



# Town of Paradise Town Council Special Meeting Agenda 8:00 AM – May 27, 2021

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

Mayor, Steve Crowder  
Vice Mayor, Jody Jones  
Council Member, Greg Bolin  
Council Member, Steve “Woody” Culleton  
Council Member, Rose Tryon

Town Manager, Kevin Phillips  
Town Attorney, Mark A. Habib  
Town Clerk, Dina Volenski  
CDD, Planning & Onsite, Susan Hartman  
CDD, Building & Code Enforcement, Tony Lindsey  
Administrative Services Director/Town Treasurer – Ross Gilb  
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

The meeting will be open to the public on a limited basis. This means there will be reduced seating capacity, social distancing will be practiced, and face masks are required. (Please note, our limited capacity is 20 people and when that is reached, the doors will be closed.) Attendees may need to rotate seating positions to allow participation from those in attendance. Public speakers will be asked to complete speaker cards and may need to wait outside until they are called to speak.

Observers choosing not to attend in person may view the meeting on YouTube via the Town’s website at <https://www.youtube.com/channel/UCahySuEER2uUrqJ6G5ET-Xg/>  
Comments may be submitted via e-mail to [dvolenski@townofparadise.com](mailto:dvolenski@townofparadise.com) prior to 10:00 a.m. the day of the meeting. Comments will not be accepted via YouTube.

- A. If you wish to address the Council regarding a specific agenda item, please complete a “Request to Address Council” card and give it to the Town Clerk prior to the beginning of the meeting. This process is voluntary and allows for citizens to be called to the speaker podium in alphabetical order. Comments and questions from the public must be directed to the Presiding Chair and Town Council Members (please do not address staff.) Town staff is available to address citizen concerns Monday through Thursday at Town Hall between the hours of 8am and 5pm.

Members of the public may address the Town Council only on items listed on the special meeting agenda.

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 businessdays 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. Consider adopting Town Resolution No. 21-\_\_\_\_, “A Resolution of the Town Council of the Town of Paradise Authorizing the Assignment, Assumption, and Amendment of the Franchise Agreement with Northern Recycling and Waste Service to USA Waste of California, Inc. Subject to Approval from the Town Attorney.”; or, 2. Provide staff with direction on further desired amendments to the solid waste franchise agreement to present to Waste Management and bring back at a future council meeting. (ROLL CALL VOTE)

## 3. 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: May 27, 2021**

**Agenda Item: 2(a)**

**ORIGINATED BY:** Susan Hartman, Community Development Director –  
Planning & Wastewater

**REVIEWED BY:** Kevin Phillips, Town Manager

**SUBJECT:** Assignment of the existing Solid Waste Franchise Agreement  
between the Town of Paradise and NRWS to USA Waste of  
California Inc. (dba Waste Management)

**LONG TERM  
RECOVERY PLAN:** N/A

**COUNCIL ACTION REQUESTED:**

1. Consider adopting Town Resolution No. 21-\_\_, “A Resolution of the Town Council of the Town of Paradise Authorizing the Assignment, Assumption, and Amendment of the Franchise Agreement with Northern Recycling and Waste Service to USA Waste of California, Inc. Subject to Approval from the Town Attorney.”; **OR**
2. Provide staff with direction on further desired amendments to the solid waste franchise agreement to present to Waste Management and bring back at a future council meeting; **OR**
3. Direct an alternative directive to town staff.

**Background:**

In 2007, the Town of Paradise approved a comprehensive Franchise Agreement with Northern Recycling and Waste Services (NRWS). The agreement requires NRWS to provide solid waste, recycling and vegetative waste collection services for all properties in the Town of Paradise. Other services offered through the franchise agreement include the Household Hazardous Waste Facility, Reuse Center, and Vegetative Waste Yard.

In April 2017, a 10-year extension of the franchise agreement was negotiated with NRWS, with the addition of street sweeping, which extended the term of the franchise agreement to April 30, 2027.

In the two (2) years since the Camp Fire, NRWS has done their utmost to continue to serve the citizens of this Town with the limited resources they have post-fire. They too suffered the loss of staff, equipment, and most devastatingly – a sustainable customer base.

NRWS has come to the difficult decision that they are no longer financially able to sustain the requirements of the franchise agreement and as such proactively researched, and subsequently started talks with, another local solid waste hauler to agree to take over the remaining term of the franchise agreement, ultimately with the consent of the Town Council. Town staff began preliminary conversations with NRWS at the end of September 2020 regarding their decision to investigate the potential of an assignee for the remainder of the franchise agreement. By end of October staff was made aware of the identity of the proposed solid waste hauler to take over the contract, by mid-November NRWS & Waste Management (WM) presented proposed modifications to the franchise agreement as part of the assignment process which both NRWS and Waste Management initially wanted to have presented to the Town Council prior to the end of December 2020 but was eventually put on hold at the request of legal counsel for Waste Management. On May 12, 2021 Waste Management legal counsel contact staff that they and NRWS were ready to move forward with the assignment process and provided an updated proposal of amendments to the franchise agreement to be presented to the Town Council.

### **Analysis:**

During 2020 discussions with both NRWS and Waste Management, services that were offered pre-fire such as the Household Hazardous Waste (HHW) facility, the buy-back center, the Town's green waste yard, and street sweeping were discussed in the context of their current operational situation and the Assignee's ability and willingness to serve. The proposed franchise agreement amendments submitted by Waste Management covered the following operations:

#### **Green Waste Yard (Section 5.07)**

The green waste yard is owned by the Town of Paradise with contractual agreements for the solid waste franchisee to operate and manage the yard at the discretion of the Town. The yard is funded by a combination of gate fees and a surcharge on commercial solid waste accounts and has not been opened post-fire. Not accounting for gate fees or commercial surcharges for a cost offset, the cost to reopen the green waste yard, with reduced hours (5 days/week at 5 hours/day) was estimated in early 2021 to be approximately \$45,000-50,000 a month. With a franchise assignee that does not have a local office, those costs could potentially increase to account for facility accommodations for staff operating the yard. Currently, the financial resources are not in place to reopen the green waste yard and therefore staff only recommends consideration of a temporary suspension of Town's green waste yard operations, and removal of the commercial account surcharge as requested by WM, but suggests a clause in the agreement to reopen this item for discussion in a timeframe not to exceed 5 years. Staff and Waste Management can continuously revisit the situation in the future to determine feasibility of reopening. The nearest site to haul green waste to is 5.5 miles out of town at the Neal Rd Recycling & Waste Facility. The Town will also be issuing an RFI (request for information) to gauge interest and scope of operating the facility through a private company partnership outside of the franchise agreement.

#### **Household Hazardous Waste, E-Waste, & Buy-Back Center (Section 4.09)**

The local facilities for HHW, e-waste, and the buy-back center (for recyclables) are all currently located on NRWS' property at 920 American Way. Due to a lack of funding and staffing, all of these facilities have already been closed and residents are directed to the regional HHW facility near the Chico Airport which is free to Butte County residents and accepts HHW, e-waste, oil, paint, and universal wastes (batteries, thermostats, fluorescent tubes). A buy-back center is still

available to the public at Chico Scrap Metal in Chico. Staff does not support an indefinite suspension of the local HHW, e-waste, and buy-back center facilities and recommends a clause in the agreement to reopen these items for discussion in a timeframe not to exceed 5 years. The goal is, and always has been, to provide these services locally for the residents as they provide a great benefit for the community.

#### **Office and Truck Yard (Section 5.01)**

Currently the franchise agreement requires that the office and truck yard be located within Town limits. Waste Management would like to, for the remaining term of the agreement, continue to utilize their office and truck yard in Chico. As such, the language in Section 5.01 of the agreement is proposed to be amended to allow for a regional office and truck yard, but still with the same days and hours of availability (Mon-Fri, 8AM-5PM) previously required. Staff is not opposed to the use of a regional office and truck yard in lieu of a local yard for the remaining term of the agreement.

#### **Disposal, Transfer, and Processing Facilities (Sections 4.21-4.24)**

The franchise agreement directs NRWS to utilize the Neal Road Landfill for solid waste disposal and the City of Napa Material Diversion Facility for recyclables. The proposed modification would allow for Waste Management to utilize any fully licensed and permitted disposal site, transfer station, or material recovery facility. Staff recommends that solid waste continues to be disposed of at the Neal Road facility, but is not opposed to the proposed text modifications relating to recycling and vegetative waste for the remaining term of the agreement.

#### **Street Sweeping (Section 4.26)**

Our streets and roads are the single most important and expensive asset that the community owns. This community asset must be maintained in order to withstand the demands of our traffic loads and weather impacts. Keeping our roads clear of debris is crucial to public safety and to helping the roads last longer. Clearing the streets of debris in turn keeps the ditches free flowing, preventing flooding and water damage. To that end, the Town included public street sweeping as part of the 2017 franchise extension for the Town's arterial and collector streets. The street sweeping costs were approved to be covered through a surcharge on each service account that increased in cost based on the service level – between \$0.19 - \$9.62 a month. While the current customer base does not cover that cost in its entirety, it is a service that Waste Management is agreeable to continuing to provide. Staff does not support any suspension, waiver, or text modification of the street sweeping provisions of the franchise agreement for the remaining term of the agreement.

#### **Term of Franchise Agreement (Section 2.03)**

The current franchise agreement is scheduled to expire at midnight April 30, 2027 which leaves just shy of 6 years left on the contract after the assignment, if approved. Waste Management has requested an automatic 10-year extension on the end of the contract at time of assignment which would extend the franchise agreement to April 30, 2037. With many of the services in the contract needing to be temporarily suspended, it is not staff's opinion that an automatic 10-year extension would be appropriate considering some aspects of the franchise, such as the HHW facility, buy-back center, and green waste yard, may or may not even be operational before the end of the original termination date thus making it difficult to determine that the community is

receiving the exceptional service we've come to expect. However, understanding that this is still an incredible investment into our community, staff recommends considering a 10-year franchise agreement from date of assignment which, assuming a June 1, 2021 commencement date, would extend the franchise agreement from April 30, 2027 to May 31, 2031. Existing language would be left in the agreement whereby later negotiations for an extension can be initiated.

It is staff's opinion that the assignment of the franchise agreement to Waste Management, with further modifications, can be beneficial to the Town's residents for the following reasons:

- By assigning the existing agreement, Waste Management is bound to the same rate schedule and rate adjustment methodology as previously negotiated which was based on a much higher account portfolio.
- There will be no lapse in service which could happen should NRWS be unable to fulfill the remainder of the contract while the Town went through the RFP and contract award process for a new franchisee.
- Waste Management has the resources to continue the street sweeping program even with the limited service accounts which fund that activity.
- The financial stability of Waste Management will allow them to provide uninterrupted curbside services for the remainder of the agreement.

While staff has reviewed the proposed amendments provided by Waste Management and provided initial recommendations, Council consideration will require a full discussion as to whether these amendments provide a net positive benefit to the community. Staff remains available for further explanation of the interpretation of the proposed amendments and associated community service impacts.

**Financial Impact:**

The assignment of the existing franchise agreement will not incur any additional general fund expenses.

**TOWN OF PARADISE  
RESOLUTION NO. 21- \_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE  
AUTHORIZING THE ASSIGNMENT, ASSUMPTION, AND AMENDMENT OF  
THE FRANCHISE AGREEMENT WITH NORTHERN RECYCLING & WASTE  
SERVICES TO USA WASTE OF CALIFORNIA, INC. (DBA WASTE  
MANAGEMENT) SUBJECT TO THE APPROVAL OF THE TOWN ATTORNEY**

**WHEREAS**, pursuant to Public Resources Code section 40059, the Town of Paradise has the authority to enter into an exclusive franchise agreement relating to solid waste handling services if the Town Council finds that the public health, safety and well-being so require; and

**WHEREAS**, since January 18, 2007, Northern Recycling and Waste Services has had an exclusive franchise agreement with the Town of Paradise for recycling and solid waste collection services; and

**WHEREAS**, on April 11, 2017, the Town Council amended, restated, and approved the exclusive solid waste handling franchise with Northern Recycling & Waste services for an additional ten (10) years; and

**WHEREAS**, on May 12, 2021, a proposed draft assignment, assumption, and amendment agreement was presented by Waste Management for Town Council consideration; and

**WHEREAS**, after carefully considering the assignment proposal, the Town Council awarded the assignment, assumption, and amendment of the exclusive solid waste handling franchise to USA Waste of California, Inc. (dba Waste Management).

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

**SECTION 1.** The above recitals are true and correct.

**SECTION 2.** The Town Council finds that: 1. the public health, safety, and well-being require the Town to enter into an exclusive franchise agreement relating to the collection and handling of solid waste services within the Town's jurisdiction; 2. all the revenue derived from the fees therefor will not exceed the funds required to provide such services.

**SECTION 3.** The Town Manager is directed and authorized to execute the Amended and Restated Franchise Agreement with USA Waste of California, Inc. to include

RESOLUTION NO. 21-\_\_ , A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE AUTHORIZING THE ASSIGNMENT, ASSUMPTION, AND AMENDMENT OF THE FRANCHISE AGREEMENT WITH NORTHERN RECYCLING & WASTE SERVICES TO USA WASTE OF CALIFORNIA, INC. (DBA WASTE MANAGEMENT) SUBJECT TO THE APPROVAL OF THE TOWN ATTORNEY

the amendments as shown on the attached Exhibit B for refuse collection, recycling, and vegetative waste diversion services within the Town of Paradise, subject to the approval of the Town Attorney.

**SECTION 4.** Pursuant to California Environmental Quality Act (CEQA) Guideline section 15308, the Amended and Restated Franchise Agreement is exempt from the requirements of CEQA as a regulation for the protection of the environment relating to collection and disposal of solid waste.

**PASSED AND ADOPTED** by the Town Council of the Town of Paradise on this 27th day of May 2021, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
**Steve Crowder, Mayor**

**ATTEST:**

**BY:** \_\_\_\_\_  
**Dina Volenski, CMC, Town Clerk**

**APPROVED AS TO LEGAL FORM:**

**BY:** \_\_\_\_\_  
**Mark A. Habib, Town Attorney**



EXHIBIT “B”

**ASSIGNMENT, ASSUMPTION AND AMENDMENT OF FRANCHISE AGREEMENT**

THIS ASSIGNMENT, ASSUMPTION AND AMENDMENT OF FRANCHISE AGREEMENT (“Assignment”) is made as of this \_\_\_ day of \_\_\_\_\_, 2021 by and among by and among Northern Recycling & Waste Services, LLC, a California limited liability company (the “Assignor”), USA Waste of California, Inc., a Delaware corporation (“Assignee”), and the Town of Paradise, a municipal corporation, (the “Town”). The Assignor, Assignee and the Town may at times be referred to herein collectively as the “Parties.”

**RECITALS**

A. Assignor and the Town are parties to that certain Amended and Restated Agreement for Solid Waste, Recyclable Materials, and Yard Waste Collection, Processing and Disposal Services dated April 30, 2017 (the “Franchise Agreement”).

B. Assignor is transferring ownership of substantially all of its assets to Assignee pursuant to that Agreement for Purchase and Sale of Assets dated \_\_\_\_\_, 2021 (the “Purchase Agreement”). Assignor also desires to convey all its right, title and interest in, to and under the Franchise Agreement to Assignee, as more fully provided in this Assignment.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Assignment. Subject to and simultaneous with the closing of the transactions contemplated in the Purchase Agreement (the “Effective Date”), Assignor absolutely and unconditionally assigns and transfers to Assignee, its successors and assigns all of its right, title and interest in and to the Franchise Agreement.

2. Assumption of Obligations.

a. Assignee Obligations. It is specifically agreed between Assignor and Assignee that Assignee shall be responsible to the Town for the discharge and performance of any and all duties and obligations to be performed and/or discharged by the “Contractor” under the Franchise Agreement arising from and after the Effective Date.

b. Assignor Obligations. Assignor shall remain fully liable to the Town for the performance of all of the terms, covenants and conditions to be performed and/or discharged by the “Contractor” under the Franchise Agreement arising prior to the Effective Date

3. Amendments to Franchise Agreement. On the Effective Date, the Franchise Agreement shall be amended as follows:

a. Term. The first sentence of Section 2.03 of the Franchise Agreement shall

be amended to read as follows:

“The term of this Agreement shall commence at midnight April 30, 2017, and shall end at midnight April 30th, 2037, unless terminated as provided in Section 11.02.”

b. Disposal, Transfer and Processing Facilities. Notwithstanding the provisions of Section 2.08 or any other provision of the Franchise Agreement (including Sections 4.21-4.24), Contractor may deliver Solid Waste, Recyclable Materials or Yard Waste for processing or disposal to any fully licensed and permitted Disposal Site, Transfer Station, Material Recovery Facility, or other Facilities.

c. Cleanups. Section 4.09B of the Franchise Agreement is hereby deleted.

d. Street Sweeping. The penultimate sentence of Section 4.26 of the Franchise Agreement shall be amended to read as follows:

“Any modifications to the street sweeping program shall continue to provide up to the 1,300 annual sweeping curb miles service with no changes to the "on-call" service hours.”

e. Office and Truck Yard. Section 5.01 of the Franchise Agreement shall be amended to read as follows:

**“5.01 Office and Truck Yard.**

Contractor shall operate a regional office within Butte County. Office hours shall be, at a minimum, from 8:00 A.M. to 5:00 P.M., Monday through Friday, exclusive of holidays. Responsible and qualified representatives (customer service representatives, office manager, etc) of Contractor shall be available during office hours for communication with the public at the regional office. Contractor's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. Contractor shall also maintain a local or toll free telephone number for use during other than normal business hours. Contractor shall have a representative, answering or message providing/receiving (voice-mail) service available at said after-hours telephone number. Contractor’s telephone system shall be able to track customer hold times and the number of calls received on a daily basis by each customer service representative.

Contractor shall maintain a regional truck yard for purposes of parking and maintenance.

f. Exhibit C. Exhibit C--Contractor Public Education Plan is amended to delete any reference to a household hazardous waste collection event.

g. Exhibit F. The following language shall be deleted from Exhibit F:

“All commercial customers will be charged an additional \$4.35 per month to support the Town's Vegetative Waste Facility.”

3. Town Consent. Town, by its execution below and pursuant to Section 12.05 of the Franchise Agreement, hereby expressly consents to the assignment of the Franchise Agreement by Assignor to Assignee, the assumption by Assignee of the Franchise Agreement as set forth in Section 2 above, and the amendments to the Franchise Agreement set forth herein.

4. Continuing Agreement. Except as expressly provided herein, all of the terms and provisions of the Franchise Agreement shall remain in full force and effect and the Parties hereby ratify and confirm all of the terms, covenants and conditions of the Franchise Agreement and acknowledges that the Franchise Agreement shall continue to remain in full force and effect in all respects from and after the Effective Date.

5. Counterparts. This Assignment may be executed in two or more counterparts, each of which shall be deemed an original copy, and all of which together will constitute one and the same instrument.

6. Authority. Each party to this Assignment represents and warrants to the other Parties to this Assignment that it is duly authorized to enter into this Assignment and that the person signing this Assignment on its respective behalf is duly authorized to sign on behalf of such party.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Assignment and Assumption of Contract as of the date first above written.

**ASSIGNOR**

NORTHERN RECYCLING AND WASTE SERVICES, LLC, a California limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ASSIGNEE**

USA WASTE OF CALIFORNIA, INC. a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TOWN**

TOWN OF PARADISE

By: \_\_\_\_\_  
Name : \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney