

Pyramid Lake Paiute Tribal Council

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PYRAMID LAKE PAIUTE TRIBAL COUNCIL WATER TEAM MEETING MINUTES Tribal Chambers March 18, 2020

Members Present

Anthony Sampson Sr., Tribal Chairman	Sherry Ely-Mendes, Vice Chairwoman
Janet Davis, Councilmember	William Miller, Councilmember
Judith Davis, Councilmember	Irwin Mix, Councilmember
Cassandra Darrough, Councilmember	Michele Smith, Councilmember
Carolyn Harry, Councilmember	Georgina Wadsworth, Councilmember

Chairman Sampson Sr., called the March 18, 2020 Water Team meeting of the Pyramid Lake Paiute Tribal Council to order at 5:59 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. Councilmember Smith arrived at 6:02 p.m. and Councilmember Darrough arrived at 6:06 p.m. All other Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

Chairman Sampson Sr., requested an addition under New Business #1. Approval/discussion COVID-19 and the removal of the Presentation #1. Truckee Canal Extraordinary Maintenance EIA. Terry Edwards, Bureau of Reclamation (BOR).

Vice Chairwoman Ely-Mendes made a motion to *approve the agenda with changes*. Councilmember Judith Davis seconded the motion. Votes were **seven (7)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

CONSENT AGENDA

Following items were approved on the consent agenda:

1. Approval of Minutes: February 19, 2020 WTM
2. Approval Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP January 2020 Invoice
3. Approval Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP Tribal Attorney Contract with Resolution

Councilmember Harry made a motion to *approve the consent agenda*. Vice Chairwoman Ely-Mendes seconded the motion. Votes were **seven (7)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.** **RESOLUTION NO.: PL 037-20 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN LLP TRIBAL ATTORNEY CONTRACT**

Councilmember Smith arrived at 6:02 p.m.

NEW BUSINESS

1. Approval/discussion COVID-19.

Councilmember Darrough arrived at 6:06 p.m.

Chairman Sampson Sr., has been working with the Executive Team regarding the COVID-19 closures and they've come up with two plans to protect the integrity of the Tribe and membership. In the plan they identified essential and non-essential departments. Following is a short description of department status: finance department will require all paperwork to be submitted electronically, enrollment will limit contact, judicial will be using video teleconferencing, transit will stop bus routes, museum will close to outside visitors, health clinic will be prescreening with limited access, maintenance will be doing extra cleaning in public areas, cultural program cancelled their classes, day care facilities closed for cleaning and renovations, Numaga cancelled congregate meals and will continue providing home meal deliveries, camping permits considering closing the 3 day permits but continue with boating and fishing, Sumunumu has cancelled community classes, Victim Services cancelled community classes, all Nevada State schools have closed until April 6th per Governor's declaration and high risk individuals are encouraged to stay home. Public Utilities Department (PUD) and Human Resources (HR) will continue as essential departments, cancelling all committee and board meetings until further notice, Lake Maintenance dependent on Council's decision, JOM closing, Realty department will be limited contact with a drop box for payments, and Enterprise stores will remain open with constant cleaning and stocking for membership. In case Council wanted to entirely shut-down, they identified essential and non-essential employees. Essential departments: EMS/fire, Police department, Health Clinic, Victim Services, Social Services department, Tribal Enterprises, Numaga Senior Center (deliveries and drivers), Facilities Maintenance, Technology, Security Personnel at S Bar S and Executive Team (ET). Non-Essential departments: Natural Resources department, TERO, Enrollment, Museum, Parks & Recreation, THPO, Judicial Services, Roads Maintenance, Transportation Planning/Transit, Child Care, Higher Education, JOM, Cultural Languages, Tribal Land Manager, Lake Maintenance, Realty department, Contracts & Grants, and Boards and Committees.

There are two options for Council to consider: 1) remain open with services deemed essential or 2) keeping essentials on and place others on administrative leave.

For the first 14-days, it would be administrative leave, then the law that was passed that would allow the Tribe to be reimbursed for lost revenue would kick in. Douglas Williams, Executive Officer explained the federal government passed the Family First Coronavirus Response Act that day, a bill that will reimburse and assist with the coronavirus. There is a 14-day sick leave relief in

the bill, the first 10-days are unpaid leave but they identified if Council initiated administrative leave for the first 10-days they'd be able to supplement those days. After that period, 14-day would kick in and be reimbursable from the federal government. Option 2- The non-employees would be off for a 24-day period ending April 21st. They would track it and 14 days would be reimbursed. The first 10-days is already in the budget.

Councilmember Mix asked if they sat down with each department and reviewed their priorities. Chairman Sampson Sr., said they were going to meet with the "team", consisting of the Executive Team, Vice Chairwoman, EMS and Health Clinic to initially review to make sure they had everything in line. After tonight they will be meeting with the directors. Vice Chairwoman Ely-Mendes said they did have discussions with some directors informally in the director's meeting. The essential staff have made their plans and put them into place. With the Transit department, they had concerns with the driver's who have young children in their families, and they had discussions with their funding agency, and stated they will support the Tribe. The ET needs to have discussions with each department and have them call their funding agencies to see what they will support. Tribal Council needs to decide now from this point forward to minimize the Tribe's risk and still provide services, it'll cost the Tribe funds but it's safety first, they have to make decisions on logical decisions. They provided information to directors on how to go on-line and apply for unemployment because they don't know how long this is going to go on.

Lesley Hawley, Human Resources director, explained the difference between administrative leave and furlough. Administrative leave is when employees are on leave at home with pay and furlough is without pay.

Mr. Williams said if they decide on administrative leave for non-essential, the first 10-days is already budgeted. The 14-days after that they will track for reimbursement.

Councilmember Judith Davis said if they shut down the lake, she said they should shut it down completely and not in pieces. There are departments who deserve credit for taking the initiative by putting in place, without directive, restrictions before any direction was given.

Ms. Hawley, HR director, explained the difference between non-essential employees during the furlough back in December and furloughed employees now. *(audio too low to understand further description)*

Mr. Williams stated within the law, if anyone or their family has the coronavirus they can get up to 3-months paid sick leave.

Councilmember Darrough stated there are currently 45 cases in Nevada, two confirmed in Washoe County, no presumptive cases, no tribal cases but it's growing. Need to provide factual information to members, that's what they want and are looking for.

Councilmember Judith Davis wished communication was better since they met the previous Tuesday and nobody has heard anything except for the informal department meeting until this meeting. The bottom line here, is it's not a vacation but members need to shelter in place.

Vice Chairwoman Ely-Mendes recommended they do the administrative leave for non-essential employees for the 10-day period, during this period they also let them know they may want to go on-line to check out services and start applying because this can go longer and we won't be able to pay beyond that point. They will have to use sick/annual leave and if they don't have it they will have to make choices. So, while they are at home they should be planning for themselves. Essential employees, if they have issues they can decide on their own on what they want to do at that point. This is an individual choice. With the lake we can reasonably close camping since there is not many people out there now. We can close the public road now.

Chairman Sampson Sr., stepped out and Vice Chairwoman Ely-Mendes took control of the meeting.

Ms. Hawley stated the information submitted was taken directly from the information passed by the Senate. This allows for an emergency sick leave of 14-days or 80 hours or sub-rated for part-time employees, to shelter-in-place, it's expands the family medical leave.

Councilmember Harry made a motion to *approve amendment to Section 10 for Leave as submitted*. Councilmember Judith Davis seconded the motion. Votes were **eight (8)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

Councilmember Harry made a motion to *approve Section 16. Telecommuting Policy for Use with Resolution*. Councilmember Judith Davis seconded the motion. Votes were **seven (7)** for and **zero (0)** opposed with **one (1)** abstention (Wadsworth). **Motion carried.**

Councilmember Judith Davis said Court Services were listed as non-essential, does that mean full court closure. Mr. Williams said the administrators will be working and they are working on video conferencing, they are still providing services but limiting contact on a case by case basis. Councilmember Judith Davis said within the Law & Order Code there are timelines for individuals in the court system and this department should be moved to essential. Vice Chairwoman Ely-Mendes said the Judicial department needs to be moved to essential.

Councilmember Smith asked if there was a hiring freeze. Ms. Hawley said they already instituted and are looking at essential positions.

Chairwoman Ely-Mendes also identified Contract & Grants as essential due to grants. Mr. Williams said Pamela Wright and Jill Mix can take over those duties and do the drawdowns and write the grants. It was decided to move the position to essential.

Chairman Sampson Sr., confirmed that Boards are essential but Committees will remain non-essential.

Councilmember Harry made a motion to *initiate administrative leave for listed non-essential as amended (moving Judicial, Contracts & Grants and Boards to essential) employees for up to 24 days*

and reassess after 20 days effective Friday, March 20, 2020 at 4:30 p.m. until April 23rd. Councilmember Smith seconded the motion. Votes were **eight (8)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

Councilmember Judith Davis requested the Human Resources department be involved in all meetings with the Executive Team regarding Coronavirus.

Chairman Sampson Sr., returned to his seat at 7:45 p.m.

NATURAL RESOURCES DEPARTMENT. *Donna Noel, Director, Natural Resources (NR) Department*

1. Approval Project WE Workshop in Wadsworth. Robyn Mercer, Wetland and Water Quality Technician

Ms. Mercer is requesting permission for Project WET to hold their training here on Sunday, May 3, 2020 at the Wadsworth Community Building. Project WET is a non-profit organization that specializes in water education. These are free trainings offered specifically for teachers to give them the resources and tools they need for water education in their classrooms. Attendees will also receive "Continuing Education Credits" which they need to fulfill each year. Training will include presentations, tours and speakers. They have partnered with Project WET in the past and at that time took a tour of Numana Wetlands. For this training they have a tour planned for Marble Bluff Dam and was asked if the Tribe can host this year. They will present about the Tribe's water problems and issues we face on the Reservation, along with doing another tour of a wetland to explain their functions and importance on our land. She will send an invite to both Natchez School and Pyramid Lake High School teachers. This request was approved by the Inter-Disciplinary Team (IDT) and recommended for approval by Tribal Council.

Councilmember Harry made a motion to *approve the request for the Project WET Workshop in Wadsworth contingent on COVID-19.* Vice Chairwoman Ely-Mendes seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

2. Approval for Donna Noel, Natural Resources (NR) Director, to be on the Bureau of Land Management (BLM) Geothermal Project as a Cooperative Agency and to give BLM Non-proprietary Geothermal Information.

Ms. Noel requested approval to be a part of the BLM Geothermal Project as a Cooperative Agency on behalf of the Tribe. This is in regards to BLM's consultation on the San Emidio II Development Project. She's wants to capture the Tribe's concerns in the Environmental Assessment and provide answers to the concerns raised. Concerns center around the development impacting the geothermal reservoir that's' on tribal land. Being a cooperative agency on this project gives the Tribe the ability to see reports before they are released to the public.

Vice Chairwoman Ely-Mendes made a motion to *approve Donna Noel, NR Director, to be on the BLM Geothermal Project as a Cooperative Agency.* Councilmember Judith Davis seconded the motion. Votes were **nine (9)** for and **zero (0)** oppose with **zero (0)** abstentions. **Motion carried.**

Ms. Noel presented a letter from BLM requesting permission to provide information on the Tribe's geothermal resources, this will aid them in addressing the Tribe's concerns in the Environmental Assessment.

Vice Chairwoman Ely-Mendes made a motion for *approval to provide BLM Non-proprietary Geothermal Information at Natural Resource Department's Discretion*. Councilmember Darrough seconded the motion. Votes were **eight (8)** for and **one (1)** opposed (Mix) with **zero (0)** abstentions. **Motion carried.**

3. Approval Renewal of BIA 1-year Extension of the Temporary Grazing Permit with Resolution.

Ms. Noel presented the 1-year renewal extension for the temporary grazing permit. BIA will extend the existing permit for another year. The Range Program is currently out completing range assessments hoping to be completed by September. The data will be given to BIA and they will issue a new permit after reviewing the health of the range. Councilmember Judith Davis confirmed this is when they will come back with the AUMs.

Councilmember Harry made a motion to *approve the BIA 1-year Extension of the Temporary Grazing Permit Resolution*. Councilmember Smith seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.** **RESOLUTION NO.: PL 040-20 BIA GRAZING PERMIT 1 YEAR EXTENSION**

4. Approval Reno Sparks Indian Colony Mobile Tour to Pyramid Lake.

Ms. Noel said this event was cancelled.

5. Approval Truckee River Tour with Nevada Water Resources Association.

Ms. Noel said this event was cancelled.

6. Approval U.S. Geological Survey (USGS) Sage Grouse Surveys.

Ms. Noel said USGS wants to continue their Sage Grouse monitoring on the Virginia Range, most of the land the Sage Grouse is on is not on the reservation, but every now and then the birds come over. When they do, they call Natural Resources for an escort to go with them. They provide their data to the NR department for their data base. They've been conducting monitoring since the Tule Fire and will monitor from March through August 2020. This item went through IDT with recommendation to present to Tribal Council. IDT recommendations to stay on established roads, provide data to NR Department, remind group unlawful to remove any items from the reservation and provide notification to the department when they have planning on coming out for notification to Pyramid Lake Police and Ranger departments.

Vice Chairwoman Ely-Mendes made a motion to *approve the request from the U.S. Geological Survey Sage Grouse Survey on the Virginia Range*. Councilmember Judith Davis seconded the motion. Votes were **eight (8)** for and **zero (0)** opposed with **one (1)** abstention (Janet Davis). **Motion carried.**

Karen Shaw, Pyramid Lake Cattleman's Association, commented they have an agreement with BLM on White Hills and Hardscrabble, and they have tribal members who want to put their cattle on those ranges. She spoke with Mat Spaulding, BLM, and he needs an email from the Chairman saying it's approved now that the Tribe has the extension. They are opening Hardscrabble this year. Chairman said he was waiting on an AUM count on the ranges from BLM.

WATER TEAM REPORT

Chris Mixson, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP. Report submitted

Endangered Species Act (ESA) Section 7 Consultation. Mr. Mixson said this is where the Bureau of Reclamations (BOR) has reinitiated Endangered Species Action Consultation with the US Fish & Wildlife Service (USFWS) over ongoing operations under the OCAP which cover diversions from the Truckee River into the Truckee Canal. On January 9th, the Water Team submitted comments to BOR on the draft Biological Assessment, on February 3rd, BOR submitted their final Biological Assessment to USFWS, this was the trigger for the formal consultation. Now USFWS prepares the Biological Opinion. This is an ongoing project, taking a fresh look at BOR's diverting water out of the Truckee River into the Truckee Canal to see how it's impacting the fish. The Biological Opinion should include an Incidental Take Statement, under the ESA you're not allowed to take listed species (killing them) but you can get an Incidental Take Statement, during your project that says there's an incidental killing of a listed fish you'll not be in violation of the ESA if they meet all the terms and conditions, mitigation measures, etc. Usually there will be a number attached stating the amount that could be killed within a year. Here they can't put a number of Cui-ui and Lahontan Cutthroat Trout (LCT) they might take. This is the part they'll be working with USFWS on how they will quantify the amount of take of the listed fish that can occur because of diversion of Truckee River water. It will probably be tied to habitat loss and Pyramid Lake elevation. BOR recently started taking the legal position that they don't need an Incidental Take Statement for operating the Truckee Canal. He will be working with the solicitor at USFWS to figure out why BOR is taking the legal position and hopefully USFWS will push back. BOR is changing their tune, up until now they've always said they would need an Incidental Take Statement but under Trump, the Secretary of Interior's position with the new regulations for the ESA, BOR says they don't need an Incidental Take Statement.

Councilmember Judith Davis asked about BOR's Truckee River presentation, which that they were supposed to have that night, does a part of the Environmental Impact Statements scheduled comments from March 6th-April 20th, is this the same topic? Mr. Mixson said it is separate from the ESA, what BOR was presenting was the EIS for repairs to the Truckee Canal XM (extraordinary maintenance). Speaking with Stetson they will ask for the comment period to be extended because of the shut downs with Coronavirus. Don't think they'll agree to it but they want to get it down on

record that it's unreasonable to expect anyone to get comments in under these conditions. They will have comments ready just in case they don't extend the comment period.

TROA, Newlands Project Water. He last updated Council on this topic in January, regarding the Newlands Project Water where BOR holds the Truckee Canal Irrigation Districts (TCID) water in the reservoirs on the Truckee side. If TCID doesn't need the water to be diverted into the Truckee Canal, it converts to Fish Credit Water and the Tribe gets the water. Historically, if the water was available to TCID to divert they would take everything and sometimes they would fill up Lahontan, then if there's a late storm on the Carson Basin it would spill out of Lahontan. The idea with Newlands Project Credit water is they would hold it back on the Truckee side, see how the hydrologic year holds up and if they decide to keep it, TCID gets it, if not, the Tribe gets it. They are currently building a fish screen on the Truckee Canal to keep fish from going into the canal, and had to shut down diversions in the Truckee Canal in January-March. While they shut down the diversions they wanted to store the water in the Truckee basins as Newlands Project Credit water but the Water Team said they can't do that. The purpose of Newlands Project Credit water is to store it to see if its needed later but since the canal is diverting water and they store it, the canals prevent the water from going to Pyramid Lake and if you prevent that from happening that would be contrary to TROA and the Settlement Act. The Chairman sent them a letter telling them they can't store Newlands Project Credit water at the same time they're doing the fish screen construction. Once the letter was sent BOR changed their mind and agreed with the Tribe.

Swan Lake Lemmon Valley. This is the pipeline from Swan Lake through Hungry Valley. Tribal Council agreed Washoe County could only begin studying what the potential impacts might be to Pyramid Lake if they do the project. The Tribe did not agree to "the project", they just agreed a study can be done for the project and they were to bring back their findings to the Tribe. They then bypassed the Tribe and file a water rights application with the State Engineer to get a water rights permit to do the project and the Tribe filed a protest. The Tribe said they needed to first do studies which the Tribe agreed to so why are they filing a water application. In their application they said the water in Swan Lake contained both flood water and treated effluent, but they would only pipe the flood water but the question was asked "how can they do that when it's mixed". Since it takes a lot of time and effort when water applications are protested, the State Engineer stopped the application and placed it back on the requestor to work it out with both parties. Washoe County can't do anything without the Tribe's approval.

Federal Lands Legislation. Washoe County asked the Tribe to provide written comments so they sent them high level comments basically asking for land for the Tribe and will provide a proposal to Council in the future. The federal land within the disposal boundary is eligible to be nominated to be disposed of, which means the federal government sells it to developers. It has to be appraised and they pay fair market value for it and included in the legislation of these lands bill is what do they do with the money when they sell these lands. One of the Tribe's comments was you better put some of that money toward the Lower Truckee River restoration activities and water conservation. Another comment was the Tribe wanted to see the text of the bill, what exactly is the lands bill going to do but they haven't shared any information yet. Councilmember Mix asked if the developer was going to change the zoning laws. Mr. Mixson said part of the lands bill was that it's automatically zoned for housing. It's the county that nominates the land to be sold to the

developer, so it's the city, county and developer working together to pick the spots they want. One of the changes in this lands bill from last time around is the disposal boundaries in the entire south west reservation boundary. This time they carved out an area titled environmentally sensitive lands. This was another question the Tribe had since there is no federally definition for environmentally sensitive lands. He's told there is a bunch of culturally sensitive sites in the area, Chairman Sampson Sr., interrupted saying they've been having a hard time getting the information from BLM then they took it off the table. Councilmember Harry asked how do we go about getting the lands transferred. Mr. Mixson said if it's part of the lands bill it could be a provision in the legislation that it's automatically transferred to the Tribe. Not sure if it's going to go anywhere, currently all the environmentalist are against it. There're problems with the bill as it currently is.

San Emidio Geothermal Project. The Tribe provided scoping comments to BLM on the project, copies attached for Council. BLM will have to do NEPA if they're going to approve this project for ORMAT. They can do an environmental assessment which is a lesser review than a full EIS. The Tribes comments are they will have to do a full EIS because of the potential impacts on the Tribes resources. Donna Noel, Natural Resources Director will be on the cooperating agency for this project.

Federal Reserve Groundwater Rights. This will be in Executive Session.

Allan Richards, Stetson Engineers Inc. Report submitted.

EXECUTIVE SESSION

Vice Chairwoman Ely-Mendes made a motion to *move into Executive Session*. Councilmember Janet Davis seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.** *Tribal Council moved into Executive Session at 8:20 p.m.*

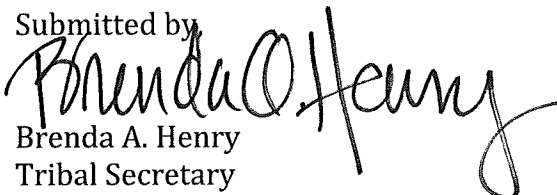
Councilmember Janet Davis made a motion to *move out of Executive Session*. Vice Chairwoman Ely-Mendes seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.** *Tribal Council moved out of Executive Session at 8:33 p.m.*

ADJOURNMENT

With no further business before the Tribal Council, Vice Chairwoman Ely-Mendes 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 8:33 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 16th day of June 2020, having seven (7) members present, constituting a quorum, by the vote of six (6) 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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