

Pyramid Lake Paiute Tribal Council

Post Office Box 256
Nixon, Nevada 89424
Telephone: (775) 574-1000
Fax (775) 574-1054

REGULAR MEETING MINUTES

Tribal Chambers ~ Nixon, NV

June 4, 2021

Members Present:

Steven Wadsworth, Vice Chairman
Harriet Brady, Councilmember
Edward Ely III, Councilmember
Carolyn Harry, Councilmember
James Phoenix Councilmember

Nathan Dunn, Councilmember
Natalia Gonzales, Councilmember
Irwin Mix, Councilmember
Georgina Wadsworth, Councilmember

Members Absent: Janet Davis, Tribal Chairwoman

Note: Due to COVID-19 Tribal Council meetings are closed to the public to ensure the health and safety of attendees. Councilmembers attended via zoom teleconferencing.

CALL TO ORDER

Vice Chairman Wadsworth called the June 4, 2021, Regular Tribal Council meeting of the Pyramid Lake Paiute Tribal Council to order at 6:01 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. Councilmember Mix connected to the meeting at 6:08 pm. Chairwoman Davis was absent. All other Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

There were no changes to the agenda.

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

PUBLIC COMMENT. No public comment.

CONSENT AGENDA

Following item were on the consent agenda:

1. Approval of Minutes: March 5, 2021, Regular

Councilmember Dunn emailed changes to the minutes.

Councilmember Mix connected to the meeting at 6:08 p.m.

Councilmember Harry made a motion to *approve the March 5, 2021, minutes with corrections*. Councilmember Dun seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with one (1) **abstention** (Mix). **Motion carried.**

PRESENTATION

1. Tax Department Update. Vernelda Frazier, Tax Department Director

Ms. Frazier, Tax Department Director provided a complete overview to Tribal Council. The Pyramid Lake Tax Commission, mission statement is dedicated to serve the community and businesses by administering the tax code of the Pyramid Lake Paiute Tribe with integrity, efficiency and consistently as well as maintaining a consensual relationship with the taxpayer and the community. The Pyramid Lake Tribal Council adopted the Pyramid Lake Tribal Tax Code Title 2 Taxation, on December 7, 1990, through Resolution PL 90-90 to promote and achieve social and economic development. Taxes are collected in one year are allocated the following year, are dedicated to support, sustain, and enhance governmental programs and services to taxpayers and all the residents of the Pyramid Lake Paiute Reservation. The Tax Commission is an independent Tribal Tax Board of Commissioners which consists of five members who serve two-year terms. They recommend and oversee the general assessment, levy and collection of taxes in accordance with the Pyramid Lake Tax Code. The tax code was established with a limited waiver of sovereignty to allow the taxpayers due process if there are disagreements. The Tax Judge is Rebecca Kidder of Fredericks, Peebles & Patterson LLP and the Tax Attorneys are John Fredericks and Peter Breuer of Fredericks Law Firm LLC.

Kathleen Bryan, Tax Commissioner, introduced the Commission members: Sherry Ely-Mendes, Anita Dunn, Carla Molino, Denise Shaw, and Alicia Querta. The type of taxes currently being collected are use taxes, which are construction taxes, cigarette and other tobacco products taxes, sales and use taxes, mineral severance tax, possessory interest tax, gaming tax, fuel tax and transient lodging tax. The Tribe assesses the same tax as Washoe County at a tax rate of 8.265%. She continued to explain the definition of the various taxes.

Ms. Molino explained the use tax which is primarily construction. It is important for the Tax Department to be involved in construction projects on the reservation so they can inform the contractors of the rules regarding the collection of taxes and ensure proper taxes are collected for the Tribe. She further explained the collection of taxes on the reservation for the I-80 Smoke Shop, Pyramid Lake Marina, Pyramid Lodge and CEMEX.

Ms. Querta, Tax Accounting Specialist, overviewed the Possessory Interest Tax (PIT) which is assessed on businesses engaged by right away lease contract permit easements in transportation, communications and the supply of energy, natural gas, or water. Currently they have ten taxpayers who pay the PIT which is due on April 15th of every year. Companies currently collected on are AT&T Mobility, CEMEX, Century Link,

Kinder Morgan, SBC, Nevada Bell, NV Energy, Southwest Gas, Sprint Communications, Union Pacific Railroad and Verizon Wireless. She further explained the PIT in detail. Cigarette taxes are based on pack amounts and types for the Enterprise Stores. Regular and diesel fuel taxes are collected from the I-80 Smoke Shop, Nixon Store and Pyramid Lodge. The Tax Department is responsible for remitting payment of non-tribal member sales to the Nevada Department of Motor Vehicles (DMV).

Sherry Ely-Mendes, Tax Commission, provided an overview of the transient lodging and mineral severance taxes. The transient lodging taxes is an assessment on hotel, motel, boarding house lodging, and temporary lodging accommodations that are less than 30 days or less. An example is the RV parks and the Big Bend Park. The mineral severance tax is imposed on those that take minerals from the earth within the boundaries of the reservation. The tax rate is 3% of the value of the severance minerals regardless of the place of sale or the fact the delivery may be made to a point outside of the reservation.

Denise Shaw, Tax Commission, spoke about the total taxes collected for the year of 2018, 2019 and 2020 for taxes collected for the PIT, the sales and use taxes, the mineral taxes, the fuel taxes, cigarette taxes, lodging taxes, the use taxes, and the miscellaneous taxes. Audits are an essential part of the business, and the Tax Commission has the authority to audit tax records and companies that conduct business on the Pyramid Lake Reservation. An independent auditor is contracted to conduct the audit of the businesses identified by the commission.

Ms. Frazier said her department does the local audits and an auditor does the businesses. They haven't done any audits in the last two years because of funding and COVID last year but it's important they get them done or they are out of compliance. They have been working on the Business Personal Property Tax which has to be posted yet and they are also adding a utility tax. There is also a liquor tax which they can't collect on because that is paid based on how much alcohol is in the product, but they have added a two and a half percent liquor tax so the money that comes from the sale of alcohol on the reservation would come back to the Tribe. They are looking to bring this to Council or approval.

Councilmember Brady asked them to explain further on what the miscellaneous tax was. Ms. Frazier explained they are the smaller things that are lumped in together like the interest when somebody is late on payments.

Councilmember Harry asked about the collection incentive, the credit for collecting taxes, is it comparable within the State of Nevada? Ms. Frazier said the State dropped it the last couple of years, but the Tribe kept theirs. The companies self-report and if they get to keep a little collection allowance, they feel more involved knowing they get to keep part of it. They have kept it at 1.5 %. They work with the Business Office, Housing Department, and other departments to keep informed of businesses coming onto the reservation. Councilmember Harry asked in regard to the 30-day transient tax, what happens to the long-term residents, what is their tax code? Ms. Frazier said there is none, it's on the RV parks, they are supposed to make them move if they are long-term, every 30 days to a different space. When working with Crosby Lodge and his trailers and cabins, they told him if it was a permanent residential area to change his name from RV park to a trailer park. It was one of the audit findings with Crosby that he owed transient lodging and he eventually changed the name from RV park to trailer park. Councilmember Harry commented there

was a long-term capital gain on minerals after three years of 3% but companies that were short-term extracting minerals could have a higher percentage. Is that an area they can look at in assessing or is there just a flat rate? Ms. Frazier said if they had an assortment of minerals, they could consider it but currently they collect mineral severance for sand, gravel, and rock. The only company they have is CEMEX.

Councilmember Mix said the tax rate is established by the State of Nevada but isn't the Tribe a sovereign nation? Ms. Frazier said if they undercharge what the State of Nevada and Washoe County charge which is 8.275% and if they charge 55 to get more business, then the State can come in and get the 3.25%. The Tribe's tax must be the same as or greater than which is written into the code. Councilmember Mix asked when they previously discussed with the Tax Department and Gerry Emm, BIA, he thought they could rewrite the taxes and lower them to compete with Fernley whose taxes are lower. Ms. Frazier said they must go with the County they are in, and Fernley is in Lyon County. Councilmember Mix asked what they are doing to try and compete and get customers back regarding the cigarettes and liquor. Ms. Frazier said that would be a question for the Enterprise Manager. Mr. Breuer explained the Nevada Statute, NRS 372805 says the tax they can impose has to be equal to or greater than the State and County imposes. If they don't do that, the State or County can come in and collect above and beyond. It does have some sovereignty issues where the State is coming in and imposing taxes and it's an issue where the Tax Department has their hands tied. This is an issue where they may want to try and work with Washoe County to see if there is some way, they can match a tax rate for another similar County. They do have to find a solution, probably politically on this issue.

NEW BUSINESS

1. Selection Law & Order Committee Vacancy (1 vacancy). Diana Mitchell, Law & Order Committee Chairperson

There were two applicants for the one position on the Law & Order Committee: Ronald Guerrero and Trisha Dunn.

Councilmember Mix asked if a background needs to be on the committee. Ms. Mitchell responded no, a background was not required.

By ballot, Trisha Dunn was chosen to fill the vacant position on the Law & Order Committee.

Councilmember Harry made a motion to *approve the appointment of Trish a Dunn to the Law & Order Committee*. Councilmember Phoenix seconded the motion. Votes were four (4) **for** and one (1) **opposed** (Brady) with three (3) **abstentions** (Dunn, Mix, Wadsworth). **Motion carried.**

2. Selection Election Board Alternates (4 vacancies).

There was one applicant for the four positions on the Election Board Alternate vacancies: Tanda Roberts

By ballot, Tanda Roberts was chosen to fill one of the positions on the Election Board Alternates vacancy, three vacancies were requested to be reposted.

Councilmember Gonzales made a motion to *approve the appointment of Tanda Roberts to one of the vacancies on the Election Board Alternates and to repost for 3 vacancies*. Councilmember Ely seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

3. Extension of Lease Form Negotiation Period for Boulevard Associates LLC with Resolution. Pilar Thomas, Legal Counsel, Quarles & Brady LLP

Ms. Thomas was not present.

Councilmember Dunn made a motion to *table the extension of lease form negotiation period for Boulevard Associates LLC with Resolution*. Councilmember Harry seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

4. Approval for Non-member Access to Closed Area (Pyramid and Stone Mother). Barbara Vest and Raquel Douglas

Councilmember Brady asked if the request went through the normal process, from the Cultural Committee then to the Inter-Disciplinary Team (IDT).

Councilmember Brady make a motion for the *request to go to the Cultural Committee for recommendation, then to IDT.*

Betty Aleck, THPO, said she spoke to two Cultural Committee members, Dean Barlese and Buck Sampson, they felt ashes shouldn't be placed into the lake because it is a living lake even though people do it. There is no formal resolution or regulations disallowing this practice. She thinks there may have been a resolution back in the 80s.

Councilmember Harry seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

5. Approval Long-Range Transportation Plan Resolution. Johnnie Garcia, Transportation Planning

Mr. Garcia said they have a consultant updating the Long-Range Transportation Plan. There is a deadline of June 15th to get it approved and submitted.

Sherry Ely-Mendes, Transportation Assistant, explained Nevada Department of Transportation (NDOT) monitors the crash data on State Route (SR) 445, 446 and 447. SR 447 has been deemed one of the deadlier roads on the reservation because of the shoulder issue. They have been trying to get funding and did partner with NDOT on a significant project grant, but they were not funded for it. They were going to split the funding with them for the widening. The cost of the project would be approximately \$36 million from Wadsworth to the Nixon Store.

Councilmember Harry asked about the center lanes put in at Spanish Springs and compared how the percentage of our tribal member deaths on either of the highways in percentages to our tribal member ratio is huge.

Ms. Ely-Mendes said the state safety team agrees, the road is bad, but the cost would be significantly more than what it cost to put up the k-rails which is what is between the roads in Spanish Springs. They are hopeful the significant projects grant comes up again and they can resubmit. A question was asked if they could focus on some of the tougher areas and do a section at a time. Ms. Ely-Mendes responded they can probably do that, no guarantees, they will have to start looking at grants.

Councilmember Dunn made a motion to *approve the Long-Range Transportation Plan Resolution*. Councilmember Gonzales seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**. **RESOLUTION NO.: PL 066-21 LONG-RANGE TRANSPORTATION PLAN**

Pilar Thomas, Legal Counsel, Quarles & Brady LLP connected to the meeting.

Councilmember Dunn made a motion to *rescind previous motion to table the Extension Lease Form Negotiation Period for Boulevard Associates LLC with Resolution*. Councilmember Wadsworth seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**.

Ms. Thomas apologized for her late connection as she is traveling. She is presenting the option agreement with Boulevard Associates which is an affiliate of NextEra. The options agreement calls for bid negotiation of a form lease agreement which they have been working on for a couple years. Original terms under the agreement where the form lease agreement would be negotiated within 90 days. Due to unforeseen circumstances, the pandemic, they extended the option period, and they are now back to negotiating the agreement. NextEra would like to request an additional extension through the end of July. What is requested tonight is approval of the extension of the option term to negotiate the form lease agreement. It gives NextEra better evidence of site control for when they are negotiating with NV Energy or others to off-take the solar power from the project contemplated on the reservation. It is not the final lease agreement, but it is close to final prior to submitting to the Bureau of Indian Affairs (BIA). Because this document does amend the option agreement it needs to be approved by Council if they agree to grant the extension. After this there is one other issue and that is whether the Tribe will be able to provide water, she will be working with Chris Mixson and the Water Team on this. The other issue is the payments. There is an escalator clause that allows for a 2% increase in the rental payment and the Tribe has countered with 3%. She hopes to have these two issues finalized by the end of July.

Councilmember Wadsworth noticed an error on the resolution for the second whereas, the date says July 31, 2020 instead of 2021. Ms. Thomas will correct.

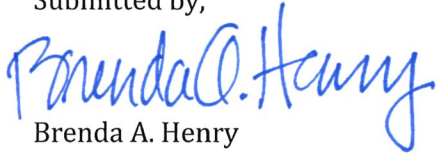
Councilmember Ely made a motion to *approve the Extension Lease Form Negotiation Period for Boulevard Associates LLC with Resolution*. Councilmember Brady seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**. **RESOLUTION NO.: PL 067-21 EXTENSION LEASE FORM BOULEVARD ASSOCIATES LLC**

ADJOURNMENT

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

The meeting adjourned at 7:46 p.m.

Submitted by,

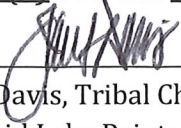


Brenda A. Henry
Tribal Council Secretary

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 1st day of October, 2021, 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: _____


Janet Davis, Tribal Chairwoman
Pyramid Lake Paiute Tribal Council

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