

**MINUTES  
PARADISE TOWN COUNCIL  
SPECIAL MEETING – 2:00 PM – May 14, 2015**

**1. OPENING**

- a. Call to Order at 2:00 p.m. by Mayor Greg Bolin.
- b. Pledge of Allegiance to the Flag of the United States of America

**COUNCIL MEMBER PRESENT:** Steve “Woody” Culleton, Jody Jones, Scott Lotter, John J. Rawlings and Greg Bolin, Mayor.

**COUNCIL MEMBER ABSENT:** None.

**STAFF PRESENT:** Assistant Town Clerk Dina Volenski, Town Manager Lauren Gill, Town Attorney Dwight Moore, Special Counsel Mark Habib, Community Development Director Craig Baker, Building Official/Fire Marshal Anthony Lindsey, Police Chief Gabriela Tazzari-Dineen and Administrative Analyst Colette Curtis.

**2a. Council Consideration**

2a. Mayor Bolin announced that there were additional items received that would become part of the permanent record and 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 located at 1433 Bille Road, Paradise, California 95969 (Property), which was served on Brandy L. Braun, owner of the Property. The Town Council is requested to consider whether or not Ms. Braun has complied with the notice and order, determine if the substandard condition(s) of the building(s) at the Property have not been repaired or demolished, and consider adopting 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.

Town Attorney Moore informed the Town Council that over the last four years the Town has struggled with the property at 1433 Bille Road to try to eliminate violations of outdoor storage of junk and different items, there have been a total of 24 citations issued during that four year period to property owner Brandy Braun to date, the owner of the property has not cured the problem and further actions need to be taken due to substandard housing conditions of the building. The Building Official inspected the building in Oct. 2014 and found 30 substandard housing conditions (Exhibit 3 of Brief). Thereafter the Building Official re-inspected the property in March of 2015 and determined there were still 30 substandard housing conditions at the property that were worse than the original inspection. Based upon that, on April 29, 2015 the Building Official provided a notice (Exhibit 4) identifying all problems associated with property, posted the property and provided the notice to the property owner, Brandy Braun. To

date, the citation fines total \$46,200. Attorney Moore stated Council needs to determine whether or not the property is blighted, unsafe and a public nuisance because the problems associated with its poor condition creates a threat to public safety. If the Council agrees with that determination, Attorney Moore is asking Council to authorize the filing of a lawsuit against the property owner to cure problems using the receiver process, if necessary.

Attorney Moore requested that the Assistant Town Clerk administer an oath to compel truthfulness to all persons who would bear witness in this matter. Assistant Town Clerk Dina Volenski administered an oath and each witness stated their name for the record as follows:

1. Anthony Lindsey
2. Dave Heinke
3. Wayne Brown

Attorney Moore asked Mr. Lindsay to testify regarding the conditions of the property and to identify anything that constitutes a dangerous condition on the property or life threatening condition based on the use of the property. Mr. Lindsay has been the Building Official for the Town of Paradise for 5 years and is the individual who put together items 3 and 4 of the Brief presented to the Town Council. Mr. Lindsay displayed a PowerPoint comparing inspections done on October 23, 2014 and March 31, 2015. At both inspections, the property was posted, according to State Law, 24 hours prior to the inspection, notifying occupants of the inspection.

The PowerPoint displayed photographs of a variety of violations that have created substandard conditions which include broken/missing glazing, faulty weather protection allowing moisture to enter the building, combustible items piled up creating a potential fire hazard for occupants and emergency response personnel trying to enter the property, exposed electrical wiring, dilapidated siding, no electricity or natural gas (substandard condition), back yard filled with debris, household hazardous waste piled in the yard including propane tanks, 20-30 tires added in the back yard, 16-8 ft. florescent lighting tubes (hazardous waste), unpermitted structure/being used as living space, an exposed sub-panel, non functioning wall furnace, falling hazards in the ceiling, unpermitted kitchen sink, dilapidated bathroom flooring, moisture from leaking fixtures, open electrical receptacles, open flame torch used for cooking. In the main house – exposed electrical wiring and mold issues, dilapidated flooring with exposed nails, incorrectly installed water heater, exposed wiring by natural gas stub off, broken drywall around open electrical sockets, leaking fixtures, no operating smoke detectors, compromised foundation, moisture under the house, and debris under the house. Mr. Lindsey also stated that at the last posting of the property there was an individual doing drugs in a car on the property.

Town Attorney Moore asked Mr. Lindsey if the house could be considered substandard housing and a public nuisance. Mr. Lindsey agreed that nothing had changed in the house since the March inspection and that the house could be considered a public nuisance, that there are Health and Safety concerns as well as the house having significant safety issues. Attorney Moore asked if any persons should be residing in the

building. Mr. Lindsey stated that there are significant safety hazards. Attorney Moore reviewed the safety issues related to electrical hazards, noted that there is no power to the property, and asked that if power was obtained would that create a hazardous condition. Mr. Lindsey stated that if the house was energized that it would probably burn down. Attorney Moore stated that the water heater was not vented properly and could produce carbon monoxide. Mr. Lindsey agreed and stated that it could be potentially lethal as it is today.

Attorney Moore stated that after hearing from the Building Official and seeing the slides that show the property is substandard and a public nuisance, there is a need to move forward with litigation, if the Council desires; that it is a long, complicated process that would probably take about a month to file, but would be worth utilizing with property in this condition. Mr. Moore explained that this is not a process that is used lightly, it is only used in drastic situations. Mr. Moore stated that it has taken four years to get to this point and that the problem needs to be addressed. If the Council moves forward a receiver would be appointed to represent the Court and work with the Town on all items that need to be addressed. The Receiver would take over the property, control it, remove people who don't belong there, try to rehabilitate the property, and if loan cannot be obtain, the property would be sold. The Town would be entitled to receive its attorney fees, costs for the Building Official and Mr. Habib.

Council Member Jones stated that the last time the Town filed a lawsuit appointing a Receiver there were numerous problems and wanted to know what would be done differently this time. Attorney Moore stated that the Town would not have the same receiver and will clearly delineate its expectations.

Council Member Lotter stated that he is not concerned about the prior experience with Receiver, because the Town ended up with its desired result. This time the Town will engage a receiver that follows instruction. If the house cannot be rehabilitated the house could be demolished and the property sold. Attorney Moore stated that it's better if the house can be rehabilitated and sold because it's more difficult to sell vacant property.

Council Member Culleton stated that if the house could be rehabilitated, the cost may far exceed any return on investment and asked if the Court rules in our favor, does the Receiver have to follow our outline. Attorney Moore stated that the process is outlined in the law, the Receiver should be working with the Town and the Town will make sure to avoid the problems that occurred in the past.

Mr. Habib stated that the Receiver is not working for the Town, but for the court and if something changed and the owner decided to step in and fix the place up, the court would evaluate who does what.

Council Member Rawlings stated that the Council has a responsibility to the Town to keep it safe, healthy and cleaned up and this is not only an eye sore, but a public health problem and thanked the staff for putting together the comprehensive report.

Council Member Lotter stated that he accompanied the police on one of the inspections warrants, did not go on the property, just observed and stated that the smell was odiferous and not pleasant.

Council Member Culleton stated that he has had neighbors contact him who wanted to know how many violations there and over what time period this has been going on. Attorney Habib stated that this has been going on for over 4 years with 26 citations issued.

Mayor Bolin opened the public hearing at 2:34 p.m.

1. Dave Heinke is the property owner across the street on Parker Way. Mr. Heinke stated that this is an ongoing problem, it is an unsafe area, one renter was stabbed in the foot running a person out of the back yard, has had to install a security system, installed a fence in front of the house, car parts have been stolen, the neighbors would go in the back yard for water and plug in extension cords running across the driveway, generators would be running in the middle of the night and people parking in the driveway. His granddaughter is living in the house now and experiences traffic coming and going at all hours, people trespassing on the property, drug money arguments, dogs running loose, trying to sell her drugs and asking for money. He has been dealing with the problem for several years and there is some smell from the property.
2. Wayne Brown lives across street on Himmel, has lived there for three years and has had his car hit and broken into, has installed 26 cameras on his property, called police, installed \$5,000-\$8,000 in fencing and automatic gates around property, has hauled several loads to dump for property owner, offered her \$70,000 cash to purchase property and to assist with clean up of property at his expense, at night there is screaming, yelling and generators running.

Mayor Bolin closed the public hearing at 2:40 p.m.

Attorney Moore stated that the Council has heard from the Building Official, neighbors and himself and asked Council to review the resolution prepared by Mr. Habib and determine whether they want to make the finding and to make a motion on each step. If the Council adopts the resolution, it will set everything in motion.

Council Member Culleton asked if there was any way to expedite the process, if Council agrees to move forward. Attorney Moore stated that it takes about a month to file the lawsuit, that the Notice and Motion take a while to get before the judge, that he could try an Ex Parte order based on an emergency situation and if it is approved by Judge, there is the burden to show that there is an emergency.

Council Member Lotter said that the Town can continue enforcement action, that neighbors may continue to call police, and that everyone has a right to due process.

Council Member Rawlings stated that the Town is going through the due process now, that it has taken four years to get here, and that he believes the Town needs to move forward with it.

Mr. Habib stated that there is a legal process that must be followed in order to this matter move forward. If the Town Council approves the proposed resolution, then the process will be set into motion. The necessary papers will be filed with the court, the property owner will need to respond; if they don't reply, then the Town would get the relief requested. Mr. Habib advised that this process, combined with law enforcement, would be the best case scenario to move things forward.

Vice Mayor Jones stated that last time this happened there were two steps taken to make life better for neighbors: (1) Occupants were moved from the property; and, (2) The property was refurbished. Vice Mayor Jones asked if the attorney has a ballpark estimate of when the occupants would be removed.

Attorney Moore stated that his estimate is that the process could take approximately two and one-half months.

**Agenda Item :**

**2a(1) MOTION by Lotter, seconded by Rawlings,** determined that Ms. Brandy Braun has not complied with the notice and order. Roll call vote was unanimous.

**2a(2) MOTION by Culleton, seconded by Jones,** determined that the substandard condition(s) of the building(s) at the Property have not been repaired or demolished. Roll call vote was unanimous.

**2a(3) MOTION by Rawlings, seconded by Culleton,** adopted Resolution No. 15-17, A Resolution declaring the Property at 1433 Bille Road, Paradise, California to be a public nuisance and authorizing the filing of a lawsuit, including a receivership relating thereto. Roll call vote was unanimous.

**3. ADJOURNMENT**

Mayor Bolin adjourned the meeting at 2:52 p.m.

DATE APPROVED: June 9, 2015

By: \_\_\_\_\_  
Greg Bolin, Mayor

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Dina Volenski, CMC, Assistant Town Clerk