

**MINUTES  
PARADISE TOWN COUNCIL  
SPECIAL MEETING – 6:00 PM – March 19, 2014**

**1. OPENING**

The Special Meeting of the Paradise Town Council was called to order by Mayor Scott Lotter at 6:01 p.m. in the Town Council Chamber located at 5555 Skyway, Paradise, California. Mayor Lotter led the pledge of allegiance to the flag of the United States of America.

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

**COUNCIL MEMBERS ABSENT:** None.

**STAFF PRESENT:** Town Clerk Joanna Gutierrez, Town Manager Lauren Gill, Town Attorney Dwight Moore, Community Development Director Craig Baker, Assistant Town Clerk Dina Volenski, Building Official/Fire Marshal Anthony Lindsey and Code Enforcement Officer Rick Trent.

**2. COUNCIL CONSIDERATION**

**2a.** Community Development Director Baker stated that the item before the Council is to consider adopting an Interim Urgency Ordinance of the Town Council of the Town of Paradise Enacting a Moratorium on the Establishment of Fences, Gates or Barriers Within or Across Private Access Easements; and, (1) Waive reading of entire proposed ordinance and approve reading by title only; and, (2) Adopt Interim Urgency Ordinance No. 539, An Ordinance Declaring a Moratorium on the Establishment of Fences, Gates or Barriers Within or Across Private Access Easements.

Mr. Baker reviewed the circumstances that brought about this request for an urgency ordinance. In the course of a plan check requested by citizen Jon Remalia, staff determined that his proposed electric gate would be the functional equivalent of a fence and prohibited by Paradise Municipal Code section 17.06.600E4. The applicant requested a Planning Commission interpretation of that determination. In rendering their decision, the Planning Commission found that the establishment of a locked gate did not constitute a violation of the pertinent provision. An appeal of the Planning Commission decision was filed by Dana and Denise Bettis and the Town Council conducted a noticed hearing on the matter at the March 11, 2014 Council meeting. Evidence was provided at the hearing of pending civil litigation regarding rights associated with the private easement that is shared by both parties.

Subsequent to staff presentation and acceptance of public testimony, the Town Council and the Town Attorney discussed development of an urgency interim ordinance that would prohibit the establishment of all fences, gates or other barriers within private access easements until new language could be developed that would clarify or even alter the intent of Paradise Municipal Code Section 17.06.660E4. Community Development Director Baker stated that given the fact that many residential properties in the Town are accessed solely via private road easements, conflicts and disagreement regarding the establishment of fences, gates and other barriers within these easements are not uncommon. Barriers across access easements could interfere with town and private public safety services, and unregulated or unauthorized

establishment of barriers in private access easements without consent of all users could restrict egress during times of wildland fires, or other emergency events. As such it is staff's position that there exists a plausible and immediate threat to the public health, safety and welfare of the Town's residents that necessitates the request for Council adoption of the proposed urgency ordinance.

After conclusion of public testimony and discussion on March 11<sup>th</sup>, the Town Council adopted a motion to continue the Bettis appeal hearing to March 19, 2014. It was noted that if the proposed urgency ordinance were adopted, the appeal may be either moot or withdrawn.

Mayor Lotter opened the matter of the interim urgency ordinance to public comment.

1. Max Barteau stated that he was contacted this afternoon to address this issue, that he thinks the suggested urgency ordinance is far beyond what is needed to handle the issue of the appeal, that the urgency ordinance is neither effective nor efficient, that private litigation is pending on the point of what the Town wants to address and although the outcome of the civil litigation is not binding on the Town, thinks it would behoove the Town to wait for the outcome of the court trial before drafting local legislation and to first handle the matter of the appeal.
2. Dana Bettis stated that Jon Remalia does not own or have any title to his land, that he only has a right to go in and to go out, that what Jon is trying to do goes beyond his rights of ingress and egress, that Jon has upended the whole neighborhood, and stated that he believes there is no difference between a fence or a closed gate because when a gate is closed it is a barrier.
3. Jon Remalia stated that he has concerns with the findings in the proposed urgency ordinance, that he understands that a gate can be part of a fence, but a gate by itself on pillars is a gate and not a fence, that he believes there was gate on the easement when he bought the property, that the State Fire Code sets out the requirements for road access, that if he isn't allowed to have a gate then no one in town should be allowed to have a gate, that he thinks his gate is a legal, non-conforming use, and that there is a court date set in May for the access issue to be addressed.

Town Attorney Moore informed that Council that a cable across a road does not equate to an electric gate that would come under the jurisdiction of the Fire Code and that is the point of recommending that the Council take time to study this issue. Attorney Moore recommended that the Council strike the words "maintenance" and "operation" from section 3 of the proposed ordinance.

4. Sheryl Johnson stated that this is a matter that warrants an urgency ordinance to stop what is happening in this neighborhood and give the Town time to come up with language that can be understood and give time for everything to settle down, that she thinks the letter from Ailamer is really threatening to the town which disturbs her as a taxpayer and resident, that she can't believe that someone can come in and disrupt a neighborhood with construction and widening a road, and then threaten a lawsuit against the Town and the people who have lived here for many years, and that it is urgent that he (Jon Remalia) be stopped for the 45 days.

5. Janice Bolter, Gregory Lane resident, stated there was never a cable on the easement, that it was on Gregory Lane, that an extension past the court had a steel cable across it and she still has the lock and key – there was path where the easement is, there was a never a road there until this young Mr. Jason started working there, it was path with weeds grown over it.

Mayor Lotter closed the matter to public comment.

**MOTION by Culleton, seconded by Bolin,** (1) Waived reading of entire Ordinance No. 539 and approved reading by title only; and, (2) Adopted Interim Urgency Ordinance No. 539, An Ordinance Declaring a Moratorium on the Establishment of Fences, Gates or Barriers Within or Across Private Access Easements. Roll call vote was unanimous.

### **3. PUBLIC HEARING**

Town Attorney Moore informed the Council that the moratorium that relates to the subject matter of the appeal that is scheduled tonight for hearing is in effect now and will be effective for 45-days. Mr. Moore recommended that the Town Council continue the hearing to a date certain until the Council determines how they intend respond regarding modification of the language in the Paradise Municipal Code.

- 3a. **MOTION by Rawlings, seconded by Culleton,** continued the scheduled public hearing (Bettis appeal) to the May 13, 2014 Regular Council Meeting. Roll call vote was unanimous.

The appeal was filed by Dana and Denise Bettis and relates to a Planning Commission Interpretation finding that a proposed gate across a private road access easement does not constitute a violation of Town zoning ordinance regulations prohibiting the establishment of fences in access easements (Paradise Municipal Code Section 17.06.600). After the close of the hearing, the Town Council will be asked to consider: (1) Adopting or rejecting the zoning code interpretation recommended by staff; or, (2) Adopting an alternative interpretation or directive to town staff.

### **4. ADJOURNMENT**

Mayor Lotter adjourned the Special Council meeting at 6:30 p.m.

Date Approved: April 8, 2014

By: \_\_\_\_\_/s/\_\_\_\_\_  
Scott Lotter, Mayor

\_\_\_\_\_/s/\_\_\_\_\_  
Joanna Gutierrez, CMC, Town Clerk