Pyramid Lake Paiute Tribal Council

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PYRAMID LAKE PAIUTE TRIBAL COUNCIL SPECIAL MEETING Tribal Chambers ~ Nixon, NV August 21, 2020

Members Present:

Sherry Ely-Mendes, Vice Chairwoman Judith Davis, Councilmember Janet Davis, Councilmember Carolyn Harry, Councilmember William Miller, Councilmember

Irwin Mix, Councilmember Michele Smith, Councilmember Georgina Wadsworth, Councilmember

Member Absent:

Anthony Sampson Sr., Tribal Chairman Cassandra Darrough, Councilmember

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

Vice Chairwoman Ely-Mendes called the August 21, 2020 Special Tribal Council meeting of the Pyramid Lake Paiute Tribal Council to order at 6:27 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. Tribal Chairman Anthony Sampson Sr., and Councilmember Darrough were absent. Councilmember Harry arrived late. All other Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

Vice Chairwoman Ely-Mendes requested the addition under Consent Agenda #4. Approval CHE Scholarships 25 total.

Councilmember Janet Davis made a motion to *approve the agenda with changes*. Councilmember Mix seconded the motion. Votes were six (6) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**.

CONSENT AGENDA

Councilmember Harry arrived for the meeting.

Consent Agenda items:

- 1. Approval Wes Williams Invoice #3632
- 2. Approval Ratification of POLL VOTE Change of Date 2nd Distribution
- 3. Approval HR Classification 177 Tribal Beach Monitor
- 4. Approval CHE Scholarships 25 Total

Councilmember Wadsworth made a motion to *approve the consent agenda*. Councilmember Mix seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions** (Smith). **Motion carried**.

PRESENTATION

Ms. Pilar Thomas, Legal Counsel, Quarles & Brady LLP provided her monthly update to Tribal Council. Items included in her update report included General Government Activities, Contract Review Activities, Cannabis Regulatory Matters and NextEra Solar Project.

Ms. Pilar has been monitoring the issues the Treasury has been dealing with since June on updated guidance for spending the Coronavirus relief funds. Treasury has now instituted regular reporting and she's working with the Comptroller on the requirements. There is now talk about refilling the fund, there is legislation that has been introduced and pending, she's continuing to monitor. She was working with Douglas Williams, Executive Officer, who has now resigned about updating ordinances. She attended a BIA webinar about a lease program regarding Section 106. The Tribes can build facilities that will house 638 contracts and contracted programs. She will provide a written summary of the program to Council.

CEMEX. There is still follow-up work to be done after the Chairman sent them a letter in June. At the Chairman's request a memo was prepared for Council regarding compliance with the Clean Water Act. Implications of the mine and the permitting requirements required under the Clean Water Act. One of the issues identified in the June letter which was the need to get additional clean water act permits. Per instructions from Chairman and Donna Noel, Natural Resources director, all the water work is to be handled solely by Chris Mixson, Wolf Rifkin, Shapiro, Schuman & Rabkin, LLP. Follow-up was done for the analysis in regards to the June letter and additional questions that were raised by Council and CEMEX for Clean Water Act permits. She has been working with the Business Office regarding other leases on the reservation. They made a recommendation for the Tribe to hire a mining expert to assist with the mining plan of operation (MPO) that CEMEX is required to have, as the MPO that was done when the lease was originally entered into was legally insufficient for purposes of all the regulations they have to comply with. They received a draft plan from CEMEX in March, comments were submitted in June/July and Ms. Noel is currently working with them to finalize. The mining expert was to ensure the Tribe has their own expert to review the MPO especially since they moved the mining operation from area A where they were having to dewater, and moved to area D to start new mining.

SCS Status. They now have a hearing scheduled and are still trying to manage rulings from AAA and the court on initial decisions and will provide an update to Council.

NEW BUSINESS

1. Approval for a 2-Week Public Comment Posting for the Draft 477 Plan with Resolution. Michael Guss, Contracts & Grants with Sarah Adler.

Mr. Guss explained Public Law 93-477 allows Tribes to write plans to consolidate certain tribal departments with the approval of federal funding agencies. The Tribe hired Aspire Grant Writing Solutions in partnership with Silver State Government Relations to conduct a 477 Planning Process. As part of this process, two public meetings were held and input was solicited through an online survey. The draft plan is a document focused on education leading to workforce outcomes both for students in the K-12 system, students in college, and tribal members in need of workforce training. The document proposes combining the Higher Education, Johnson O'Malley, Day Care, Sumunumu and TSAP portion of the Domestic Violence Programs into one 477 Program. Each Program Director will still be responsible for the administration of their program, and goals and objectives of grants will be still have to be met. However, the 477 Plan provides some flexibilities that are advantageous to the Tribe and Tribal members. They're requesting a 2-week public posting.

Councilmember Judith Davis asked if the Tribe does agree to this program and it doesn't work, can the Tribe reverse it's decision. Mr. Guss responded yes they can, just have to pass with another resolution.

Vice Chairwoman Ely-Mendes asked if the Health Board has reviewed this program since it includes several programs under the Health Clinic and they need to be included. Mr. Guss said they were overlooked but they will be included after the public comment period.

Councilmember Harry made a motion to approve the posting of the 477 Plan with change of posting to 30-days, resolution not required. Councilmember Smith seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried.

Councilmember Janet Davis commented it needs to be posted but the departments need to be conferred with about their budgets, goals and objectives of their individual programs. Councilmember Gina Wadsworth agreed with Councilmember Janet Davis but agrees it needs to be posted.

2. Approval to apply to the US Department of Commerce, Economic Development Administration CARES Act Funds for Broadband with Resolution. Michael Guss, Contract & Grants

Mr. Guss explained the Economic Development Administration (EDA) issued a Notice of Funding Availability inviting applications for funding. He attended a webinar in late July that covered this funding as it relates to broadband. These funds are designed to mitigate the impacts of the pandemic and aide in the economic recovery. EDA will fund fiber to the homes of 100% federal share, with no match required, and pay full Indirect Costs. While the Tribe has an application

pending with USDA for fiber to the homes that is supported by a State Matching Fund Grant, it cannot hurt to submit this application and then withdraw our application should the USDA grant be awarded.

Leona Collins asked if the internet access he's proposing covers all three communities on the reservation. She heard Wadsworth was not being considered because they had internet access already. Mr. Guss said he will speak with the Technology Director and will keep it in mind, he does know Wadsworth has some fiber already installed. This application will not have the same restrictions that USDA has.

Mr. Guss commented this application has a different end date than the December 31, 2020 for Cares Act funding. The end date for this grant is 2023-2024.

Councilmember Smith made a motion to approve the submission of an application to the US Department of Commerce, Economic Development Administrations CARES Act Funds for Broadband with Resolution. Councilmember Wadsworth seconded the motion. Votes were six (6) for and zero (0) opposed with one (1) abstention (Mix). Motion carried. RESOLUTION NO.: PL 080-20 US DEPARTMENT OF COMMERCE ECONOMIC DEVELOPMENT ADMINISTRATION CARES ACT FUNDS FOR BROADBAND

3. Approval to apply for the NV Energy Electric Vehicle Charger Incentive Program with Fee and Resolution. Michael Guss, Contracts and Grants

Mr. Guss explained the Tribe applied for a VW Settlement Fund allocation to cover the purchase of a garbage truck in 2019. The Tribe was awarded \$183,621 in may of 2020. The quote for a new garbage truck was \$128,529. He explained the requirements for spending the funds and said if the Tribe spent less than the entire allocation, we are not entitled to full administrative costs. He researched the possibility of getting a Blink EV Charging Station for the I-80 Smokeshop to lure electronic vehicles to the store. With an application submission to NV Energy's EV Charger Incentive Program they will be able to provide an EV Charging Station at the I-80 Smokeshop and enable them to use the remainder of the funds allocated from the VW Settlement Fund. The application submission required a fee for submission to NV Energy Incentive Program.

Councilmember Harry made a motion to approve the submission for the NV Energy Electric Vehicle Charger Incentive Program with Fee and Resolution. Councilmember Janet Davis seconded the motion. Votes were four (4) for and three (3) opposed (Judith Davis, Mix, Smith) with zero (0) abstentions. Motion Passed. RESOLUTION NO.: PL 081-20 NV ENERGY ELECTRIC VEHICLE CHARGER INCENTIVE PROGRAM

- **4. Approval Release, Assign and Conveyance with Resolutions.** Kathleen Frazier, Pyramid Lake Housing Authority
 - a. Shannon Ellingson Sr.

Councilmember Janet Davis made a motion to approve the Release, Assign and Conveyance for Shannon Ellingson Sr. Councilmember Smith seconded the motion. Votes were seven (7) for and

zero (0) **opposed** with zero (0) **abstentions**. <u>Motion carried</u>. RESOLUTION NO.: PL 082-20 PLHA – RELEASE ASSIGN CONVEYANCE SHANNON ELLINGSON SR.

b. Lisa Davis.

Councilmember Wadsworth made a motion to approve the Release, Assign and Conveyance for Lisa Davis. Councilmember Mix seconded the motion. Votes were six (6) for and zero (0) opposed with one (1) abstention (Judith Davis). Motion carried. RESOLUTION NO.: PL 083-20 PLHA – RELEASE ASSIGN CONVEYANCE SHANNON LISA DAVIS

c. Unadelle S. Mitchell.

Councilmember Janet Davis made a motion to approve the Release, Assign and Conveyance for Unadelle S. Mitchell. Councilmember Harry seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried. RESOLUTION NO.: PL 084-20 PLHA – RELEASE ASSIGN CONVEYANCE UNADELLE S. MITCHELL

d. Darrell R. Garcia.

Councilmember Harry made a motion to approve the Release, Assign and Conveyance for Darrell R. Garcia. Councilmember Wadsworth seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried. RESOLUTION NO.: PL 085-20 PLHA – RELEASE ASSIGN CONVEYANCE DARRELL R. GARCIA

e. Audrey F. Rivera.

Councilmember Smith made a motion to approve the Release, Assign and Conveyance Audrey F. Rivera. Councilmember Wadsworth seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried. RESOLUTION NO.: PL 086-20 PLHA – RELEASE ASSIGN CONVEYANCE AUDREY F. RIVERA

f. Denise M. Love.

Councilmember Janet Davis made a motion to *approve the Release, Assign and Conveyance for Denise M. Love.* Councilmember Harry seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**. **RESOLUTION NO.: PL 087-20 PLHA – RELEASE ASSIGN CONVEYANCE DENISE M. LOVE**

5. Approval 3-Bid Parking Lot/Road Development Project. Dawna Brown, PLHC Director

Ms. Brown said the 3-Bids were reviewed by the PL Health Board and they recommended Lumos & Associates for the project. Even though they were he highest bidder it was felt their bid was all-inclusive where they wouldn't have to do separate negotiations for items with the other bidders and included items the others did not. Questions were asked about TERO, Tax and a project manager. Ms. Brown stated she will ensure TERO is included in the contract, will include the Tax Department in the project meetings and will work with the Housing Coordinator in finding a project manager.

Councilmember Janet Davis made a motion to approve the recommendation of the PL Health Board in the selection of Lumos & Associates for the Parking Lot/Road Development Project for the PLHC. Councilmember Smith seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried.

6. Approval Law & Order Code Chapter 6 - Juvenile Justice. Diana Mitchell, Law & Order Committee

Ms. Mitchell sated Chapter 6 – Juvenile Justice is being recommended by the Law & Order Committee for Tribal Council approval by the Law & Order Committee. Chapter 6 was posted for 30 days with no comments.

Councilmember Judith Davis made a motion to approve the Law & Order Code Chapter 6 – Juvenile Justice. Councilmember Harry seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried. RESOLUTION NO.: PL 088-20 LAW & ORDER CODE CHAPTER 6 – JUVENILE JUSTICE

7. Approval 2020 Primary & General Election Timeline. Karole McQueen & Leona Collins, Election Board

Ms. McQueen presented the 2020 Primary & General Election Timeline for approval.

Vice Chairwoman Ely-Mendes read the timeline for the record: September 4th - Call the Election, October 2nd at 4:30 p.m. – Candidate Deadline, October 16th – Approval of Candidate List, Approval of Primary Voter's List, & Background Completion, October 19th – Posting of Primary Voter's List & Primary Candidates List, October 30th – Protests to Primary Voter's/Candidates List, November 2nd – 13th – Requests for Absentee Ballots, and November 24th – Deadline to Return Absentee Ballots. PRIMARY ELECTION 6am-6pm, Tribal Chambers. December 1st by 4:30 p.m. – Protests of Primary Election, December 4th – Approval of General Election Candidates & Approval General Election Voter's List, December 7th – Post General Election Candidate's List, December 7th – 18th – Requests for Absentee Ballots, December 23rd – Deadline to Return Absentee Ballots. GENERAL ELECTION, 6am – 6pm, Tribal Gym. December 29th by 4:30 p.m. – Protests of General Election. January 2021 – Certification of General Election. Voters Registration will be ongoing through December 4th at 4:30 p.m.

Councilmember Wadsworth asked if the committee has protocols for social distancing and hand sanitizing. Ms. Collins stated they haven't discussed it but they certainly will. When asked if there would be a dinner. Ms. McQueen stated there will not be one for the primary but there may possibly be one for the general election. They will discuss this further at their meetings.

Ms. Collins stated members who have turned 18 by the Primary Election need to register to vote. She requested a date for the January 2020 Certification of the General Election since the first Friday in January is January 1^{st} a holiday. Council confirmed the date will be January 8, 2021.

Councilmember Wadsworth made a motion to approve the 2020 Primary & General Election Timeline. Councilmember Judith Davis seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried.

Councilmember Harry said there is a lot of talk publicly about how the primary election is not constitutional. However, it is, so are they referring to the primary not being in the Constitution? Ms. Collins stated it's in the Constitution, she didn't have a copy of the Constitution with her but she recounted from memory that it said "it's at the discretion of the Election Board that other factors would come into play, and that's how the primary election was covered initially". It doesn't spell out in black and white but there is something that alludes to the fact that it could be an addition. It is also in the Tribe's Election Ordinance. Councilmember Judith Davis commented it was approved as a part of the Secretarial Election, she was unsure of the year.

Ms. Collins said in January Tribal Council had given direction to the Election Committee, which she wasn't clear on, on whether the Election Committee was to outsource the background checks or whether the function was given to the Executive Team. She did follow up with Reno Sparks Indian Colony and they outsourced their backgrounds locally in Reno. According to the timeline they're pushing it and she'd like to hear from Council on their thoughts. Vice Chairwoman Ely-Mendes said the Tribe doesn't have the funds to outsource. Ms. Collins thinks she remembers there was a budget created earlier this year for about \$30,000., but she's not positive. Karole and her had a meeting with the Chairman and he did tell them that. Vice Chairwoman Ely-Mendes asked the Chairman follow-up on the backgrounds and to see if there is budget for it or if they will be outsourcing it. Councilmember Wadsworth reminded Council the fee for candidates is to help cover the fees for backgrounds. Further discussion will be conducted between administration and the Election Board regarding backgrounds. She does recall when applicants come in to complete the candidacy form they also received a background packet. She gave some information to Douglas Williams last year but they didn't get any feedback from him.

8. Approval Business License HTTS Consultants. Carry Heglund/Brittney Santos

No representative present.

Councilmember Smith made a motion to *table the request*. Councilmember Harry seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion** carried.

9. Approval Film Permit. Anthony Florez

Mr. Florez presented his film project, Two Bears, to Tribal Council for approval. He explained he was selected to received the 2020 Vision Make media Short Film Production Fellow for his project in the amount of \$25,000. He's planning $1 \frac{1}{2}$ days of filming on the reservation. It was requested he provide specific dates when he plans on filming. The maximum amount of personnel in one area would be 20.

Councilmember Judith Davis stated in reading his request regarding the filming area, there is no cultural sites in the area for this to go to the Inter-Disciplinary Team (IDT). Typically film requests regarding filming around the lake only went to IDT.

Councilmember Judith Davis made a motion to approve the request for a film permit for the Project Two Bears. Councilmember Mix seconded the motion. Votes were seven (7) for and zero (0) opposed with zero (0) abstentions. Motion carried.

COMPTROLLER. Jill Mix

Ms. Mix said her agenda item was already approved at the August 7, 2020 Regular Council meeting, she had no action items for Council.

The finance office is working on a Memorandum of Understand (MOU) with the PL Housing Authority to assist in carrying out housing projects since they don't have the expertise.

She is working to close 380 land purchases with Bureau of Reclamations (BOR) still out there. She is coordinating with Donna Noel in Natural Resources. The S Bar S land was purchased with Federal funds and BOR is asking for all the applications the Tribe is waiting to place in trust. The S Bar S application was submitted but then withdrawn. It says in the grant they can keep it in the Tribe's name but BOR said when you purchase with federal funds you have to provide a report every 3 years, which the Tribe hasn't done. They said essentially you have to use the land for what it was purchased for. Vice Chairwoman Ely-Mendes said she got a brief from the Chairman and the Business Officer and they said they were working on the issue. Ms. Mix said she brought it to Councils attention because it was purchased with federal funds and it shouldn't have been used to grow marijuana. Benjamin John, Business Officer, said the Chairman withdrew the application because marijuana was being grown and it wouldn't have been put it into trust. They're going to leave it until Council decides what direction they wanted to take with it. As far as BOR, Jill is trying to find the application for the federal funding to see what was listed for the use of the land. He last heard it was for agricultural use, technically, that's what it's being used for but he's not sure how they would feel about it being illegal on land purchased with federal funds.

With the budget forwarded to Council they will have to cut some budgets to make it through the end of the year. Right now, they're short \$722,000, they have \$698,000 in CEMEX they can drawdown, they can also drawdown from docket funds for burial. They can cover if they slash some budgets without looking for extra funds. She still has to work with some departments for cutting budgets to make it to the end of the year.

Assumption is that all employees will be returning on October 1st, and she'll be working the directors at that time.

Councilmember Judith Davis said again, if they're asking directors to cut maybe they should meet with them ahead of time, instead of meeting with them on October 1st and then laying them off on October 20th. Ms. Mix said the intention is not to lay off anyone. Vice Chairwoman Ely-Mendes state the budget was under the assumption that all employees were coming back October 1st.

Vice Chairwoman Ely-Mendes said Council needs to consider the official opening of the lake and what its going to look like. A designation needs to come from Council for the Regulations Workgroup to continue to work on it or to turn it over to Law & Order Committee. They need to decide if they're going to change the regulation and up the fees.

Ms. Mix said all permit books have been collected from the vendors.

If Council decides, will need a directive to request CEMEX and docket funds if they will be needed to cover the remainder of the year. This will require a 10-34 signed with an approved resolution.

The second request for the Economic Development funds was denied due to time expiration between the 1st denial and the 2nd submission, between that time the funds were re-invested into the principle. If Council wants to access the funds, they will need to go through the Economic Development Committee to request. There will also be a penalty. The funds are only liquid for a certain amount of time. Once that time is met, it is automatically reinvested, they don't need permission from the Chairman to reinvest.

Tribal Council requested a meeting be scheduled for Wednesday, August 26, 2020 at 5pm for an updated on COVID-19, Re-opening of the lake, Update on returning furloughed employees.

EXECUTIVE TEAM

- 1. Executive Office. No report
- 2. Business Office. Benjamin John
- a. Discussion/Approval recently acquired Lot 8 Leased Property Realty Department. There is one lot in Sutcliffe that is divided into 2 different lots that the Tribe purchased with the deal with Crosby. Now that the Tribe has purchased, there is tenants in 2 homes, a 6-month lease is being drawn up for the tenants. The issue now is that the lease says the Tribe will pay for utilities but administration doesn't have fund code/line item to pay for it. The Realty department does have the capability to pay. He's looking for an official process for Realty to manage the program.
- b. Approval for Chairman to sign NV State Bank Account Documents for the Payroll Protection Loan CARES Act for Tribal Enterprise. Mr. John explained this is approval for the Chairman to sign for the Enterprise to open an account with NV State Bank. In order to receive funding from the Payroll Protection Loan CARES Act, they have to have a bank account for direct deposit.

Councilmember Wadsworth commented on his report regarding a. above, it stated there was 2 houses there but when the tax department went to check on the trailers, there was a lot of them and apparently one of the owners of the home were renting out the trailers. He was told they had to pay the transient lodging if that was what he was doing but they didn't hear back from him. The time between when they talked to him and when the Tribe purchased the property, the Tribe has lost out on revenue from it. There were up to 5 trailers there, are they still there now? Mr. John said the trailers are still there and they haven't done anything with it because nobody wants to claim ownership, but once Realty takes ownership they can take care of the issue. Vice Chairwoman Ely-Mendes said this is a WRAP acquisition and normally land acquired under WRAP is turned over to the Realty department for management. Vice Chairwoman Ely-Mendes recommended he coordinate with Donna Noel and Aaron Peskin, Great Basin on the transfer to the Realty Department. Mr. John said according to Ms. Noel, this has nothing to do with the WRAP

Committee anymore. Vice Chairwoman Ely-Mendes said it's the administrations job to determine the process internally.

Mr. John explained, in order to receipt for the funding, it's required they have a bank account at NV State Bank to receive the funding from the Payroll Protection Loan. If they keep the current staffing levels after December, the federal government will forgive the loan.

Councilmember Harry made a motion to approve Chairman to sign documents for Tribal Enterprise Department to open an account with NV State Bank for the Payroll Protection Loan funds. Councilmember Smith seconded the motion. Votes were six (6) for and zero (0) opposed with one (1) abstention (Mix). Motion carried.

Councilmember Janet Davis would like to see a monthly report from Enterprise.

Councilmember Judith Davis commented she would have liked to receive a closing report from the Executive Officer, Douglas Williams, who resigned. He was working on projects for Council. The Chairman had some issues in his report and didn't ask for any action. She noticed conveyances are still going through the Court, she would like to see what forms they are using for backup. They were to stop unless they had a land assignment as backup.

CHAIRMAN'S REPORT

Councilmember Judith Davis made a motion to *table the Chairman's report until Wednesday, August 26, 2020.* Councilmember Janet Davis seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**.

ADJOURNMENT

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

The meeting adjourned at 9:54 p.m.

Submitted by,

Brenda A. Henry

Tribal Council 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 2^{nd} day of <u>October 2020</u>, having <u>ten (10)</u> members present, constituting a quorum, by the vote of <u>nine (9)</u> FOR and <u>zero (0)</u> OPPOSED, with <u>zero (0)</u> ABSTENTIONS.

Minutes attested and concurred by:

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

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