

MINUTES
PARADISE TOWN COUNCIL
SPECIAL MEETING – 3:00 PM – January 16, 2014

1. OPENING

The Special Meeting of the Paradise Town Council was called to order at 3:02 p.m. by Mayor Scott Lotter in the Town Council Chamber located at 5555 Skyway, Paradise, California. The Council pledged allegiance to the Flag of the United States of America.

COUNCIL MEMBERS PRESENT: Greg Bolin, Steve “Woody” Culleton, John J. Rawlings, Timothy Titus and Scott Lotter, Mayor.

COUNCIL MEMBERS ABSENT: None.

STAFF PRESENT: Town Clerk Joanna Gutierrez, Town Manager Lauren Gill, Special Counsel Mark Habib, Town Attorney Dwight Moore, Finance Director Gina Will, Community Development Director Craig Baker, Building Official/Fire Marshal Lindsey, Town Engineer Marc Mattox, Police Chief Gabriella Tazzari-Dineen, Assistant Town Clerk Dina Volenski.

2. COUNCIL CONSIDERATION

2a. Mayor Lotter announced that the Town Council will hold a public hearing relating to the Town Building Official’s Notice and Order to Repair or Abate Substandard Buildings that was served on Rose Kallunki, owner of the real property located at 4758 Skyway, Paradise, California 95969 (Property). The Town Council is requested to consider whether or not the owner has complied with the notice and order, determine if the substandard condition(s) of the building(s) at the Property have been repaired or demolished, and adopt a resolution declaring the Property to be a public nuisance and authorizing the filing of a lawsuit, including a receivership of the Property.

Town Attorney Dwight Moore stated that he is not advising Council on this matter as he is involved in the prosecution and introduced Attorney Mark Habib who is serving as Special Counsel for the Town Council. Attorney Moore requested that the Town Clerk administer an oath to compel truthfulness to all persons who would bear witness in this matter. Town Clerk Joanna Gutierrez administered an oath and each witness stated their name for the record as follows:

1. James Fred Parker
2. Rose Kallunki
3. Ivan Amy
4. Charles Parker
5. Steven Rowe
6. Gabriela Tazzari-Dineen
7. Craig Baker
8. Anthony Lindsey

Town Attorney Moore informed the Town Council that there are 203 building and/or fire code violations on the Property for which notices were given and that Building Official/Fire Marshal Lindsey was prepared to display a power point that represents the types of violations at each unit. Mr. Lindsey could display a photograph of each and every violation if it was the desire of the Council. Mayor Lotter stated that it appears the same types of violations were repeated throughout the units and Council concurred to view the representative power point in lieu of viewing each and every violation.

Mr. Lindsay displayed photographs of a variety of violations that have created the substandard conditions which include faulty wiring, structural damage, open electrical sockets, impeded exiting, substandard or unsafe mechanical equipment (air conditioners), improper venting on all of the water heaters, dilapidation and faulty weather protection, damaged wall heaters being started with car jumper cables, missing smoke detectors, and open electrical sockets. Mr. Lindsey stated that the power to the building has been off since November 11, 2013. Extension cords are/were being used in lieu of permanent wiring and propane lanterns are/were being used for lighting which could cause death due to carbon monoxide poisoning. There is an over-abundance of combustible storage containers impeding exits, faulty plumbing fixtures, lack of hot water, broken glazing (sinks, tubs), and fire damaged debris on the premises, exterior grounds contain excessive combustible debris, faulty pool cover, and excessive storage in the outdoor cabanas. As of today's date, three (3) of the 203 violations have been corrected. No permits have been issued and no one has come to Town Hall to inquire about the process. Permits are required for demolition, to replace water heaters and for electrical work.

Town Attorney Moore stated that these same violations existed at this location three years ago. Some of the units are vacant and have been boarded up, which changes nothing as far as the need to comply with code enforcement citations. The Town is asking for the ultimate remedy as the Town has given the owners every opportunity to correct the problems and have demonstrated a clear inability to comply. The Town would like to file a lawsuit to ask the court to provide for a process that would correct the problems. Building Official/Fire Marshal Lindsey believes that there are three people living on the property, the owner, her son and the son's fiancée.

Town Attorney Moore introduced Attorney Doug Thorn who will be working with him on this case and informed Council that that Attorney Thorn will explain the receivership process that is proposed to resolve the problems associated with the Property that is the subject of this hearing.

Attorney Thorn stated that the purpose of the proposed action is to request the court to appoint a person who is familiar with remedying these types of problems and who has special powers under the law to accomplish what cannot be done by a public entity. A court appointed receiver has the ability to take possession of a property and becomes a new creditor with priority over the old creditors, and would hold a super lien, which will attract lenders and enables completion of a project. The process also provides an owner with the best opportunity to have the property brought back up to standard and retain opportunity to take the property over after the corrections have been accomplished. Without a receivership, there is apparently no hope in getting this

Property into a safe condition for the general public and for the public safety officers who have been required to respond to this site to resolve various problems.

The procedure, in short, is that the court will appoint a receiver to take possession of the property and relocate the tenants. The receiver proposed by the Town has determined that the property can be cleaned up. The project would go out to bid and financing will be obtained. A lien will be recorded in favor of the receiver/creditor who will be the first on the deed. The owner, Ms. Kallunki, will be involved in the process and her wishes will be taken into account and, if reasonable, can be incorporated into the project.

Town Attorney Moore stated that there would be no cost to the Town of Paradise to have a receivership and no liability would be created for the Town. Ultimately all costs are borne by the property owner.

Council Member Titus asked if an owner has demonstrated a clear inability to manage a property, is there a process that could preclude an owner from continuing to manage the property.

Attorney Thorn stated that there will be a charge to the receiver to make the property habitable. Economic Process will be addressed at the point that the property becomes no longer sub-standard, and the owner will have to come up with a financing plan to retain ownership. The hope to the owner is to make the property saleable.

Town Attorney Moore stated that if an owner cannot obtain financing then there is a process by which the receiver goes to the court for authority to sell the property, or the lender can foreclose on the property, based on the lien. In any event, there is a remedy.

Vice Mayor Bolin asked what happens if the cost to repair is greater than the value of the property.

Attorney Moore stated that the Town would be out of the process but will be notified of actions relating thereto. Receiver will want to move as quickly as possible, and the court will hold the receiver accountable. Courts don't like having these issues hanging out on the docket. The receiver the Town is recommending is very experienced. He reiterated that the owner has opportunity to step in and that owners' rights are never terminated. An owner has the right to step in with financing.

In response to the question, if the buildings on the property are boarded up and the property sold, and if the court out of the process, Attorney Moore stated that the court would be out of the process when the court decides it is satisfied that the best efforts have been made. The court will retain jurisdiction for eighteen (18) months.

Council Member Culleton asked if the court can order demolition of the buildings, and Mr. Moore stated that the answer is "yes", and the court would look at that option only after all other options have been explored.

Council Member Culleton asked if the property is not marketable, will it sit there in a boarded up condition. Attorney Thorn stated if the receiver deems that the property

cannot be rehabilitated, then the receiver can borrow money in the amount of one-half of the land value to clean up the property. The property would be sold "as-is."

Council Member Titus asked if the former property owners are still lien holders. Attorney Moore stated there is no indication that the parties have been paid in full. Special Counsel Mark Habib informed the Council that the former owners were notified of the hearing and that no paperwork showing the property is paid off was presented.

Mayor Lotter asked in the event of lawsuits or liens being filed against the property, how would that be handled within the receivership process. Attorney Thorn stated that there is provision in the law that prioritizes judgment liens and that the super-lien provision will yield to contractors who have worked on the property. Mayor Lotter referenced the recent fire that occurred on the property and asked, if the neighboring business owner seeks redress and gets a judgment for their loss, where would their judgment sit. Attorney Moore stated that it would be a junior lien against the super lien. Special Counsel Habib stated that that is a theoretical event, a potential claim.

Mayor Lotter stated that he has many concerns for the Town relating to this Property, which includes safety of the police and fire department personnel who have been required to respond to the numerous, voluminous calls for service to this sub-standard Property.

Mayor Lotter opened the matter to public comment at 3:55 p.m.

1. Ivan Amy stated that he is the owner of property adjacent to the subject Property and provided two 8.5 x 11 illustrations of what the Property used to look like when it was in good condition.

Attorney Habib stated that the illustrations would be labeled as Exhibit 1 and Exhibit 2 and be part of the administrative record of this hearing.

Mr. Amy explained the many problems that have been occurring since the current owner took over the Property. The owners have demonstrated that they cannot take care of the place. The tenants are less than desirable neighbors and many are law enforcement problems and have narcotics problems. His tenants at the adjacent property have experienced ten years of trouble. His insurance will be cancelled if the problems are not taken care of.

2. Ward Habriel stated that he is speaking on behalf of many people in town who think it is not suitable for the Town to take so long to take care of nuisance property. Mr. Habriel referred to two specific properties in Paradise that he has brought to the attention of Council many times, and that nothing has been done to remedy these situations. One property is located diagonally from Stratton's Market and is full of debris.
3. Rose Kallunki, owner of the property that is the subject of this hearing, stated that she has been working and putting money into buildings at the Property over the

last ten years and those thirty days was not enough time to complete the improvements.

4. Charles Parker stated that he thinks the property is better than when the previous owners had it and that he personally has made many improvements to the Property over the years. He also stated that he thinks the buildings next door caught on fire because of the vegetation on the site and that more than one fire engine could have responded.
5. James Parker stated his condolences to Mr. Amy that the incident is very unfortunate and wishes the event hadn't happened. Mr. Parker stated that three years ago when Tony wrote up the property, he came up to Paradise ten weekends in a row to fix and repair the violations and thinks he did a good job and had some things going against him. His mom has too big of a heart and allowed people to take advantage of her when they stated they didn't have a place to live. Rent wouldn't be paid. He floated the hotel for four years and continues to help his mom. The presence of clientele in the hotel was preventing him from accomplishing his goal to restore the place. After he got a call that the Town was out again and that there was a fire he came to back to see what he could do. The hotel could be sold and pick up again. He is here to help his mom who lost her husband and son last year. Thinks his mom would like to continue to live out the rest of her days at the hotel. He will do everything he can to pick up the hotel to make it livable. Since the fire he has gotten everybody out. Was told if the rooms were boarded up then no one else could get in. There will be no renting of any rooms except for his mom, brother and brother's fiancé. Didn't know what the hearing would be about and didn't know what he should do. Didn't pull any permits because he didn't know what would happen at this hearing. Thinks the repairs could be taken care of in one month and doesn't know why the Town is going in the direction of receivership. One thing in his favor is that all the riff raff is out and nothing is being brought back in. James Parkers stated that he would like the Council to give him time to show progress and allow his mother to live as she wants to live for remainder of her life. He would like to fix up the hotel and asked that he get some sort of power to disallow anyone entrance except for his family. He came here to find out what is going on. If he could do what he wants to do, then he would start getting everything cleaned up as he is capable of doing a lot of the work. He would like to be allowed to clean the place up.

Council Member Titus stated that he does not understand why Mr. Parker hasn't had the electricity turned back on and why hasn't he fixed the problems before this time. He stated that he doesn't believe the clientele has anything to do with accumulation of junk and that the Property is in worse condition than when it was purchased.

Council Member Bolin asked, going forward, who would be managing the property.

James Parker stated that he had had power of attorney, but based on statements of a friend, his Mom revoked the power of attorney.

6. Michael Zuccolillo discussed his experiences with receivership as it related to a mobile home park he purchased, and as a receiver he had the ability to remove the mobile homes and clean up the property. This was his first experience with a receivership, the efforts brought up the property values in the area and he believes a receivership would be a good thing for this property.

Mayor Lotter closed the public comment at 4:15 p.m.

Attorney Thorn, in response to comments made by James Parker, stated that a power of attorney does not work in these situations. When the police go out to a property, it is a civil matter. A receiver will be able to report any persons on the property as trespassers.

Town Attorney Moore stated that it is clear that these problems have been going on for some time. The Property owner has been given every opportunity to correct the violations and there is no other remedy available to the Town other than to authorize the lawsuit. Attorney Moore stated that he recommends against allowing additional time. The remedy is drastic but is authorized when on-going problems cannot be addressed by normal efforts. A receiver has looked at the property and said that they could go forward. Attorney Moore recommended that the Town Council adopt proposed Resolution No 14-02 to declare the Property to be a public nuisance and authorize the filing of a lawsuit, including a receivership of the Property.

Council Member Culleton stated that he thinks there is no other alternative than receivership and that he would never allow anyone to live in conditions such as those that exist at the hotel. He thinks there wouldn't have been a fire if there hadn't been a generator hooked up to provide power to the hotel and that he hopes this will be the start of cleaning up dangerous properties in the community.

Council Member Titus stated that he appreciates the opportunity to hear from the family, but there is a point when enough is enough especially when one's mother is living in substandard housing without power. There have been a lot of chances given and the temporary fixes are not acceptable. He understands that this is a mother's home, but doesn't wish to allow her to continue to live in these conditions.

Council Member Rawlings stated that he agrees with the comments by Council Members Culleton and Titus, and that he thinks ten years has been too long of time to let a blighted property sit at the gateway of our town, and he does not believe Rose Kallunki should be living in those conditions.

Vice Mayor Bolin stated that he has twice visited the property, and although he doesn't believe in government taking these kinds of actions, he doesn't see that there is any other opportunity to remedy the situation.

Attorney Thorn asked the Town Council Members if they have read the proposed resolution and each Council Member confirmed that they have read the resolution.

Agenda Item 2a: MOTION by Culleton, seconded by Rawlings, adopted Resolution No. 14-02, A Resolution of the Town Council of the Town of Paradise Declaring the Property at 4753 Skyway, Paradise, California, a Public Nuisance and Authorizing the

Filing of a Lawsuit Including a Receivership Relating Thereto. Roll vote was unanimous.

Special Counsel Mark Habib stated that his role as Special Counsel is complete and Town Attorney Dwight Moore would resume his seat as the Town Council's attorney.

Mayor Lotter called for a recess at 4:30 p.m. and reconvened the meeting at 4:40 p.m.

2b. Mayor Lotter announced that the next item on the agenda was for the Council to consider appointing a resident to fill the upcoming vacancy on the Paradise Town Council due to the pending resignation of Council Member Timothy Titus, term of office to expire December 9, 2014. Mayor Lotter stated that April Grossberger had withdrawn her interest in appointment and that Martin Nichols has submitted an application at his invitation to do so. Mr. Nichols is a resident, a former City Manager and former County CAO. Council concurred that they are in agreement with inclusion of Martin Nichols in the application process.

Mr. Culleton stated that when he suggested inviting the three people who expressed an interest in appointment and who were familiar with governmental process, there was no intention to exclude or discourage any other persons who felt they were qualified from applying.

Mayor Lotter opened the matter to public comment and for information from each person interested in being appointed to the vacant Council position.

1. Manuel Herrera stated that he has served as an appointed commissioner on a task force in Southern California, and is pleased that the Council will listen to what he has to say about Michael Zuccolillo. He further stated that he lives in the home office and babysits Mr. Zuccolillo's children, that Michael is one of the best brokers in the business and is going to run for Council in November and that he will probably win. The Zuccolillo family is involved in public service in our community and is very humble.
2. Jody Jones stated that she always knew she would like to serve the public. For the last thirteen years she has been District 3 Director for Cal Trans, is responsible for management of 1,500 miles of highway in eleven (11) counties, leads an organization of 1,600 people with a \$275 million budget, has significant experience working with agencies, has well development skills from serving on Sacramento Area Council of Government as an ex-officio member, doesn't just have a government perspective as her husband owns a small business in Town, and that she would like an opportunity to help improve conditions for small businesses. Ms. Jones stated that she has clarified with Cal Trans that Cal Trans' managers are allowed to serve as elected officials. Potential conflicts would present only if Council action was to be necessary for projects on State highways. Ms. Jones informed the Council that she intends to retire from Cal Trans employment this fall which will remove any potential for conflicts to arise, that working out of town presents no obstacle and that she is very interested in serving the community as a Council Member.

Council Titus asked Ms. Jones what is her vision for Paradise, what are her priorities and followed up by asked for specifics about what must be done to accomplish the vision.

Ms. Jones stated that she sees Paradise as a thriving community as a destination town which was shown by the success of the ice rink, that there is more potential to be a bedroom community to Chico, improve the Town's image and bring in tourists and new residents who would provide demand that would sustain the businesses. To accomplish a thriving community, Ms. Jones stated that she believes the Town needs a sewer system to move her vision forward, that roadway improvements combined with a sewer can be a catalyst, and that the Town needs an additional revenue source to accomplish its goals and to bring in businesses that will bring in sales tax. Last, Ms. Jones stated that she supports a balanced budget and is impressed that Paradise has a balanced budget when so many other communities do not.

3. Martin Nichols stated that he has 40 years experience in local government, has experience in the private sectors as an owner of a business located in the Bay Area, was once a lobbyist and has lots of experience in advocating for local government. Mr. Nichols stated that he is recently retired and would like to remain part of the community process and think she would be a good Council member. His philosophy is that good government is boring government and should avoid controversy through well laid out plans. There is an appropriate role for government authority such as that which came before Council earlier this evening, and the development of sustainable, long-term budget and living within our means. He has had to lay off many employees and has asked many unions to take cuts. Economic development should concentrate on existing businesses and attract people who want to start businesses. As a member of Council he would advocate for civil discourse and would work hard to develop a good relationship with current Council and their vision. He would bring a policy perspective to the Town. He was around when Proposition 13 was passed. Believes he has familiarity with issues facing the Town because of his experience in the public sector and that he would meet with the staff to get their perspective, and that any short comings in no knowing specifics of the town operation would be over come in short order.

Council Member Titus asked Mr. Nichols how many balanced budgets did he over see and what is his vision of the role of the Council Member.

Mr. Nichols stated that in local government, there is no choice but to have a balanced budget and that Council members are policy makers based on input from the public and staff recommendations, that it is important to be transparent and understands that how Council Members behave is important. He would advocate for the Town and be responsible in explaining Council actions to the

people. He believes a sewer is appropriate and understands how complicated the process would be to accomplish that goal.

4. Michael Zuccollilo, stated that he is a seated Town Planning Commissioner, that he grew up in southern California, that his wife took him to visit her great-grandmother in Paradise and he was very impressed with the beauty of the town and friendliness of the people which made him want to move up here to raise his kids here. He joined the Elks, became an officer, leading knight and loyal knight, and the order would like to make him exalted ruler. His business is growing, that he is learning a lot about the administrative side of Town government as he works a lot with mobile home parks and the regulations set by the State of California. Mr. Zuccolillo stated that we should always have a balanced budget and his vision of Paradise is that of a bedroom community. He would like the Town to enforce existing rules to remove blight in the downtown, that the second hand stores should pay their fair share of sales tax, that a sewer is a good idea but a financial structure must be in place so it doesn't bankrupt us.

Mayor Lotter thanked the applicants for their interest and asked for nominations from the Council to fill the upcoming vacancy on the Town Council created by the pending resignation of Timothy Titus.

Council Member Culleton nominated Jody Jones.

Council Member Rawlings nominated Martin Nichols.

MOTION by Lotter, seconded by Titus, closed the nominations for the vacancy. Roll call vote was unanimous.

Mayor Lotter stated that he would call for a vote on the nominees in the order of nomination:

Jody Jones: Ayes of Bolin, Culleton, Titus and Mayor Lotter; no of Rawlings. Jody Jones received a majority vote was appointed to fill the upcoming vacancy on the Paradise Town Council created by the pending resignation of Timothy Titus. The appointment will become effective upon the official resignation of Council Member Titus.

Council Member Titus announced that his resignation will be effective as of the adjournment of this special Council Meeting.

Mayor Lotter and the members of the Paradise Town Council thanked Council Member Titus for his service on the Town Council and thanked the candidates who took the time to apply for appointment.

Mayor Lotter announced that Jody Jones will be sworn into office at the February 11, 2014 Town Council Meeting.

3. ADJOURNMENT

MOTION by Titus, seconded by Culleton, adjourned that Council Meeting at 5:20 p.m. Council vote was unanimous.

DATE APPROVED: February 11, 2014

By: _____/s/_____
Scott Lotter, Mayor

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