

MINUTES
PARADISE TOWN COUNCIL
REGULAR MEETING – 6:00 PM – January 12, 2016

1. OPENING

The regular meeting of the Paradise Town Council was called to order by Mayor Jody Jones at 6:00 p.m. in the Town Council Chamber located at 5555 Skyway, Paradise, CA. Following the pledge of allegiance to the Flag of the United States of America, Council Member Culleton offered an invocation.

COUNCIL MEMBERS PRESENT: Greg Bolin, Steve “Woody” Culleton, Scott Lotter, John Rawlings and Jody Jones, Mayor. No Council Members were absent.

STAFF PRESENT: Town Clerk Joanna Gutierrez, Town Manager Lauren Gill, Town Attorney Dwight Moore, Finance Director Gina Will, Community Development Services Director Craig Baker, Public Works Director/Town Engineer Marc Mattox, Assistant Clerk Dina Volenski, Administrative Analyst Colette Curtis, Business & Housing Services Manager Kate Anderson, Police Chief Gabriela Tazzari-Dineen and North Division Chief David Hawks.

2. CONSENT CALENDAR

Following a MOTION by Bolin, seconded by Culleton, all consent calendar items were approved as presented. Roll call vote was unanimous.

- 2a. Approved the minutes of the December 8, 2015 regular Town Council meeting.
- 2b. Approved December 2015 cash disbursements in the amount of \$1,766,432.75. (310-10-30)
- 2c. Update on the progress on the Police Department Emergency Siding Project. No action requested, report for information update only.(510-20-115)

3. ITEMS REMOVED FROM CONSENT CALENDAR – None.

4. PUBLIC COMMUNICATION

1. Ward Habriel informed Council that he was involved in a traffic accident on Skyway at Elliott, that he believes the new road design is ineffective and requested statistics relating to accidents on the redesigned section of Skyway as he believes there are more accidents occurring than before the road was changed.

5. PUBLIC HEARINGS

Agenda Item 5a: Mayor Jones reviewed the public hearing procedure adopted by the Town Council and informed the public that one hour will be allowed for public testimony

regarding agenda item 5a: ½ hour to speakers “for” and ½ hour to speakers “against”. The subject matter is Town Council consideration of an ordinance proposed to prohibit medical marijuana cultivation and delivery in all zoning districts within the Town of Paradise. Mayor Jones requested that all speakers maintain appropriate decorum during the hearing and informed that rude and disruptive behavior such as what she observed at the December 21st Planning Commission public hearing on this subject would not be tolerated.

Following reports from Town Manager Gill and Development Services Director Baker regarding the proposed prohibition on medical marijuana cultivation and delivery, Mayor Jones opened the public hearing at 6:21 p.m.

Mayor Jones announced that the Town Council had received written input regarding the proposed ordinance that, by this reference, will become part of the public record: There are 14 responses from residents in favor of the prohibition and 2 responses against.

1. John Singler supports the ordinance because of the fiscal impact to properly enforce the current ordinance, and also, because it would provide for the protection of public safety personnel who must respond to problems created by the marijuana grows.
2. Leonard Turner is against the ordinance as he uses medical marijuana and is in favor of retaining delivery.
3. Ann Martin supports the ordinance as her business has suffered a negative impact because of overly large grows.
4. Bill Martin supports the ordinance as marijuana growing has had a negative impact on the property values of residences near marijuana grows.
5. Jim Riotto supports the ordinance as the smell from a large marijuana grow in his neighborhood, 36 plants, is overwhelming and prevents him from being able to be outside and enjoy his own backyard.
6. Ward Habriel supports the ordinance because the smell from a marijuana grow next to his rental property has resulted in his inability to retain tenants, and that he believes the marijuana grows have brought down property values in the Town.
7. Craig Woodhouse supports the ordinance, discussed activities he has observed related to marijuana growing in the canyon below his home on Lucky John Road, that people are using a trailway across a vacant parcel at the far north end of Lucky John Road to access the canyon, that he fears a wild land fire will be started in this area as people carry gasoline for ATVs and portable generators during the height of the hot summer months, and that the home invasion and murder in the residence on Lucky John Road in his neighborhood was related to marijuana.

8. Tom Kelly supports the ordinance, believes there is no medicinal use for marijuana, that it is an illegal drug, that there are two drugs derived from marijuana that are legal that can be prescribed by a medical doctor and can be dispensed from a pharmacy, that marijuana growing in northern California has become a threat to public safety and asked the Council vote no on the growing, selling and use of marijuana.
9. Karen Riotto supports the ordinance, believes that many vehicle accidents are the result of persons driving under the influence of marijuana and she is very disturbed that many of the children she drives to school smell like marijuana.
10. Gary Moulton is against the ordinance and would like small gardens to be allowed and believes that deliveries are unobtrusive.
11. Brooke Mansfield is against the ordinance, questioned the enforceability of a ban relating to delivery, supports limits on the size of marijuana grows and suggested that the Town consider establishing a dispensary.
12. Marvin is against the ordinance, ingests medical marijuana to treat his Lyme's disease, would like to be able to grow his own medicine as other medications have proven to be useless, that it would very costly for him to purchase this medication, questioned enforcement and ramifications, and stated that he and his family are successful, responsible citizens.
13. Sven Bromelow is against the ordinance, questioned its enforceability and how deliveries would be prevented, is concerned that patients will suffer and be subjected to price gouging, and asked how the current ordinance is being enforced.
14. Susan Scott is against the ordinance, currently uses a delivery service and is very concerned about what she will do when she is not able to drive.
15. Stan McEtchin supports the ordinance as he believes water is being diverted to the pot gardens and that the runoff from the marijuana grows is polluting the streams and the animals will not drink that water.
16. David Strohmeyer is against the ordinance, has seen the positive benefits of medical marijuana for patients, is very opposed to a ban on delivery as it sounds like a sanction which could run afoul of the Americans with Disabilities Act (ADA).
17. Fred Hofer is against the ordinance, asked Council to take more time making this decision and to provide remedies for patients, asked why law enforcement is not addressing the larger grows, asked that the current law be enforced and suggested that four plants per person or property be allowed.

18. Jay Cooke is against the ordinance, spoke in rebuttal to the statement about the smell from 36 plants because it is already illegal to grow that many plants and nothing in the proposed ordinance addresses that issue, and that Butte County is one of the most restrictive in the State.
19. Chad Peery is against the ordinance, cured his own cancer using the Rick Simpson oil, that neither radiation nor chemotherapy were necessary, that medical marijuana should be recognized as a medication, and there are no medications derived from marijuana, but imitators that have side effects.
20. LeAnn Lisonbee is against the ordinance, needs medical marijuana for her pain as it enables her to enjoy an active life whereas pharmaceuticals drugs have detrimental effect that preclude an active life, and asked to keep safe access to medical marijuana.
21. Brad Brosman is against the ordinance, that he sees the problem as a lack of law enforcement against the large grows, is angry about the abusive growers, and demonstrated how much pharmaceutical medication he would have take if he cannot access medical marijuana.
22. Tula Cope is against the ordinance, has a prescription for cannabis, informed the Council that the term medical marijuana is slang and the proper term is medical cannabis, that cannabis is an agricultural product that cannot be banned without approval by the Secretary of the Department of Agriculture, and that she has relied on medical cannabis to fight three different cancers that developed within her own body.
23. Sarah Bates is against the ordinance, has medical difficulties that are successfully treated with medical marijuana, that she brought issues related to compliance with the Americans with Disabilities Act to the attention of the Town Council 20 years ago, and asked how this proposed ban would respect her rights as a disabled person to access dispensaries and that Proposition 215 allows her care providers to provide for her care.
24. Fernando Marin is against the ordinance, was a Planning Commission at the County for 12 years, believes we can all get along and resolve this issue as Americans looking for a better way of life, does not believe there was adequate notice provided for the Planning Commission hearing on this issue, and that prohibition does not work to solve an issue.
25. Leanne Hasting is against the ordinance, delivers medical marijuana, has a son with muscular dystrophy who needs the medical marijuana that she applies as a salve to relieve joint pain, that she makes the Rick Simpson oil and provides it

free of charge to patients, and asked the Town Council to think about the patients this ordinance will be affecting.

Mayor Jones closed the public hearing at 7:30 p.m.

Following discussion, Council concurred to amend the proposed ordinance by amending Section 2 and adding Section 3, a severance clause, as follows:

SECTION 2, Paragraph B: ***“Except for delivery by a primary caregiver for a qualified patient,”*** the delivery of medical marijuana shall be prohibited within the town. No person shall conduct any mobile medical marijuana delivery service within the town through any means whatsoever. The term “delivery” shall also include the same meaning as set forth in Business and Professions Code section 19300.5 (m) or as amended.

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

MOTION by Culleton, seconded by Bolin, waived the reading of the entire ordinance, approved reading by title only, and adopted Ordinance No. 558, An Ordinance Amending Text Regulations within Paradise Municipal Code Chapter 17.31 Relating to the Cultivation, Delivery and Distribution of Medical Marijuana, as amended. Roll call vote was unanimous.

Approval of the proposed ordinance would provide, among other things, that qualified patients or primary caregivers would be prohibited from cultivating medical marijuana within all Town zoning districts, medical marijuana cooperative/collectives and dispensaries would not be permitted within any Town zoning district, and the prohibition would include any cultivation, distribution or processing of medical marijuana. In addition, with the exception for delivery by a primary caregiver for a qualified patient, the delivery of medical marijuana would be prohibited within the Town limits.

Mayor Jones called for a recess at 8:05 p.m. and reconvened the meeting at 8:10 p.m.

Agenda Item 5b. Administrative Analyst Colette Curtis reported to the Council that this is the first of two public hearings, that a second hearing is scheduled for February 9, 2016, and the Council is also being asked to appoint two Council Members to serve on the public services subcommittee.

Mayor Jones opened the public hearing at 8:15 p.m. to solicit comments and/or suggestions regarding the 2016-2017 Community Development Block Grant Annual Plan funding priorities. There were no speakers for or against the matter and Mayor Jones closed the public hearing at 8:15 p.m.

Council concurred to appoint Council Member Culleton and Council Member Rawlings to the public services subcommittee to determine whether or not to recommend changes to the levels of funding for the 2016 – 2017 program year.

6. COUNCIL CONSIDERATION - None.

7. COUNCIL INITIATED ITEMS AND REPORTS

- a. Council initiated agenda items: None.
- b. Council reports on committee representation

Vice Mayor Lotter will be attending a League of California Cities (LCC) Public Safety Policy Committee Meeting next week, attended the LAFCO board meeting and on Feb 4th will be hosting a Community Coffee at Paradise Cinema Seven for the public to meet with Senator Jim Nielson, James Gallagher and possibly Congressman Doug LaMalfa.

Council Member Culleton will be attending the LCC Policy Committee Meeting next week and participating in a session at the LCC Annual New Mayor and Council Member training, "What Not To Do at a Council Meeting."

Mayor Jones reported that the Request For Proposals (RFP) relating to the sewer project will be for an alternatives analysis only and thinks this can be accomplished with the funding from the State Water Grant.

- c. Future Agenda Items: None

8. STAFF COMMUNICATION

- a. Town Manager Lauren Gill reminded the Council that Town Hall will be closed on Monday, January 18th in honor of Dr. Martin Luther King. She also notified the Council of the upcoming Mid-Year budget report
- b. Community Development Director Report – None.

9. CLOSED SESSION

Attorney Moore advised there is no need to hold the following closed session:

- 10a. Pursuant to Government Code section 54956.9(a), the Town Council will hold a closed session to meet with Town Attorney Dwight Moore and Town Manager Lauren Gill relating to existing litigation as follows: (1) Town of Paradise vs. Brandy L. Braun, Butte County Superior Court Case No. 164611.

10. ADJOURNMENT

- 10a. At 8:20 p.m. Mayor Jones adjourned the Council Meeting to January 25, 2016 at 3:00 pm to hold a Regular Adjourned Meeting pursuant to Government Code Section 54955 for the purpose of a second reading of Ordinance No. 558.

Date Approved: February 9, 2016

By: _____/s/_____
Jody Jones, Mayor

_____/s/_____
Joanna Gutierrez, CMC, Town Clerk