



TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931
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www.townofparadise.com

Management Staff:

Lauren Gill, Town Manager
Dwight L. Moore, Town Attorney
Joanna Gutierrez, Town Clerk
Craig Baker, Community Development Director
Gabriela Tazzari-Dineen, Police Chief
Greg McFadden, Interim Chief, CAL FIRE/Butte
County Fire/Paradise Fire
Gina Will, Finance Director/Town Treasurer

Town Council:

Scott Lotter, Mayor
Greg Bolin, Vice Mayor
Steve "Woody" Culleton, Council Member
Jody Jones, Council Member
John J. Rawlings, Council Member

TOWN COUNCIL AGENDA

SPECIAL MEETING – 6:00 PM – April 22, 2014

In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact the Town Clerk's Dept., at 872-6291 at least 48 hours in advance of the meeting. Hearing assistance devices for the hearing impaired are available from the Town Clerk. Members of the public may address the Town Council on any agenda item, including closed session. If you wish to address the Town Council on any matter on the Agenda, it is requested that you complete a "Request to Address Council" card and give it to the Town Clerk prior to the beginning of the Council Meeting. All writings or documents which are related to any item on an open session agenda and which are distributed to a majority of the Town Council will be available for public inspection at the Town Hall in the Town Clerk Department at 5555 Skyway, Room 3, at the same time the subject writing or document is distributed to a majority of the subject body. Regular business hours are Monday through Thursday from 8:00 a.m. to 5:00 p.m.

1. OPENING

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

2. PUBLIC HEARING

The Town Council has adopted the following 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
- a. Conduct the duly noticed public hearing for the Town Council to consider adopting an ordinance making findings and extending Ordinance No. 539 for an additional 10 months and 15 days in accordance with Government Code Section 65858. Ordinance No. 539 is an interim urgency ordinance of the Paradise Town Council that enacted a 45 day moratorium on the establishment of fences, gates or barriers within or across private access easements within the Town of Paradise. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061 (b)(3), the proposed ordinance extension is exempt from environmental review because there is no possibility that the extension of the moratorium will have a significant effect on the environment. At the close of the hearing the Town Council will consider:

(1) Waiving the reading of entire Ordinance No. ___ and approve reading by title only. **(ROLL CALL VOTE)** and,

(2) Adopting Ordinance No. ___, An Ordinance Extending Interim Urgency Ordinance No. 539 Enacting a Moratorium on the Establishment of Fences, Gates or Barriers Within or Across Private Access Easements. **(ROLL CALL VOTE)**

3. CLOSED SESSION

- a. 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.

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: April 22, 2014

Item 2a

ORIGINATED BY: Craig Baker, Community Development Director
Dwight Moore, Town Attorney

REVIEWED BY: Lauren Gill, Town Manager

SUBJECT: Consideration of Extending Interim Urgency Ordinance No. 539 Enacting a Moratorium on the Establishment of Fences, Gates or Barriers Within or Across Private Access Easements

COUNCIL ACTION REQUESTED: Upon conclusion of the public hearing, adopt either the recommended action or an alternative action.

RECOMMENDATION: Adopt a **MOTION TO:**

1. Waive the reading of Town Ordinance No. _____ and read by title only [roll call vote]; **AND**
2. Adopt Town Ordinance No. _____, "An Ordinance Extending Interim Urgency Ordinance No. 539 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"; **OR**
3. Adopt an alternative directive to Town staff regarding this agenda item.

BACKGROUND: On April 8, 2014, the Town Manager submitted a report to the Council concerning the current status of fences, gates and structures within private roadway easements and how they might impact the delivery of emergency police, fire and medical services to residents who use a private roadway easement. The report also outlined various approaches that other jurisdictions use to address the issue. As a result of this analysis, two proposed ordinances were prepared for the Town Council's review. At the conclusion of their discussion, a majority of the Town Council voted to direct the Planning Commission to consider adopting a resolution recommending Town Council adoption of zoning code text amendments to permit the establishment of fences, gates or other barriers within private road easements only if all parties using the easement consent to the establishment of such structures. On March 19, 2014, the Town Council adopted Ordinance No. 539, establishing a 45 day moratorium relating to the establishment of fences, gates or other barriers within or across private access easements.

DISCUSSION: After May 2, 2014, Ordinance No. 539 will expire unless the Town Council extends it. On April 12, 2014, the Town provided a notice that the Council will hold a public hearing to consider adopting an ordinance extending the moratorium for a maximum of an

additional 10 months and 15 days. A copy of the proposed ordinance to extend the moratorium is attached to this summary. The Planning Commission is tentatively scheduled to consider such a resolution on May 20, 2014. If the text amendments proceed through the review and adoption process normally, the text amendments would be in legal effect on August 8, 2014. Extending the moratorium via adoption of the attached urgency ordinance extension will allow the moratorium to remain in place during the review and adoption process for the proposed text amendments. The text amendment ordinance that will be prepared for Town Council consideration will include a provision that repeals the interim urgency ordinance on August 8, 2014.

FINANCIAL IMPACT: An approximate cost of \$95.00 per page (\pm \$300) will be borne by the Town of Paradise for publication of the ordinance or ordinance summary within the local newspaper.

Attachment

**TOWN OF PARADISE
ORDINANCE NO. ____**

**AN ORDINANCE EXTENDING INTERIM URGENCY ORDINANCE NO. 539
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**

The Town Council of the Town of Paradise, State of California does hereby **ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The Town Council finds and declares as follows:

- a) Paradise Municipal Code section 17.06.600 E. 4. states, in pertinent part, as follows:

“No fences shall be installed within public or private rights-of-way or access easements.”
- b) The Community Development Director and Town Attorney have opined that a gate would also be prohibited within a private access easement because it is a component of a fence.
- c) The Paradise Planning Commission has interpreted that a gate within a private access easement does not violate the prohibition against fences.
- d) The Planning Commission interpretation has been appealed to the Town Council.
- e) The installation of a gate within a private access easement without the prior consent of all users of the easement could create a barrier to their egress from their respective residences in times of wildland fires.
- f) Although section 503.6 of the California Fire Code, as amended and adopted by the Town of Paradise, sets forth requirements for the function of security gates, including those within or across private access easements, it does not specify or imply any required location(s) for such gates.
- g) On March 19, 2014, the Town Council adopted Ordinance No. 539 as an interim urgency ordinance that enacted a moratorium on the establishment of fences, gates or barriers within or across private access easements.
- h) On April 8, 2014, the Town Council concurred with the Town Manager’s report concerning measures to alleviate the conditions relating to adoption of Ordinance No. 539.

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- i) On April 8, 2014, after considering the options in the Town Manger’s report, the Town Council adopted a motion, based on Option No. 1, to direct the Planning Commission to consider adopting a resolution recommending Town Council adoption of text amendments to Paradise Municipal Code Title 17 concerning the regulation of fences within or across private roadway easements.
- j) On April 12, 2014, pursuant to Government Code section 65090, the Town Clerk provided a 10 day public notice that the Town Council would hold a public hearing to consider adopting this ordinance.
- k) After holding a public hearing on April 22, 2014, based on direction of the Town Council to amend Paradise Municipal Code Title 17, it is necessary to extend the moratorium until such amendments are in effect relating to the installation of fences, barriers, including gates, before any additional gates are installed within or across a private access easement in the Town.
- l) The Town Council finds that there is a current and immediate threat to the public health, safety and welfare relating to emergency services and that the unregulated installation of fences, barriers or gates within a private access easement would result in that threat to the public health, safety and welfare of the Town’s residents.

SECTION 2. Definitions. For the purpose of this ordinance, the following terms shall have the following meanings:

- a) “Fence” shall mean any barrier or structure consisting of any material, including a gate across or within any public right-of-way or private access easement.
- b) “Person” shall include: Any natural person, association, corporation, cooperative, partnership, limited liability company, or any other business entity.

SECTION 3. Prohibitions. During the term of this interim urgency ordinance, no person shall cause or permit the establishment, development, construction, maintenance, operation, or enlargement of any fence, gate or any other barrier within or across a private access easement within the Town of Paradise.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court or competent

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jurisdiction, such provision shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions or other applications of the ordinance, which can be given effect without the invalid provision or application thereof.

SECTION 5. Urgency, Duration and Publication. This ordinance is adopted by the Town Council pursuant to the California Constitution, article XI, section 7 and Government Code section 65858 by a four-fifths or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. The reasons for such urgency are set forth in Section 1 above. This ordinance shall expire and be of no further force or effect 10 months and 15 days after its adoption, unless it is extended by the Town Council pursuant to California Government Code section 65858. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once, with the names of the members of this Council voting for or against the same in a newspaper of general circulation published in the Town of Paradise.

PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this 22nd day of April, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Scott Lotter, Mayor

APPROVED AS TO FORM:

ATTEST:

DWIGHT L. MOORE, Town Attorney

JOANNA GUTIERREZ, Town Clerk

**TOWN OF PARADISE
NOTICE OF PUBLIC HEARING - PARADISE TOWN COUNCIL**

Pursuant to Government Code Section 65090, NOTICE IS HEREBY GIVEN by the Town of Paradise Town Council that a public hearing will be held on **Tuesday, April 22, 2014** at 6:00 p.m., or as soon thereafter as possible, in the Town Hall Council Chambers, 5555 Skyway, Paradise, California, regarding the following matter:

- a. Town Council shall consider adopting an ordinance making findings and extending Ordinance No. 539 for an additional 10 months and 15 days in accordance with Government Code Section 65858. Ordinance No. 539 is an interim urgency ordinance of the Paradise Town Council that enacted a 45 day moratorium on the establishment of fences, gates or barriers within or across private access easements within the Town of Paradise.
- b. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061 (b)(3), the proposed ordinance extension is exempt from environmental review because there is no possibility that the extension of the moratorium will have a significant effect on the environment.

The ordinance file is available for public inspection at the Paradise Community Development Department, in Town Hall at 5555 Skyway, Paradise, California. If you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Paradise Town Clerk at, or prior to, the public hearing. For further information please contact the Paradise Community Development Dept. (planning division) at (530) 872-6291 ext. 111.

Joanna Gutierrez, Town Clerk