

Pyramid Lake Paiute Tribal Council

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PYRAMID LAKE PAIUTE TRIBAL COUNCIL REGULAR MEETING MINUTES Tribal Chambers ~ Nixon, NV September 9, 2020

Members Present:

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

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

Chairman, Anthony Sampson Sr., called the September 9, 2020 Special Tribal Council meeting of the Pyramid Lake Paiute Tribal Council to order at 6:02 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. Councilmember Smith arrived at 6:05 p.m., and Councilmember Darrough arrived at 6:14 p.m. All other Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

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

1. Addition under Unfinished Business #3. Approval Pyramid Cannabis Resolution Authority Charter with Resolution
2. Addition under New Business #1. Approval Victim Services COVID-19 Assistance Application with Resolution. Michael Guss, Contracts and Grants
3. Addition under New Business #2. Approval HTTS Consultants LLC Proposal.

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

Councilmember Smith connected to the meeting at 6:05 p.m.

UNFINISHED BUSINESS

1. COVID-19 Update and 2. Legal Counsel Update. Pilar Thomas, Quarles & Brady LLP

Chairman Sampson Sr., requested confirmation from Ms. Thomas on materials on backorder and with the cutoff date of December 30, 2020, can they extend the projects? Ms. Thomas, legal counsel, said the Treasury just updated their guidance and FAQs and clarified a few items. There have been questions from Tribes about capital projects: new roads, new structures especially public health structures like water or broadband. Treasury's position has always been that you can't use the funds for capital improvement projects or for economical development projects. Examples: you can't use to build a new hospital but you can use to build a temporary field facility, the funds are only supposed to be used for current COVID mitigation and response. It's obvious there needs to be improvements done to buildings that are permanent or to expand capacity. New guidance came out which clarified that you can use the funds for public health infrastructure such as new water systems plus things that make support and make the systems work. You can use for expanding broadband capacity but not building new capacity. Funding can be used for incurred cost from March 1st to December 30th. Incurred costs, meaning you may incur costs today but may not write the check for it until later. Treasury allows for this scenario. Chairman Sampson Sr., asked if it was possible to replace lost revenue with COVID funding. Ms. Thomas said no, you cannot replace lost revenue using COVID funds, at least not directly. Treasury has said you can replace salaries with CRF funds. You have public safety (police/fire), public health (any personnel under clinic), and social services, these employees, the Treasury presumes are 100% dedicated to mitigation and response to COVID. You can use CRF funds to pay 100% of their salaries plus 100% of benefits and any other costs they incur in their duties. The Tribe is possibly getting Indian Health Service funding for the clinic, 638 funding for law enforcement and possibly social services, EMS doesn't get any funding, the salaries from these funds is usually used for salaries but can now use COVID funding for salaries for these departments and use their other funding somewhere else.

Councilmember Harry commented this is an opportunity to think about a small dialysis center using Indian Health Service funds or other funds they receive. Question for Council, the revenue from the Enterprises for fireworks - was told per an agreement it pays for law enforcement/EMTs/first responders. What is the revenue for fireworks geared to? She feels there's a huge cash flow still going to these departments?

Vice Chairwoman Ely-Mendes said the funds should be in a safe box for next year, a surplus or starting point for them.

Councilmember Wadsworth said funds are used for the Rangers, Law Enforcement & a portion to Lake Maintenance. Tax funds not limited, Police Department, Emergency Response and Parks & Recreation are funded through the tax funds. They can probably use those funds elsewhere because those departments are paid 100% out of the CARES fund. She's sure the Comptroller has thought of this already but not sure why it hasn't been brought forward.

Vice Chairwoman Ely-Mendes stated it's now surplus and shouldn't be used now but put in a secure place to be used when needed.

Councilmember Wadsworth reminded Council there is no carry-forward on any funding that is "left over".

Councilmember Judith Davis commented not the full amount of what is sold with the fireworks goes to those departments, only a portion, she's not sure what the percentage is. Last year the Enterprise did outstanding in their fireworks and they were told by the Business Manager it was going to be left in their account for a raining day fund. Council was asking about why they weren't paying back for the carport that burned for the gas pumps but received no answer.

Chairman Sampson Sr., said they paid the funding back.

Benjamin John, Business Officer, said the issue was that nobody can locate, finance doesn't have any record of the fact that Council gave the Enterprise money. Everybody can remember it but there's no actual record of it.

Vice Chairwoman asked who owns the building? Mr. John said the Tribe owns the building. Vice Chairwoman said Enterprise only occupies it, so they collect taxes off of their sales and with their rainy-day funds they can reappropriate because it is a rainy day for the whole Tribe now.

Councilmember Wadsworth suggested charging them rent.

Mr. John commented what has always been said by Council was for them to let them know what repairs need to be made and they make them because they're not slumlords but it's never happened so that is what they're doing now is making repairs that have been neglected for 20-30 years.

Chairman Sampson Sr., said yes, the Enterprise are making repairs, but he thought the bills Councilmember Judith Davis was talking about were paid back. It was mentioned by Alan Mandell in the past and he thought it was reimbursed through some other funding. Vice Chairwoman Ely-Mendes stated apparently not since nobody has any record of it. If it's not documented it didn't happen. Everyone should be paid out of COVID funds, essential personnel, they're working for the Tribe and covering multiple bases, they should be paid fully out of the COVID funds and save the other funds until it's needed.

Ms. Thomas remarked in regards to lost revenue, no, you cannot use it directly but can use it to displace other federal funding. All COVID funds must be allocated or spend by the end of the year. If it is not used or allocated by the end of the year, the Tribe has to return it.

Administrative costs. Specialist brought in – legal, technical people, anyone who is hired to assist with COVID can be paid with CRF funds.

Vice Chairwoman Ely-Mendes commented the Pyramid Lake Housing and Clinic have their own COVID funds. Get an update on how they're spending and saving.

Ms. Thomas said funding for the housing comes from the HUD program and the clinic funds come from Indian Health Service (IHS).

Vice Chairwoman Ely-Mendes would like to see an update on all program funds. If they got extra funding would like to see their budgets.

Councilmember Judith Davis said to make sure they have everything earmarked, allocated and ordered by the middle of December. Vice Chairwoman Ely-Mendes said no later than December 1st. Councilmember Judith Davis said the information needs to get to the Departments as soon as possible.

Ms. Thomas said she sent the last guidance to Ms. Mix and Mr. John.

3. Approval Pyramid Cannabis Resolution Authority Charter with Resolution (PCRA). Pilar Thomas, Quarles & Brady LLP

Ms. Thomas explained during a Tribal Council workshop a couple weeks prior when she briefed a proposal for a tribally chartered entity, a separate entity from Tribal Council, that would manage the disposition of the cannabis products at S Bar S Ranch. This is based on the analysis completed by William Adler, testing of the product, the value and the types of products the plants can be turned into. It's not needed for litigation and all it's doing is costing the Tribe to protect it. She drafted a proposal for the agreement, the Pyramid Cannabis Resolution Authority Charter and the sole purpose is to sell the cannabis product, not to cultivate, not to manufacture, not to create product, just sell what's there. It also has the capability to enter into contracts so the product can be sold and maximize the revenue Mr. Adler's recommendation is to partner with someone who can turn what the Tribe has into a sellable product. It would be run by a single director/general manager. They would have the authority to hire consultants, lawyers, staff if necessary, as a part of selling of the product. Those personnel would be paid out of the selling of the products by the entity so the Tribe wouldn't be putting up funding. Contracts would be paid out of the sale of the product. The general manager would be empowered by the Council to resolve all the cannabis sales. Rules are written into the PCRA, very limited powers, not as broad as other tribal charters, very narrowly written to keep the PCRA under control. The general manager will be hired by Tribal Council, report to Council but can't take direction from Council, it's to protect them from not making any decisions about the cannabis product anymore. The only decision Council is making is to create the PCRA and to hire the director. The PCRA will have sovereign immunity. The director can enter into a contract and waive sovereign immunity but the Council has to approve the waiver. Product is worth about \$4-9 million.

Councilmember Janet Davis asked how long will the selling of the product will take.

Ms. Thomas said it will take several months. The product is currently in 3 or 4 stages of condition. There are timelines for each stage to get ready for selling and may have to contract with various companies for the different stages. They will be required to update Council on the status quarterly. A key feature of this agreement is its self-emulating, once the last product is sold, the authority

automatically dissolves and terminates. Council always has the power to amend or terminate the charter anytime.

Councilmember Janet Davis asked if they were confident, they can find someone who can fill the spot or do we have someone who can vet/check the applicants.

Ms. Thomas said the charter says the director has to get a State & Tribal Marijuana License, and the company has to get its marijuana license from the Tribe. This company will only operate on the Reservation but the director must get a license from the State and the Tribe. She spoke about this with Mr. John and it's not included in the charter but the proposal would be that Mr. John would assist, along with herself, and including Mr. Adler who said he wants to do it but she has told him he needs to get two other recommendations to vet and if he's the best candidate than there will be no issues hiring him. Mr. John asked if they will have to get 2 other people to vet for the project.

Councilmember Judith Davis asked Mr. John if they approve this, how much are they saving. Mr. John said currently they're spending \$20,000 a week on security.

Councilmember Harry asked what's the verbiage that makes it legal on the reservation, the fact it's on fee land? Ms. Thomas said the Tribe has an ordinance but it's not federally legal. It's still a federal crime, we can propose, create a special authority legally separate from Tribe.

Ms. Thomas mentioned from a reporting standpoint, the director/manager will be required under the Tribe's ordinance to report to the licensing office (Business Office), this includes the approval of contracts by the licensing office. The licensing office will provide reports to Council. From a tax perspective, she doesn't think they'll have any tax issues because the revenue from this will go to the Tribe but they will have a conversation with the tax commission to be clear not to tax.

Ms. Thomas clarified the approval of the resolution which adopts the Pyramid Cannabis Resolution Authority Charter.

Councilmember Harry made a motion to *approve the Pyramid Cannabis Resolution Authority Charter with Resolution*. Councilmember Mix seconded the motion. Votes were seven (7) **for** (Councilmember Judith Davis lost connection) and zero (0) **opposed** with one (1) **abstention** (Wadsworth). **Motion carried.** RESOLUTION NO.: PL 093-20 PYRAMID CANNABIS RESOLUTION AUTHORITY CHARTER

NEW BUSINESS

1. Approval Victims Services COVID-19 Assistance Application with Resolution. Michael Guss, Contracts & Grants

Mr. Gus explained the Victim Services Program would like to apply for \$100,000 in COVID-19 assistance to Tribes funds from the United States Department of Justice, Office on Violence Against Women. These funds are needed to meet increased demand for motel stays as well as ensure staff has proper personal protective equipment and proper equipment to work from home. No match is

required on this grant and full Indirect Costs are paid. This request was processed and approved through the Executive Team. Request approval to submit an application with resolution.

Councilmember Janet Davis made a motion to *approve the request to submit the Victims Services COVID-19 Assistance application with Resolution*. Councilmember Wadsworth seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

2. Approval HTTS Consultants LLC Proposal.

Mr. John said they had this group in mind when they were talking about the Pyramid Cannabis Resolution Authority Charter (PCRAC), since there are not a lot of people qualified in this profession. He stumbled on this group when researching this and one of the members of the group has been apart of the marijuana business going on 10-12 years and they already reached out to some of their contacts in the state and they do have a verbal commitment from a dispensary in Reno to buying 1,000 lbs. a month. And recently before they received their tribal business license, a few of the people they contacted were getting back to them asking when this would be set up because they're ready to purchase. He knows it goes beyond finding a director since this company is ready to go.

Councilmember Harry said she has an issue with this being proposed now. When they approved the license, it was for a general business and when they briefed their business it was to help people with businesses proposals and there was nothing presented about cannabis. Mr. John confirmed she is correct because it's two different licenses. Councilmember Harry stated they couldn't entertain an approval now since they just approved the PCRA and they would need something further than a one-page document.

Mr. John is asking Council to entertain and listen to their proposal. Even though Ms. Thomas was talking about William Adler, the last time Mr. Adler briefed about marijuana was in June, so this product has been sitting in the warehouses since then.

Councilmember Mix thinks they should move forward with them, they are tribal members and they seem to knowledgeable on what needs to be done. Plants can't sit there, it's going to spoil and get moldy.

Councilmember Harry said it's the process and we know this company is closely related to Mr. John and she has an issue with it. Councilmember Wadsworth said Ms. Thomas was going to ask Mr. Adler to recommend other companies and take it on himself, which makes her a little suspicious.

Vice Chairwoman Ely-Mendes said sitting on this project for months and Mr. Adler hasn't come forward with a plan. It's costing \$20,000 a week for security. Mr. Adler is the Tribe's lobbyist, how much of a conflict of interest would this be.

Councilmember Harry asked how are they going to pick, how did Council decide procedure. Vice Chairwoman Ely-Mendes said Council decides, they gave the Executive Team a directive.

Councilmember Mix said in emergency situations they can appoint someone.

Councilmember Wadsworth thought they needed to make a proposal to Council on how they would do this, she would like to hear specifics. Mr. John said that is all he was asking for. Councilmember Harry asked if they can listen to it. Vice Chairwoman Ely-Mendes said the contract is over \$50,000, the Council will have to hear it.

Councilmember Janet Davis asked if we will have to find 2 people? Mr. John said they would be the people Mr. Adler would reach out to. The director position goes away once Council agrees to a group that will be selling, then the authority isn't involve. Councilmember Janet Davis asked if HTTS is going to oversee the director. Mr. John said HTTS will do the actual selling, Mr. Adler will act as the director, he will have to get a license from the Tribe. HTTS already has a State license they would only need a tribal. Councilmember Janet Davis said in all fairness she thinks we should have more than one company to choose from.

Vice Chairwoman Ely-Mendes said we can hire a manager/director, however they don't have to, instead they direct Mr. John to get 3 more candidates. Mr. Adler can vet two more candidates and Council will select. In fairness, need to see more than one candidate and they will have to have State and Tribal licensing. Mr. Adler was going to be a broker to find these individuals. Since they don't have the funding now to hire a director, suggest they appoint Mr. John as director so he can get this project moving forward.

Councilmember Mix said when these plants are down and nobody takes care of them, it's going to ruin the whole crop and the Tribe will end of up with nothing.

Mr. John said to date, the Tribe has spent \$587,000 on security.

Councilmember Harry said she understands this is an emergency but why not follow procedure. Vice Chairwoman said because it's a business not tribal programming. Once they make the decision they take their hands off the business, they don't want to be in that business.

Chairman Sampson Sr., said Ms. Thomas recommended appointing Mr. John temporarily as the director.

Councilmember Wadsworth commented they can appoint Mr. John as the director and he can proceed in accordance with the charter and do the vetting and hiring of any contractors and keep Council out of the process.

Councilmember Janet Davis provided an update on the census, they have several people who refuse to do the census. Asking Chairman to send an email to employees to encourage their families to get the census done. We're currently at 42% and it's difficult to get everyone to get it done. She's grateful for the volunteers. Chairman said he would put something out the following day.

ADJOURNMENT

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

The meeting adjourned at 8:09 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 16th day of October 2020, having nine (9) members present, constituting a quorum, by the vote of five (5) FOR and zero (0) OPPOSED, with three (3) ABSTENTIONS.

Minutes attested and concurred by: _____


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

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