

Pyramid Lake Paiute Tribal Council

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PYRAMID LAKE PAIUTE TRIBAL COUNCIL REGULAR MEETING MINUTES Tribal Chambers ~ Nixon, NV February 1, 2019

Members Present:

Anthony Sampson Sr., Tribal Chairman

Alan Mandell, Vice Chairman

Judith Davis

William Miller

Nathan Dunn

Sharon Shaw-Keever

Sherry Ely-Mendes

Michele Smith

John Guerrero

Members Absent:

Janet Davis

CALL TO ORDER

Tribal Chairman Anthony Sampson Sr. called the February 1, 2019 Regular Tribal Council meeting of the Pyramid Lake Paiute Tribal Council to order at 6:00 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. All Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

Councilmember Guerrero asked why the data report presentation by Mr. Kirk, Principal, Natchez Elementary School was pulled from the agenda, he had important data that needs to be presented to Tribal Council. Chairman Sampson Sr., stated he wanted to meet with Washoe County School District first, then meet with Mr. Kirk. His presentation will be placed on the March 1st agenda.

Chairman Sampson Sr., requested the following be added under Consent Agenda:

#5. Approval Business and Liquor Licenses for the Enterprise Stores: I-80 Smokeshop, Pyramid Lake (PL) Marina and Nixon Store. Their licenses expired on December 31, 2018.

#6. Approval Business License for Wild West Burgers, Blaine Florez. His license expired on January 5, 2019.

Councilmember Guerrero made a motion to *approve the agenda with the additions*. Councilmember Smith seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

PUBLIC COMMENT

James Phoenix. Mr. Phoenix was speaking on behalf of Sutcliffe, he met with some residents in the past month and they had some questions. He wanted to inform the Council since he believes that if they are aware they can do good things than if they're not aware they have no idea what's happening. They have an issue with the playground, it hasn't been touched in a while, the community building, was happy to see some maintenance currently happening, but if they communicate that to the community, they wouldn't be asking questions; issues with the boat dock below the marina; fix the gas pumps at the PL Marina; the dump by Pyramid Lake Store, patrolling the dump for illegal people using the dump and making available during the weekends; water in Sutcliffe, what is the quality, taste like chlorine, it's brown, not sure if it's the old homes with older plumbing; power outages, how about solar power or alternative power; abandoned houses, cleaning up of a burned out house; and community cleanup, tribal Council needs to come up with good ideas; and a code compliance officer, does the Tribe have someone to check up on these issues.

Lyle Kochamp. About the water, when he was on PUD, the arsenic level was 4 points above the national limit allowed by law. By all rights the community has the right to sue the Tribal Council because of the quality of the water. It's been a known fact for so many years, we should have been supplying them with bottled water. When he was on the board he tried to do that, its cruel and unusual punishment to shut their water off when they don't have a job, they can't afford, there's not enough jobs in the tribal office for the person who has the burned down house, to sit back and make an honest living like all you people here. Maybe put someone in a tent to monitor the people who enter the dump, it's a cruel hardship to have to sit there with their trash sitting around that's why they have the illegal dumps. They can't have the trash sitting in their houses and they can't afford to pay \$10 extra dollars for something that they didn't have a right to do, their pipes have been breaking yet they're charging them and shutting their water off. They're not fixing the pipes, they're not changing the pumps, still turning their water off, taking their money, don't pick their trash up, turn them away at the gates, when they go to dump their trash individually because they haven't paid. It's impossible to pay, they get IGA, barely get enough food stamps but the hardship that they force upon them is pretty tough. With these power deals, maybe they can make it to where the community members, each household will not have to pay a power bill. They're taking stuff from our land to put it on there, they may profit. With all the economic develop stuff, there are ranger vehicles, 5 or 6 of them, put members in the vehicles, let them cruise around. If this government can go TSA, work with no pay, pretty sure a proud tribal member, like himself is willing to work for free. He does it every day and it would be an honor to sit in a vehicle and defend their land, take pride for all these people that are coming to do bad, four wheeling through traffic, making guide services out here, they're making a good living on our people's way of life, we don't even put a limit on them, but yet they put so many limitations on with our business plans , with not allowing everyone the opportunity to have a business, no matter how ridiculous it may be, no matter how impossible it might seem, give the people the chance. The Council before you guys never gave them a chance, they sold their groundwater rights for \$500. \$3.4 million dollars,

people they didn't agree to that, it was an unacceptable offer from the beginning. And with the TROA, they have so much contaminates coming down, sure they got a lot of water but it's reclaimed water, pollution is not the solution, should be trying to do something to filtrate that. The cancers are coming up, this is going to be a cesspool and in 20 years with all this reclaimed water that comings down. Lets proudly give our people per capital and not let it go into the general fund.

CONSENT AGENDA

Councilmember Dunn requested to pull #1. Approval January 4, 2019 Regular Incoming Minutes and #3. Approve Start Time for Tribal Council Meetings (Regular, Special & Water Team meetings) for 6 p.m.

Councilmember Guerrero made a motion to *approve the Consent Agenda with exception of #1 and #3*. Councilmember Smith seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.** **RESOLUTION NO.:** PL 012-19 FY2020 DHS FEMA PDM Grant

Councilmember Dunn stated there was an extra character (s) in Chairman Sampson's name on the January 4, 2019 Regular Incoming meeting minutes.

Councilmember Ely-Mendes said the meeting times were discussed at the last meeting and they needed a formal vote for all the meetings or for just this year. Councilmember Judith Davis stated it was in the middle of last year they voted to move the time for all meetings to 6 p.m. until the end of the year. And now that the new year has started the regular monthly meeting which is the first Friday usually starts at 7 p.m. Councilmember Ely-Mendes said her concern was the long standing time for the community, we should publicly post and place a notice in the newsletter that Tribal Council has formally changed the start time for all Council meetings.

Councilmember Ely-Mendes made a motion to *approve the time change for all Tribal Council meetings to 6 p.m. permanently or until another Tribal Council decides to change*. Councilmember Dunn seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

Councilmember Dunn made a motion to *approve #1. Approval of Minutes: January 4, 2019 Regular Incoming minutes with correction*. Councilmember Shaw-Keever seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

Chairman Sampson Sr., announced the names of the new Pyramid Lake Paiute Tribal members:

Richard Anthony Davis, Gemma Mauwee Ely, Angelo Anthony Patterson, Cameron Isaiah Patterson, Savannah Sharise Patterson, and Adriana Lorena Rico

PRESENTATION

1. Water Rights Acquisition Update. Aaron Peskin, Great Basin Land & Water

Mr. Peskin provided a brief history of the Great Basin Land & Water. They are a non-profit 501C organization that was established in 1996 to do environmental good in the west but primarily to buy Truckee River water rights for the Pyramid Lake Paiute Tribe for the benefit of Pyramid Lake. When public law 101-618 was signed by the President of the United States in 1990, he was working at a non-profit American Land Conservancy, at which time he was introduced to then Tribal Chairman Joe Ely and that resulted in the acquisition of a bunch of lands primarily in and around Wadsworth. Public law 101-618 had a provision to address the historic injustice that came from the mid-1800s when all the lands were swapped by non-Indians, ultimately through the actions of Senator McCarren they got legal title to them. In 1990 they started to implement Section 218 of Public Law 101-618, when he was at the American Land Conservancy and over the next 5 years they were able to acquire 3,466 acres of land, bought 1570 acre feet of Truckee River Water Rights from the Dapoili Property, the Urrutia property and the Big Bends property. In 1997, he worked with the Tribe to acquire 12 small properties in Wadsworth using the same law equaling 7 ½ acres. As a result of that in 1996, the Tribe, the City of Reno, City of Sparks, the County of Washoe, Bureau of Indian Affairs (BIA), the State of Nevada, and the Department of Interior settled on-going litigation having to do with water quality and the result of that was \$12 million dollars from the government, and \$12 million dollars from the State of Nevada, Reno Sparks and Washoe and at that time they incorporated Reno Great Basin Land and Water to start those acquisitions. That led to acquisitions in 99 separate transactions of an additional 11,803 acre feet of water. As well as some land that was involved with water subsequently they acquired the S-Bar-S Ranch which added UNRs land by Wadsworth together with the water rights, the Hardscrabble Creek Ranch along with water rights, the 120 acre Ceresola Ranch, the property was not in the reservation (due to a quirk was it touched a piece of reservation land that was outside the reservation boundary), the Beasely property, the Andelin, Fisk and Legarze property all the within reservation. Along with the original \$24,000,000, subsequently Senator Reid got a \$5,000,000 appropriation which was mostly used for the acquisition of the S-Bar-S property, he got another appropriations in grants to the Tribe from the Bureau of Reclamations (BOR) in the amount of \$17.2 million dollars. Virtually all of those funds were spent before that grant expired in April of 2018. An additional \$3,000,000 came along the way for acquiring challenged water rights in the Truckee Canal Irrigation District (TCID). In 2014, an additional \$9.5 million dollars, was actually a \$16,000,000 grant that was split between the Summit Lake Paiutes Tribe and the Pyramid lake Paiute Tribe. All of those funds have been expended on the land and water rights acquisitions. In April of last year, the US Fish and Wildlife Service (USFWS) foundation bestowed with an additional grant in amount of \$20,000,000, that grant did not go to the Tribe, it goes to Great Basin Land and Water to do the same thing they've been doing since 1996. In 1999, the Tribal Council passed a resolution creating the Water Rights Acquisition Program (WRAP) Committee which consists of the Chairman, Vice Chairman, a Tribal member appointed by Tribal Council, Natural Resources Director and Tribal Council representative. They go out and beat the bushes finding property or people come to them wanting to sell property, they negotiate a proposal, get appraisals to find out what the property is worth since they're using federal dollars and they have to justify the cost to do the water rights map, they then work with the Tribe and Ali Shahroody (Stetson Engineering) to process the change application. They have prepared applications for the acquired properties to put into trust status so the Tribe will not have to pay property taxes to the BIA, the first application was submitted in March 24, 2014 and it's still being processed by BIA. The Phoenix office swears they will be completed in 2019. They worked with the Tribe and congressional entities for passage of the Native Nations Lands Act, which is about 6400 acres and

expanded the reservation boundaries along with Summit Lake and four other Tribes in Northern Nevada.

Vice Chairman Mandell stated he is working with Senator Cortez-Masto to get her assistance with a letter to the BIA to try and expedite the lands applications.

2. Cascade Strategic Investments. Steve Olsen

Mr. Olsen said he is an owner of a business that does cannabis, his company is Sovereign Cannabis Solutions. They have two significant businesses in Nevada, they've partnered with the Las Vegas Paiute Tribe, and they have the largest store in the state and the United States. Thirteen different Tribes are represented as their employees. The Las Vegas Tribe also does processing of cannabis products, they take the flowers and oils and make different products they sell in the stores and distribute in the state. They have a business with the Ft. McDermitt Tribe, which is an outdoor grow and their product just hit the market this month. Their interest is in developing Tribal businesses and connecting the Tribes so they can build wealth in the Tribes and communities, its true economic development. He's a lawyer from Oregon and partners with other lawyers assisting Tribes with litigation and his partners have experience working with other Tribes in other businesses (casinos). Also in attendance with him is Joe DeLaRosa, former Chairman of the Burns Paiute Tribe, and former Chairman Benny So, of the Las Vegas Paiute Tribe who is a consultant with the team. Rancid Sheppard, a cultivator and processing expert, he designed and operated the Ft. McDermitt Tribe grow.

Councilmember Shaw-Keever stated her concern is that the Tribe maintains with all federal grants because this isn't federally recognized or approved, is the Tribe putting themselves in jeopardy by contemplating this. Mr. Olsen said they have a more comprehensive bullet point of information that addresses the issue, the short answer is no, those conversations have already been made with BIA and Washington DC. There's two memorandums: the Kole Memorandum that said yes, it's federally illegal but states need to keep it highly regulated by following 8 steps. And the Wilkenson Memorandum pertains to the Tribes.

3. Sierra Valley Native American Festival Proposal. Mike Wilborne, President Chamber of Commerce, East Sierra Valley.

Mr. Wilborne, is proposing to sponsor a Native American Festival for August 10, 2019. They are looking for Native Americans to coordinate the festival, they will provide the location and venue. They would like a group to propose how the festival will be put together and they will provide the location to promote their tourism. They can't compensate anyone this would all be voluntary. Location would be downtown Loyalton. Gus Donowho would be the point of contact for this festival. Councilmember Judith Davis commented that maybe we can use the Tribal Recreation department as a point of contact because she already reaches out to the dance groups, summer programs, high school and museum.

UNFINISHED BUSINESS

1. Approval Payment of Wes Williams Invoice #3365.

Councilmember Judith Davis stated she was the one who pulled the invoice because she wanted the Chairman to look into one of the payments on the invoice. Chairman Sampson Sr., stated it was never brought to him in regards to being able to go to the attorney for advice and he hasn't heard back on it.

Councilmember Judith Davis made a motion to *approve Payment of Wes Williams Invoice #3365 with the Chairman to continue to look into the invoice question that Councilmember Judith Davis had.* Councilmember Dunn seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions.** **Motion carried.**

NEW BUSINESS

1. Approval NextEra Land Use Permit and Agreement. Pilar Thomas

Louis Stiteler, attorney for Lewis Roca Rothgerber Christie, and representing the Tribe with negotiations with NextEra Energy Resources for a development off of Olinghouse Road and a proposed solar development on the reservation. He's here to discuss the permit agreement for NextEra Energy Resources to use portion of Olinghouse Road in order to access the property they have for the proposed Dodge Flat Solar Project. The Tribe and NextEra have executed an option for them to enter into an easement agreement that would allow them to use that 1200 foot section of Olinghouse Road in order to access the Dodge Flat Solar Project. They currently have the option to enter that easement agreement which does not give them the ability to actually use Olinghouse Road until they exercise the option. Now that NextEra has received a power purchase agreement for the Dodge Flat project and in order to comply with that agreement with NV Energy they need to demonstrate they can access that property. In the mean-time, until they exercise their option, the plan is for the Tribe and NextEra to enter into this permit agreement where they'll provide compensation in exchange for access up until they actually exercise that option. When they do then everything reverts back to that option and easement agreement where they'll be providing compensation in exchange for the easement. This is almost the same permit for when they approved the surveys on the property for the on reservation project. They will have a two year period in which they will have a permit to access that section of Olinghouse Road. They will have the option of renewing for an additional twelve months which gets them to a full three years if it's necessary. They plan on exercising in the first quarter of this year. For the initial 24 month period they would be paying \$12,000 and if they seek to renew for an additional 12 months then they'll pay an addition \$3,000., with a total of \$15,000 to use the 1200 ft section of Olinghouse Road. With regard to the permitted purposes and users, they will limit their use to the exact same use that was approved for the easement options, the only reason they can go out there is for things directly related to that solar project and they are expressly prohibited from using the road for any other purpose including transferring water, minerals or any other natural resources to or from the property. With 3rd party contractors going out there, this will allow them to use the road under their permit and they agree to remain fully liable for all acts or omissions of those 3rd parties regardless NextEra's fault in any case, and NextEra will be fully liable for any accidents for their 3rd party users. In the termination paragraph they have to demonstrate they breached the agreement or the option for the easement agreement. In this case, the Tribe sends a notice and they have 30 days to get out. Vice Chairman had a question regarding the Section Five, Termination C. where this permit shall automatically terminate upon the issuance of a Grant of easement from the

Secretary of the Interior, is there a refund clause on the \$12,000. Mr. Stiteler said no, there is no refund if the agreement is terminated for any purpose. NextEra has agreed to the Tribe for all jurisdiction matters. If for any reason they need to modify the permit they shall provide a written request for any reason. They will hold the Tribe free from all liens and to indemnify, defend and hold harmless the Tribe from and against any and all claims. They will also need to provide proof of insurance and add the Tribe as an additional insured.

Chairman Sampson Sr., stepped out of chambers at 7:53 p.m. Vice Chairman Mandell took control of the meeting.

Councilmember Dunn made a motion to *approve NextEra Land Use Permit and Agreement*. Councilmember Guerrero seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

Mr. Stiteler stated this document does not require a notary so whenever the Chairman wants to get it signed they will get it over to NextEra.

Chairman Sampson Sr., returned to chambers at 7:58 p.m.

2. Approval Request for Chairman to Sign Draft BIA WNA letter w/copies of approved Option Agreements passed in December 2018.

Councilmember Dunn made a motion to *approve the Request for Chairman Sampson Sr., to sign the draft BIA WNA letter w/ copies of approved Option Agreements which were passed in December 2018*. Councilmember Smith seconded the motion. Votes were eight (8) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

3. Pyramid Lake Fisheries Board of Trustees Selection (1 vacancy).

There were six applicants for the Pyramid Lake Fisheries vacancy. With unanimous vote, Richard Frazier was chosen to fill the open vacancy for the Pyramid Lake Fisheries Board of Trustees.

4. Approval Grant Application to Request Funding from the EPA Office of Environmental Justice Resolution. Mervin Wright Jr., Environmental Manager

Councilmember Dunn stepped out of chambers at 8:10 p.m.

Mr. Wright Jr. stated they did apply for the Environmental Justice grant last year. It was for \$150,000 but they applied for \$120,000 and they were only awarding one grant for the region and the Tribe made the top 12 but unfortunately we didn't get the award. With this grant application he adjusted last years application and cut out one of the objectives so this application is moving to address the septic disposal issue at Pyramid Lake, the RV vehicles and the open dumps. The deadline is February 15th.

Councilmember Judith Davis made a motion to *approve the Grant Application to Request Funding from the EPA Office of Environmental Justice Resolution*. Councilmember Ely-Mendes seconded the

motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.** **RESOLUTION NO.: PL 014-19 FY2020 EPA ENVIRONMENTAL JUSTICE CPS GRANT**

Vice Chairman Mandell asked if it was to enhance or replace the one in Sutcliffe. Mr. Wright stated that part of the analysis was to analyze the capacity to see if we might need a greater (end of sentence inaudible). In the end hope we have a recommendation for additional capacity for some. They will be cleaning up 3 sites under the Brownsfield program.

Councilmember Dunn returned at 8:12 p.m.

CHAIRMAN REPORT

Chairman Sampson Sr., has one issue regarding something he heard and saw at the Tribal Court. The judge was giving a concealed weapons permit to a non-native person to carry a weapon on the reservation. Understand he's done that a couple of times. He's going to go talk to him and have him pull the permits. He wants to get confirmation on whether he can carry on the reservation or through the reservation. Councilmember Ely-Mendes stated that it's in the Law and Order Code that the Chief Judge oversees the court, her opinion on that is they are contracted employees. Contracted employees should never oversee a program, they are only contracted to work on the things they are contracted to do. She will bring that up at the next Law and Order Committee meeting and see if they can redo that language. The Court Administrator is the one who should be overseeing the court but that is not how it's written. Councilmember Guerrero stated that it was brought up at Council last year by Irwin Mix regarding the trappers and the Council denied them.

Councilmember Shaw-Keever asked about spouses of Tribal members who get special privileges, if they misuse their privilege, can they get that privilege taken away. Chairman Sampson said just revoke it. Councilmember Judith Davis stated she never heard of employees getting privileges. It was stated they get an exempt letter that allows them day use, fishing, camping and boating exemptions and they have to request it every year.

Councilmember Guerrero commented about the background investigation criteria, what is the status and timeline. Are we going to put it out to outsource? If not, we need to put a timeline on it. Chairman Sampson Sr., said that they brought the parties together and there seems to be conflict. Councilmember Guerrero stated if there's a conflict lets just outsource. Chairman Sampson Sr., said they are just trying to follow policy. Councilmember Ely-Mendes said that if we need to, let's just change the policy. Councilmember Judith Davis stated that when they did their background paperwork for Tribal Council they had to put down four references and she found out that when you put down four references, they also ask those four references for references. She asked how they could keep sending that paper out, she only knew because she was approached by one of the references. Councilmember Ely-Mendes stated we should be able to get a well-seasoned team and there are opportunities to partner with other agencies. Tribal Council is looking to outsource all the backgrounds checks.

Councilmember Smith said she sent the Councilmembers an email about the protection awareness class, she has a guy lined up. She was looking for suggestions to get it out to the community. She said it will cost \$650 to bring him in. Councilmember Guerrero said he would donate \$100.

Councilmember Ely-Mendes said they can go through the police department to possibly use outreach funds.

Chris Parsons, Police Chief, said he doesn't have funds that are dedicated to outreach but may have some funds. He said that he had the same question from Carla Eben, regarding protection for elders. It was recommended they check with Sumunumu Program.

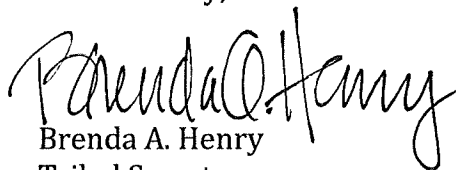
Tribal Council wants to have feedback at the next meeting regarding the background checks with options.

AJOURNMENT

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

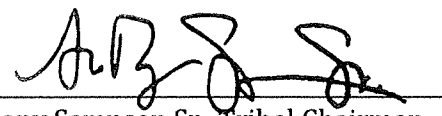
The meeting adjourned at 8:45 p.m.

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 1st day of March, 2019, having ten (10) members present, constituting a quorum, by the vote of nine (9) 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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