

**MINUTES**  
**PARADISE TOWN COUNCIL**  
**REGULAR MEETING – 6:00 PM – March 11, 2014**

**1. OPENING**

The Regular meeting of the Paradise Town Council was called to order at 6:05 pm by Mayor Scott Lotter in the Council Chamber located at 5555 Skyway, Paradise, California. Following the Pledge of Allegiance to the Flag of the United States of America, an Invocation was offered by Vice Mayor Greg Bolin.

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

**COUNCIL MEMBERS ABSENT:** John J. Rawlings.

**STAFF PRESENT:** Town Clerk Joanna Gutierrez, Town Manager Lauren Gill, Town Attorney Dwight Moore, Finance Director Gina Will, Human Resources Manager Crystal Peters, Community Development Director Craig Baker, Town Engineer Marc Mattox, Public Works Manager Paul Derr, Assistant Town Clerk Dina Volenski, Police Chief Gabriela Tazzari-Dineen, Building Official/Fire Marshal Anthony Lindsey, Division Chief David Hawks, Battalion Chief Curtis Lawrie.

- (1) Employee Recognitions were presented by Mayor Scott Lotter

**FIFTEEN-YEAR EMPLOYEES:** Lillian Booth, Police Records/Communications Supervisor; Robert Haskins, Police Officer

**TEN-YEAR EMPLOYEES:** Candace Mays-Keillor, Public Works Maintenance Worker II; William Wegener, Police Officer

**FIVE-YEAR EMPLOYEES:** Matt Gilbert, Construction Inspector; John Wilkey, Police Officer; Shawn Jordan, Community Services Officer; Carol Ladrini, Public Safety Dispatcher; Gina Will, Finance Director; Joshua Marquis, IT Manager; Dina Volenski, Assistant Town Clerk; Kate Anderson, Housing Program Supervisor; Eric Reinbold, Police Sergeant; Shirley Kamm, Animal Control Office Assistant III.

- (2) Mayor Lotter presented Certificates of Appreciation to Jamie Hartley and Laura Nelson of WTS for Street Sweeping Services Donation

**2. ITEMS DEFERRED FROM PREVIOUS MEETINGS** - None.

**3. CONSENT CALENDAR**

**MOTION by Bolin, seconded by Jones,** approved all items on the consent calendar as presented by unanimous roll call vote; Rawlings absent and not voting.

- 3a. Approved the minutes of the February 11, 2014 Regular Council Meeting.

- 3b. Approved cash disbursements for February 2014 in the amount of \$1,424,845.73. (310-10-30)
- 3c. (1) Waived reading and approved reading by title only; and, (2) Adopted Ordinance No. 538, An Ordinance Amending Section 3.40.070 Relating to the Development Impact Fee Adjustments Board and Repealing Section 8.12.03 of the Paradise Municipal Code relating to the Tree Advisory Committee. (120-10-09, 110-30-21, 740-20-03 & 540-16-108)
- 3d. Acknowledged receipt of the 2nd Quarter Investment Report for the Fiscal Year Ended June 30, 2014. (360-30-06)
- 3e. Accepted the Fiscal year 2012/13 financial statement audit report as submitted. (385-10-32)
- 3f. Accepted the 2013 Annual Report of the Paradise Planning Commission Regarding Progress Toward Implementation of the 1994 Paradise General Plan Housing Element. (760-40-57)
- 7c. Council concurred to hear the report on agenda item 7c, the Downtown Pedestrian Safety Project, at this time on the agenda. Town Engineer Marc Mattox presented information relating to the proposed Downtown Paradise Safety Project. No action requested, report for information update only.

The objective of the Downtown Paradise Safety Project is to address existing challenges along Skyway between Vista Way and Elliott Road. In the previous 10 years, over 90 injury collisions have occurred in these limits, including 3 fatalities. The absolute priority for the subject project is safety. The Downtown Paradise Safety Project presents an opportunity for a public investment in the community by creating a safer commercial corridor which addresses high speeds, difficult crosswalks, limited parking, common collision hazards, and an aging roadway.

These objectives may be achieved by accepting a reduction in lanes and small delays in travel time during the peak commute periods.

Town Engineer Mattox explained that Caltrans approved the project for federal funding through the Highway Safety Improvement Program (HSIP). The purpose of the HSIP program is to achieve significant reduction in traffic collisions and serious injuries on all public roads. The award to the town was based on the percentage of collisions that occur(ed) in the project area. Mr. Mattox presented a detailed PowerPoint and explained specifically how the road diet (lane reduction and addition of center turn lane), the signal enhancements, and other pedestrian adjustments would reduce motorist speed of travel without significant delay in travel time. The design is a proven treatment that will improve safety, increase parking from 60 to 78 spaces, slow vehicular speed, provide a pedestrian friendly environment and a public road overlay that may stimulate private investment in the downtown area. Engineer Mattox displayed the proposed pedestrian islands in relation to existing driveways and explained how

left hand turns would be impacted (or accomplished) at each location, in response to Council direction from the February 11 meeting.

Engineer Mattox reported on outreach efforts accomplished in the community and reported that the results of the Business Workshop show that 100% of those who participated believe change is needed and 80% of those indicate project support. Staff continues to invite public input by individual appointments, group presentations, and at an upcoming safety focused workshop on March 20 between 6-8pm at Town Hall. (950-40-19)

Mayor Lotter opened the matter for public comment.

1. Ron Cushman stated that he thinks 50% of the problems are caused by speeding, asked what has been done to address the speeding since 2009, understands PD is understaffed but speed limits should be enforced, and that once the project is done it cannot be undone, is concerned that traffic will bottleneck during an emergency evacuation, is concerned how motorists will merge, and that he thinks the project will exchange one set of problems for another.
2. Johnny Farris stated that he is opposed to the project because he doesn't believe in restricting traffic, traffic should flow freely, is concerned about reducing the number of lanes for a flow of 20,000 vehicles, that accidents are caused because people don't pay attention, the project would provide no dodging room, is concerned about rear-end collisions occurring in a center lane, suggested that the Town test the project design by marking off the lane during the 4pm to 6pm travel time, and that that he thinks it would be wiser to use money to fix other streets in Town.
3. Ward Habriel stated that he appreciates the improvements and changes made to the presentation, is dismayed by the public safety services statements that public safety services are all on board with project because he knows some that do not agree and presented a petition to the Mayor that represents people from all walks of life, including public safety, who are against the project.
4. Linda Horton Lyons stated that she and other persons are concerned about a bottleneck that would occur at peak times and that citizens will be taking other alternative routes on the side streets, and reported that a bottleneck occurs at Scottwood Road on Pearson and by Dolly-O's and asked how this issue could be addressed.
5. Pat Zinn stated that she is an antique dealer at the Skyway Antique Mall located on Skyway, which is a cottage industry for Paradise, and stated that the vendors are concerned that people will take Pearson to Clark instead of driving on Skyway which will impact the business at the antique mall.

Council Member Jones commended Town Engineer Mattox for his thorough response in addressing concerns of Council stated at the previous meeting. Council Member Culleton encouraged public input on the project and that he think many of the people signing the petitions have never seen the Town Engineer's presentation.

#### **4. PUBLIC HEARING PROCEDURE**

Mayor Lotter reviewed the Town Council adopted procedure for public hearings:

- a. Staff report to Council (15 minutes total maximum)
- b. Mayor or Presiding Chair opens the hearing for public comment in the following order:
  1. Project proponents or in favor of (15-minute time limit)
  2. Project opponents or against (15-minute time limit)
  3. Rebuttals - when requested  
(15-minute time limit or 3 minutes per speaker)
- c. Close hearing to the public
- d. Council discussion
- e. Motion
- f. Vote

#### **5. PUBLIC HEARINGS**

- 5a. Mayor Lotter announced that the Town Council would conduct a public hearing scheduled to hear the appeal filed by Dana and Denise Bettis to the Town Council of 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), and at the close the hearing, consider (1) Adoption or rejection of the zoning code interpretation recommended by staff; or, (2) Adopting an alternative interpretation or directive to town staff.

Community Development Director Baker reviewed the background that led up to this appeal and stated, in essence, that the issue is whether or not a gate established across a private road access easement is the functional equivalent of a fence and would be prohibited by Paradise Municipal Code Section 17.06.600 (E)(4), which states, in part: "No fences shall be installed within public or private rights of way or access easements." The purpose of the regulation is to keep such easements unobstructed and to protect access rights of all parties.

Mayor Lotter stated that he would like hear from Town Attorney Moore prior to the opening of the hearing.

Attorney Moore stated that when reviewing law, one must look at the intent of the law and he recommended that the Council look at the reason for the prohibition within the Town's regulation, which reason is to provide unobstructed access through an easement; to look at the function of the proposed structure and to not

rely on what it is called and, that the Town might need to amend the municipal code to make it clear as to how the regulation applies to gates.

Mayor Lotter opened the public hearing at 7:30 p.m.

Speaking in favor of the appeal:

1. Dana Bettis, appellant, stated that he owns property on Gregory Lane that involves the easement that goes through his property, read his appeal letter into the record requesting that the Council overturn the decision of the Planning Commission and interpret Paradise Municipal Code Section 17.06.600E4 as prohibiting construction of a locked electric gate across a non-exclusive easement road, without the prior written permission of the underlying land owner. He stated that Jon Remalia, a neighboring property owner on Gregory Lane, is attempting to build a gate upon property he does not own, and that the easement right only provides Mr. Remalia a right to go through the property of another; it does not entitle him to build anything upon the property of another property owner.
2. Gene Mapa stated that he supports Mr. Bettis but is bringing up a neutral issue, that there are many fences in Paradise built within easements, and that he thinks the Paradise Municipal Code should be re-written for clarification.
3. Sheryl Johnson asked if the Council Members had viewed the site where the gate/fence is proposed, that there are three other property owners that would be affected in a negative manner by construction of the gate proposed by Mr. Remalia, and that she thinks his construction projects are ruining the neighborhood.

Speaking against the appeal:

1. Jon Remalia, representing Ailamer Investments, stated that he thinks the agenda should have included an option for the Council to affirm the Planning Commission decision, that he believes interpretation of regulation should be based on past practices, that fences and gates are not the same, that the easement is a road easement which is different from ingress and egress easement, that the civil suit relating to this matter was not filed by him, and which he believes was filed in reliance on the interpretation that a gate is a fence. He stated that he would like to see either no action by the Council, or an affirmation of the Planning Commission decision.
2. Dan Wentland stated he is speaking as a Planning Commissioner, that much time was spent by the commission studying and discussing the definitions of gate and fence, that the commission decided a gate is a gate and fence is a fence, and wanted the Council to know that the decision of the Planning Commission was not based on who was involved, but based on the law. He

stated that he is concerned that if gates are considered to be fences, what will be the impact on many, many gates in Town that are currently established in easements.

3. Alan White stated that he is in favor of affirming the decision of the Planning Commission, that he thinks the challenge in this issue is within the language of the Paradise Municipal Code, that the code should be amended to define or allow for a gate with the permission of the underlying property owners, or be removed altogether, and that he thinks this issue is a civil issue and the Town should not be involved.
4. Ward Habriel stated that he was involved in one these matters 25 or so years ago, referred to discussion that used the example of doors and walls to illustrate this situation, that the door is used for ingress and egress, and that he thinks the Planning Commission decision is very clear, that a gate is not a fence.

Mayor Lotter closed the public hearing.

After discussion, Council members were in agreement that the language in the Paradise Municipal could be clarified. Mayor Lotter suggested that the appeal hearing be continued to a specific date within the 40-day time frame allowed for decision, and that the Council meet next week to consider an emergency moratorium action relating to gates and fences that would provide time for the Council to consider language for the Paradise Municipal Code.

Attorney Moore confirmed that the Council has until the end of the month to act on the appeal and to adopt an urgency interim ordinance that would establish the 45-day moratorium. The moratorium would freeze the current laws relating to the fences and gates and would also freeze the appeal. No action could be taken on the appeal. In the interim, the civil case would continue. The moratorium would extract the town from the civil matter and provide the Town Council a specific time period within which to clarify the language in the code.

**MOTION by Culleton, seconded by Jones**, continued the public hearing to 6:00 p.m. on March 19, 2014, to hear the appeal filed by Dana and Denise Bettis to the Town Council of 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). Roll call vote was unanimous; Rawlings absent and not voting.

Mayor Lotter called a recess at 8:05 pm and reconvened the meeting at 8:15 pm.

## **6. PUBLIC COMMUNICATION - None.**

## **7. COUNCIL CONSIDERATION**

- 7a. Greg Iturria, Chief Financial Officer for the County of Butte, requested the Town's partnership in collection of county-imposed development impact fees for construction of a new jail. The early release of prisoners has created a negative impact within all of Butte County. The County is in a good position to receive a \$40 million grant to fund the jail expansion if it can come up with a \$4 million match, but the funding stream from current fees is not enough. If the fee was collected throughout the county there would be enough money to pay the match and expand the jail. The agreement sunsets after ten years and will not become effective unless all the other cities in the county agree to collect the fee. The county would like the cities to collect the fee as it has no jurisdiction over the permitting process of the surrounding cities, and believes it would be convenient for developers to be able to pay the fee at the time of application for permits.

Mayor Lotter opened the matter for public comment.

1. Ward Habriel questioned the methodology – if Paradise, or any particular city, is not producing any criminals, then why should that city have to pay for a jail.

It was discussed that the nexus is not based on where a crime is committed, or where a criminal resides, but rather the idea is to house criminals and keep them out of each community.

Vice Mayor Bolin stated that he does not agree with the nexus to new home construction, that he thinks all residents should participate in the funding of a jail expansion and the burden should not only fall to citizens who will be building new homes.

**MOTION by Culleton, seconded by Jones**, adopted Resolution No. 14-07, A Resolution Approving an Agreement Regarding Collection of Development Impact Fees for Jail Facilities within the Incorporated Area of the Town of Paradise. Ayes of Culleton, Jones, Mayor Lotter; no of Bolin; Rawlings absent and not voting. Term of agreement is for ten years and will only become effective with participation of specified neighbor cities. (510-20-74)

- 7b. **MOTION by Bolin, seconded by Jones**, extended the application period to fill the vacancy on the Paradise Planning Commission to April 21, 2014 with appointment to be considered at the May 13, 2014 meeting. Roll call vote was unanimous, Rawlings absent and not voting. (760-45-12)
- 7c. Moved to the beginning of the meeting. See page 2.
- 7d. Following a report from Finance Director Will regarding recommended budget adjustments, Mayor Lotter opened the matter for public comments.

1. Ward Habriel asked the Council to remember the spirit of volunteerism and stated that the spirit of volunteerism in this Town is incredible.

**MOTION by Culleton, seconded by Bolin**, approved the 2013/14 budget adjustments as recommended and directed staff to prepare the 2014/15 Operating and Capital Budget as set forth in option #1 of the staff report as follows. Roll call vote was unanimous; Rawlings absent and not voting. (340-40-13)

Option #1: Roll forward the 2013/14 budget which will not include appropriations for the following items:

- a. Sewer feasibility and planning
  - b. Equipment replacement
  - c. Facility maintenance
  - d. Contributions toward retiree health unfunded liability
- 7e. Removed from the agenda. (Request from the Paradise Community Village Board of Directors for the Town of Paradise to be the Loan Guarantor for a Rural Community Assistance Corporation (RCAC) loan.

## **8. COUNCIL COMMUNICATION (Council Initiatives)**

- 8a. Council oral reports of their representation on Committees/Commissions.

Council Member Jones stated that she will be participating in the CDBG sub-recipient interview process on March 12<sup>th</sup>.

Council Member Culleton reported on his attendance at the Butte County Association of Governments, that they discussed the issue of the ads blocking view and that he met with the post mistress regarding moving the bus stop and that Butte County Air Quality Management District is in favor of reducing regulations to lessen impacts to local truckers and agricultural.

Mayor Lotter reported that an ad hoc committee met with the Town Manager and business owners to discuss an ordinance that would regulate the display of outdoor merchandise displays and that a follow-up meeting will be scheduled after investigation of possible solutions.

- 8b. Discussion of future agenda items - None

## **9. STAFF/COMMISSION/COMMITTEE COMMUNICATION**

- 9a. Town Manager oral reports

Town Manager Gill informed the Town Council that our insurance will cover the loss of the sweeper that was destroyed by fire. Paradise Community Village will meet next Wednesday and a workshop for "How to Avoid Tax Trap" for Thrift and Antique shops is scheduled for March 26 in the Council Chamber.



## **10. CLOSED SESSION**

At 9:20 p.m., Mayor Lotter announced that the Town Council would adjourn to hold closed session for the following:

- 10a. Pursuant to Government Code Section 54956.9(d)(4), the Town Council will hold a closed session to consider initiation of litigation, one potential case, relating to the rescission of the agreement between the Town and Truck Site for purchase of a street sweeper.
- 10b. Pursuant to Government Code Section 54956.9(d)(1), that the Town Council will hold a closed session with the Town Attorney relating to the following pending litigation: Town of Paradise, a Municipal Corporation, vs. Rose E. Kallunki; Pacific Gas and Electric Company; Doe 1 through Doe 50, inclusive, Butte County Superior Court Case No. 161781.
- 10c. Pursuant to Government Code Section 54957.6, the Town Council will hold a closed session to meet with Lauren Gill, Gina Will and Crystal Peters, its designated representatives, regarding labor relations between the Town of Paradise and the Paradise Police Officers Association, Confidential Mid-Management Association, General Employees Unit, Police Mid-Management Unit and the Management Group.

Mayor Lotter reconvened the meeting at 10:05 p.m. Town Attorney Moore announced that direction was given and no action was taken in closed session.

## **11. ADJOURNMENT**

Mayor Lotter adjourned the regular Council Meeting at 10:05 p.m.

Date approved: April 8, 2014

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

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