have they discussed phasing returning employees after the 30<sup>th</sup> when admin runs out. She's thinking instead of grouping by essential and non-essential, they have different columns like they meet safety requirements because they work in isolation (CHE, THPO, employees who are isolated), they can return to work and still be very safe. Or departments who can stagger their schedules. Mr. Williams said they do want employees to return to work but they have to think about health and safety. Ms. Hawley said she had options for Mr. Williams but again it should be departmental where the directors should be involved in identifying who will stay and who will go. There are individuals who can work from home or work because their separated but it has to be identified. There are things they have to look at in the departments when deciding who gets furloughed. There are options the can provide to employees. Before the next meeting she can take the furlough policy just approved, send it to the directors, highlight their components which they identify, their essential and non-essential, they contact their funding source to determine if they can continue to accept administrative leave and what action they'd like to take.

Councilmember Harry made a motion to *TABLE the furlough of non-essential employees as prepared by the Executive Team until the Human Resources department receives comments from Department Directors*. Councilmember Janet Davis seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with one (1) **abstention** (Wadsworth). **Motion carried.**

Councilmember Judith Davis would like to set a special meeting for Monday April 27, 2020 at 5p.m.

**Business Office.** Benjamin John. Report submitted.

Councilmember Judith Davis asked since everyone is home in the Wadsworth area, there's double amount of trash. Has the water level made a difference since everyone is at home. Mr. John said since there are no meters installed in the homes they don't have the information but if she's talking about the aquafer there has been a decrease, the aquafer is not recovering the way it use to.

Councilmember Harry asked what safety precautions has been taken in the enterprise stores. Mr. John said the are using masks, gloves, installed a safety plexiglas, cleaning the stores on a regular basis, and keeping their social distancing.

Councilmember Mix suggested they start ordering meat for the stores for the local membership. Jr. John said they have ordered meat but it goes fast.

Councilmember Harry asked about the livestock at S-Bar-S, specifically the pigs? Mr. John said the owners of the pigs reached out to Pilar and then to him, the pigs weren't paid for, they still owe money for them. Pilar advised to continue to take care of them and the owners will have to deal with SCS regarding payment for them. They been having to take care of them and feeding them.

**CHAIRMAN'S REPORT.** Anthony Sampson Sr., Tribal Chairman. Report submitted.

Chairman Sampson Sr. summarized his report.

1. He had meetings with WCSD concerning a tribal member for services not being provided. He suggesting taking the funding from them and starting their own Charter School or elementary school. Karen Shaw, CHE Director was against this idea.

2. Pilar covered the Mining Plan from CEMEX and it was sent to legal for review.

Councilmember Mix suggested closing SR446, unable to close SR445 or 447. Vice Chairwoman Ely-Mendes said if we need assistance on closing the roads she can contact NDOT and follow-up.

Vice Chairwoman Ely-Mendes suggested moving the signage to the reservation line because where they currently are, people are already on the reservation.



3. He's been working with the Executive Team on the COVID-19 situation, essentials and non-essential employees, administrative leave option. Had meetings with EMS, Health Board/Director on COVID-19 with regards to keeping the community safe and informed.

Councilmember Janet Davis asked about the ranchers who will be out pass the curfew. They may need a permit to be out checking their irrigation and fields. Chairman Sampson Sr. will contact Mervin Wright in Natural Resources to see if they can draft a letter for the him to sign and forward to the police department.

Councilmember Harry updated on the high school, they are planning to bring back the seniors to finish out the year.

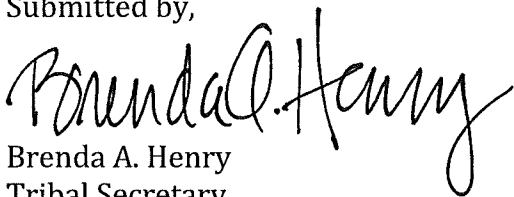
Councilmember Janet Davis said the Washoe County Voters reached out and the ballots will be mailed out with early voting in October.

### **ADJOURNMENT**

With no further business before the Tribal Council, Councilmember Judith Davis made a motion to adjourn the meeting. The motion was seconded by Councilmember Smith. Votes taken were all in favor, **motion carried.**

The meeting adjourned at 9:25 p.m.

Submitted by,

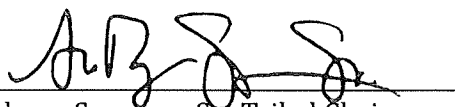


Brenda A. Henry  
Tribal Secretary

### **CERTIFICATION**

The foregoing minutes were adopted by the Pyramid Lake Tribal Council, governing body of the Pyramid Lake Paiute Tribe, at a meeting duly held on the 5<sup>th</sup> day of **June 2020**, having **nine (9)** members present, constituting a quorum, by the vote of **eight (8)** FOR and **zero (0)** OPPOSED, with **zero (0)** ABSTENTIONS.

Minutes attested and concurred by:



Anthony Sampson Sr., Tribal Chairman  
Pyramid Lake Paiute Tribal Council

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