



Town of Paradise Town Council Special Meeting Agenda 2:00 PM – November 19, 2020

Town of Paradise Council Chamber – 5555 Skyway, Paradise, CA

Mayor, Greg Bolin
Vice Mayor, Steve Crowder
Council Member, Jody Jones
Council Member, Melissa Schuster
Council Member, Mike Zuccolillo

Town Manager, Kevin Phillips
Town Attorney, Mark A. Habib
Town Clerk, Dina Volenski
Community Development Director, Susan Hartman
Administrative Services Director/Town Treasurer, Brooke Kerrigan
Public Works Director/Town Engineer, Marc Mattox
Division Chief, CAL FIRE/Paradise Fire, Garrett Sjolund
Chief of Police, Eric Reinbold
Disaster Recovery Director, Katie Simmons

Meeting Procedures

- I. The Mayor is the Presiding Chair and is responsible for maintaining an orderly meeting. The Mayor calls the meeting to order and introduces each item on the agenda.
- II. The Town staff then provides a report to Council and answers questions from the Council.
- III. Citizens are encouraged to participate in the meeting process and are provided several opportunities to address Council. Any speaker addressing the Council is limited to three minutes per speaker - fifteen minutes per agenda item

In accordance with Governor Newsom's Executive Order N-29-20, remote public participation is allowed in the following ways:

The meeting will be available for the public to watch on Livestream at <https://livestream.com/townofparadise> If there are any comments the public would like to make prior to the meeting, please email them to dvolenski@townofparadise.com before 1:30 p.m. and they will be read into the record. If the public would like to make a comment during the meeting, please call 530-872-5951.

Members of the public may address the Paradise Town Council only on the items listed on the special meeting agenda. The Council is prohibited by law from considering any other business at this meeting.

Disabled persons may request reasonable modifications or accommodations relating to the use of telephonic or electronic observation and participation prior to the Council meeting by contacting the Town Clerk at (530) 872-6291 ext. 102.

In compliance with the Americans with Disabilities Act (ADA) Compliance, persons who need special accommodations to participate in the Town Council meeting may contact the Town Clerk at least three business days prior to the date of the meeting to provide time for any such accommodation.

1. OPENING

- 1a. Call to Order
- 1b. Pledge of Allegiance to the Flag of the United States of America
- 1c. Roll Call

2. COUNCIL CONSIDERATION

- 2a. 1. Pursuant to Public Contract Code Section 20166, consider rejecting all bids received for the Almond Street Multi-Modal Improvements and Paradise Gap Closure Complex, and; 2. Consider adopting Resolution No. 20-40, A Resolution of the Town Council of the Town of Paradise approving the updated plans and specifications for the Almond St. Multi-Modal Improvements and the Paradise Gap Closure Complex and authorizing re-advertisement for bids on the projects. (ROLL CALL VOTE)

3. COUNCIL INITIATED ITEMS

- 3a. Consider discussion and adopting Resolution No. 20-41, a Resolution of the Town Council of the Town of Paradise to Participate in Coalition Defending U.S. Fish & Wildlife Service Decision that California Spotted Owl Does Not Warrant Listing Under Federal Endangered Species Act. (CROWDER) (ROLL CALL VOTE)

4. ADJOURNMENT

STATE OF CALIFORNIA)	SS.
COUNTY OF BUTTE)	
I declare under penalty of perjury that I am employed by the Town of Paradise in the Town Clerk's Department and that I posted this Agenda on the bulletin Board both inside and outside of Town Hall on the following date:	

TOWN/ASSISTANT TOWN CLERK SIGNATURE	



TOWN OF PARADISE
Council Agenda Summary
Date: November 19, 2020

Agenda No. 2(a)

ORIGINATED BY: Marc Mattox, Public Works Director / Town Engineer

REVIEWED BY: Kevin Phillips, Town Manager

SUBJECT: Almond Street & Gap Closure ATP Projects – Reject All Bids & Readvertise

COUNCIL ACTION REQUESTED:

1. Pursuant to Public Contract Code Section 20166, consider rejecting all bids received for the Almond Street Multi-Modal Improvements and Paradise Gap Closure Complex, and;
2. Consider adopting Resolution No. 20-40, A resolution of the Town Council of the Town of Paradise approving the updated plans and specifications for the Almond St. Multi-Modal Improvements and the Paradise Gap Closure Complex and authorizing re-advertisement for bids on the projects. (ROLL CALL VOTE)

Background:

On September 8, 2020 Paradise Town Council adopted a resolution approving the Plans & Specifications for the Almond Street Multi-Modal Improvements and Paradise Gap Closure Active Transportation Program Projects. Council further directed staff to advertise for bids on the subject combined project.

Analysis:

On November 10, 2020, the Town of Paradise Clerk's Office received 8 total bids prior to 4pm. These bids were opened and read aloud. The bid results are shown below.

Bid No.	Vendor City, State	Bid Amount
1.	Martin Bros. Const of Sacramento	6,992,203. ³⁰
2.	R+R Horn of Chico	6,630,990. ⁵⁰
3.	Knife River Construction - Chico	6,860,979. ⁵⁰
4.	All American Construction <small>LIVE OAK</small>	6,915,021. ⁰⁰
5.	McGuire & Hester - Alameda	6,475,684. ⁵⁰
6.	Teichert & Sons Const. - Roseville	7,951,328. ⁰⁰
7.	Jason Abel Const - Corning	6,398,889. ²⁵
8.	FRANKLIN Const. - Chico	6,574,408. ⁰⁰

Following review of the proposals received, it is staff's recommendation to reject all bids and readvertise immediately. This action is supported by Public Contract Code Section 20166 which states:

20166. In its discretion, the legislative body may reject any bids presented and readvertise.

The apparent low bidder, Jason Abel Construction, submitted a proposal with various deficiencies. Recommending award to the second-lowest bidder could expose the Town to various levels of risk and a prolonged schedule for resolution. Rejecting all bids and readvertising the project can be accommodated by staff and will not affect the project schedule.

Financial Impact:

As previously discussed, the Town of Paradise has received multiple grant awards to support this project's delivery. A cost summary of both the Almond Street and Gap Closure Projects are provided below:

Almond Street Multi-Modal Improvements

Project Phase	Total Cost	Grant Funding	Local Funding
Preliminary Engineering	\$280,000	\$229,000	\$51,000
Right of Way	\$200,000	\$195,000	\$5,000
Construction	\$3,290,000	\$2,825,000	\$465,000
Construction Engineering	\$180,000	\$180,000	\$0
TOTAL	\$3,950,000	\$3,429,000	\$521,000

Gap Closure Complex

Project Phase	Total Cost	Grant Funding	Local Funding
Preliminary Engineering	\$350,000	\$306,000	\$44,000
Right of Way	\$0	\$0	\$0
Construction	\$4,805,000	\$4,216,000	\$589,000
Construction Engineering	\$290,000	\$290,000	\$0
TOTAL	\$5,445,000	\$4,812,000	\$633,000

Prior the Camp Fire, Measure C funds for both projects were committed to account for local funding. These funds have since been reallocated and/or placed on 'hold'. The local funds required for the project are designated to address minor matching requirements and significant road rehabilitation costs for non-ATP participating costs. Staff remains committed to seeking solutions to address the road rehabilitation need, including working with the Town's insurance provider relating to these downtown streets which have been damaged by the Fire.

Upon review of the first bid cycle, it is expected the projects will fit pre-fire budgeted amounts. However, the source of the local match (Gas Tax, General Fund or Measure C) is still to be determined.

**TOWN OF PARADISE
RESOLUTION NO. 20-40**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PARADISE APPROVING THE REVISED PLANS, SPECIFICATIONS
AND ESTIMATES FOR THE ALMOND STREET MULTI-MODAL
IMPROVEMENTS AND PARADISE GAP CLOSURE COMPLEX AND
AUTHORIZING ADVERTISEMENT FOR BIDS ON THE PROJECTS.**

WHEREAS, the Town of Paradise has received a \$8.2M allocation of combined Active Transportation Program and Congestion Mitigation Air Quality funds at; and,

WHEREAS, the purpose of the Active Transportation Program is to:

- Increase the proportion of biking and walking trips,
- Increase safety for non-motorized users,
- Increase mobility for non-motorized users,
- Advance the efforts of regional agencies to achieve greenhouse gas reduction goals,
- Enhance public health, including the reduction of childhood obesity through the use of projects eligible for Safe Routes to Schools Program funding,
- Ensure disadvantaged communities fully share in program benefits,
- Provide a broad spectrum of projects to benefit many types of active transportation users.

WHEREAS, the Almond Street Multi-Modal Improvements and Paradise Gap Closure Complex Projects are consistent in scope with the approved grant awards by including the following items of work:

- Installation of new Class II Bicycle Lanes along Birch, Fir, Black Olive and portions of Almond
- Installation of new Class I Bicycle/Pedestrian Pathway along portions of Almond
- Installation of new pedestrian-lighting throughout the project area
- Installation of new sidewalks throughout the project area
- Installation of culvert pipes and drainage infrastructure
- Reconstruction of the roadway using full-depth reclamation process
- Undergrounding of all overhead utilities (separate, concurrent effort through PG&E)

WHEREAS, the Almond Street Multi-Modal Improvements and Paradise Gap Closure Complex Projects are consistent with priorities identified in the Paradise Long-Term Recovery Plan prepared in response to the 2018 Camp Fire.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARADISE AS FOLLOWS:

Section 1. The design, plans, specifications and estimates for Almond Street Multi-Modal Improvements and Paradise Gap Closure Complex described in the Town Council Agenda Summary for this Resolution are hereby approved.

Section 2. The Public Works Department is authorized to advertise the for Almond Street Multi-Modal Improvements and Paradise Gap Closure Complex projects.

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 19th day of November 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By: _____
Greg Bolin, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Mark A. Habib, Town Attorney

REQUEST TO JOIN COALITION

The California Forestry Association (CFA) requests your participation in a coalition seeking to intervene in support of the U.S. Fish and Wildlife Service (Service) in a lawsuit brought by Sierra Forest Legacy, Defenders of Wildlife, and the Center for Biological Diversity regarding a decision by the Service that listing the California Spotted Owl (CSO) was not warranted under the Endangered Species Act (ESA).

Why This Matters:

The best available scientific information supports the decision of USFWS that listing of CSO is not warranted. Listing of this species will hamper efforts on private, state, and federal lands in California to take management actions to reduce wildfire risk and protect human health and safety, natural resources and the environment. As the fires burning throughout California show, such responsible land management is long overdue, and will be needed in the coming years more than ever. Examples of the negative impacts of listing the CSO abound. Listing the species would slow and raise the costs of:

- fuel break construction projects;
- fuels management/reduction projects;
- timber harvesting projects, including thinning; and
- public infrastructure projects and land management actions to protect them.

More frequent and intense wildfires will result, harming human health and safety, natural resources and the environment:

- people will be injured and/or killed;
- homes and other structures will burn;
- water supplies will be polluted by runoff from burned areas;
- other essential infrastructure, such as electrical transmission facilities and telecommunication lines and towers, will be destroyed;
- habitat for species (including protected species) will burn;
- watercourses will be polluted;
- forest carbon storage projects will go up in smoke; and
- emissions from fires will cancel out hard-won emission reductions from the electricity and other sectors.

The Lawsuit:

On November 8, 2019, the U.S. Fish and Wildlife Service (Service) determined listing of the California Spotted Owl (CSO) was not warranted under the Endangered Species Act (ESA). On August 24, 2020, Sierra Forest Legacy, Defenders of Wildlife, and the Center for Biological Diversity, challenged the Not Warranted listing decision in federal court in the Northern District of California. These groups allege the Service was arbitrary and capricious in not listing the species given (1) threats faced by the species, including wildfire; (2) information contained in the species' status review that support listing; and (3) the

declining status of the species within its range. The case is Sierra Forest Legacy et al v. U.S. Fish and Wildlife Service et al, No. 5:20-cv-05800-BLF, U.S. District Court Northern District of California. It is assigned to Judge Beth Lawson Freeman in San Jose.

Intervenor Status:

The California Forestry Association will seek status as an Intervenor in the case. Intervenor status will allow CFA to defend the decision of the Service and participate in any settlement discussions that may occur during the course of the case. We believe that data collected and provided to the Service affords a solid basis for its decision and we seek to protect the scientific process used to reach the conclusion.

The case was filed on August 24 and an initial Case Management Conference is scheduled for 11am on December 10. We intend to file intervention papers by November 5 so that we can participate in the conference.

The Coalition:

We are inviting others who could be impacted by a reversal of the Service's decision to not list the CSO to join us as part of a coalition that will seek intervenor status. Your name will appear on the court records and you will have access to information regarding the case but will not be expected to actively participate beyond submitting a declaration. You will also not be asked to contribute financially to this effort and there is no risk you would be held responsible for the other side's fees costs. Essentially, you will be affirming your support for the Service's decision. There likely will be a hearing in 2021 in San Jose which you would be welcome to attend, but you will not need to testify.

TOWN OF PARADISE
RESOLUTION NO 20-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE TO PARTICIPATE IN COALITION DEFENDING U.S. FISH & WILDLIFE SERVICE DECISION THAT CALIFORNIA SPOTTED OWL DOES NOT WARRANT LISTING UNDER FEDERAL ENDANGERED SPECIES ACT

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WHEREAS, the 2020 wildfire season in California is by far the most destructive on record, with over 4.1 million acres burned, over 9,200 structures destroyed, five of the six largest fires in California history, and at least 31 fatalities;

WHEREAS, scientific consensus as well as Governors Newsom and Brown, among others, agree that effective fire resilience requires large-scale fuels reduction, particularly combinations of mechanical thinning with prescribed burning;

WHEREAS, catastrophic fire is the single largest threat to forest-dwelling wildlife in California, by at least one order of magnitude;

WHEREAS, on November 8, 2019, the United States Fish and Wildlife Service (“Service”) made a finding, pursuant to 16 U.S.C. § 1533(b)(3)(B)(i), that listing the California Spotted Owl, *Strix occidentalis occidentalis* (“CSO”), as threatened or endangered under the Endangered Species Act (“ESA”) is not warranted;

WHEREAS, the ESA requires that decisions whether to list species shall be made “solely on the basis of the best scientific and commercial data available,” 16 U.S.C. § 1533(b)(1)(A), and that listing determinations may take into account “the present or threatened destruction, modification, or curtailment of” the species’ “habitat or range”; “overutilization” of the species “for commercial, recreational, scientific, or educational purposes;” the effects of “disease or predation;” the “inadequacy of existing regulatory mechanisms;” or “other natural or manmade factors affecting” the species’ “continued existence,” 16 U.S.C. § 1533(a)(1);

WHEREAS, the Service reviewed all the relevant listing factors and prepared, in June 2019, an extensive Species Status Report prior to making its November 2019 finding, and subjected the Report to scientific peer review;

WHEREAS, the Service’s analysis “used the three conservation biology principles of resiliency, redundancy, and representation,” and acknowledged “there are several factors that contribute to the current condition and pose a risk to future viability of the species” (Report at *ii*);

WHEREAS, the Service reviewed and analyzed potential species-level viability under three different scenarios, including a worst-case scenario, a current conditions scenario, and a scenario involving improved conditions (Report at *iii-v*);

WHEREAS, under all scenarios the Service reviewed and incorporated the best available science from the Intergovernmental Panel on Climate Change (“IPCC”) and assessed the

viability of the species within the range of future climate scenarios for the next 40–50 years (Report at 71);

WHEREAS, the Service’s analysis considered all potential threat factors for the CSO, including Large-Scale High-Severity Fire; Tree Mortality; Drought; Interannual Climate Variability; Climate Change; Clearcutting; Mechanical Thinning; Salvage Logging; Barred Owls; Contaminants; Disease/Parasites; Development; and Recreation; and the effect of these threats on individual and population-level CSO needs, including prey, multi-layered high canopy cover, large trees, coarse woody debris, forest heterogeneity, nest trees, patch size, dispersal, survival, fecundity, occupancy, and population growth (Report at 72–107);

WHEREAS, the CSO currently exhibits high representation and moderate redundancy throughout its range, with over half the regions of the Sierra Nevada range in “moderate” or “high” condition despite the persistence of threat factors over the past 20–30 years;

WHEREAS, the Service’s assessment indicated that with modest conservation measures, the CSO will very likely retain sufficient resilience, representation, and redundancy to avoid threats to its viability for the next 40–50 years;

WHEREAS, achieving the modest conservation measures necessary to ensure the species’ viability requires increasing the amount of active forest management within the range of the CSO;

WHEREAS, nearly one-third of the forestland within the range of the CSO is in private ownership, and private timberland owners are taking significant measures to aid CSO conservation, including but not limited to candidate conservation agreements with assurances (“CCAAs”), habitat conservation plans (“HCPs”), and efforts with USFS, CAL FIRE, and organizations to implement a system of fuel breaks across federal, state and private forestland, and other measures;

WHEREAS, the State of California and U.S. Forest Service have entered a shared stewardship agreement to maintain and restore healthy forests to reduce risk of catastrophic wildfire, protect fish and wildlife habitat, enhance biological diversity, improve climate resilience, sequester carbon, improve recreational opportunities, and good jobs and economic opportunities in general.

WHEREAS, listing the species under the ESA would hamper efforts on private, State and federal lands in California to take management actions to reduce wildfire risk and protect human health and safety, natural resources and the environment, by increasing the costs and delaying implementation of necessary fuelbreak construction, fuels management/reduction projects, commercial timber harvesting projects (including thinning), and public infrastructure projects (and land management actions to protect them);

WHEREAS, on August 17, 2020 a lawsuit captioned *Sierra Forest Legacy et al v. U.S. Fish & Wildlife Service et al*, No. 5:20-cv-05800-BLF, was filed in the United States District Court for the Northern District of California, challenging the Service’s decision regarding listing the CSO;

WHEREAS, interested stakeholders, including CalForests, seek to intervene in the above lawsuit, and the Paradise Town Council may participate in this intervention effort provided the Council does so without the expenditure of funds, and without incurring any financial or legal liability;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Paradise, that the Council is authorized to coordinate with counsel retained in this case, and take all necessary actions for the Council to participate in the CSO lawsuit.

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 19th day of November, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By: _____

Greg Bolin, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Mark A. Habib, Town Attorney

Coalition Member Participation Terms and Conditions
Sierra Forest Legacy, et al. v. U.S. Fish & Wildlife Service, et al.,
No. 5:20-cv-05800-BLF (N.D. Cal.)

The Coalition for Owls, Resources and the Environment (CORE) (hereinafter the “Coalition”) is an unincorporated association that is managed in all aspects by the California Forestry Association (CalForests). The Coalition will seek to intervene in *Sierra Forest Legacy, et al. v. U.S. Fish & Wildlife Service, et al.*, No. 5:20-cv-05800-BLF (N.D. Cal., Complaint filed Aug. 17, 2020) (Lawsuit), a lawsuit challenging the U.S. Fish & Wildlife Service’s determination that listing of the California spotted owl under the Endangered Species Act is not warranted.

1. **Coalition’s Purpose:** The purpose of the Coalition is to express views about responsible management of public and private forests and the potential impacts of a ruling adverse to the federal government in the Lawsuit on the community.
2. **Financial Responsibility:** CalForests will be responsible for all legal fees and costs incurred in connection with the Lawsuit. Except for CalForests, no member of the Coalition shall be responsible for any fees or costs of the Lawsuit.
3. **Decision-making:** All decisions regarding the Lawsuit, including litigation strategy or terminating involvement in the Lawsuit, shall be made exclusively by CalForests. CalForests has retained Paul Hastings LLP to represent the Coalition in the Lawsuit, and CalForests will be responsible for providing direction to Paul Hastings with respect to the Lawsuit. Comments or suggestions from other members of the Coalition are welcome and should be transmitted to the designated representative of the Coalition.
4. **Confidentiality:** Each member of the Coalition agrees that all correspondence or communications regarding the Lawsuit between or among the members of the Coalition shall be held in confidence and not disclosed outside of the Coalition to the maximum extent permitted by law. No attorney-client relationship exists between or among the members of the Coalition. Legal counsel for the Coalition only represents the Coalition itself.
5. **Membership:** By signing below, the undersigned hereby elects to become a member of the Coalition. The undersigned may withdraw from the Coalition at any time by providing written notice to the designated representative of the Coalition.

Entity name

Signature

Date