

**MINUTES
PARADISE TOWN COUNCIL
REGULAR MEETING - 6:00 P.M. – January 11, 2011**

The Regular Meeting of the Town Council of the Town of Paradise was called to order by Mayor White at 6:02 p.m. in the Council Chambers, Town Hall, 5555 Skyway, Paradise, California. Following the pledge of allegiance, the invocation was offered by Vice Mayor Culleton.

COUNCIL MEMBERS PRESENT: Steve "Woody" Culleton, Joe DiDuca, Scott Lotter, Tim Titus, and Alan White, Mayor.

COUNCIL MEMBERS ABSENT: None.

STAFF PRESENT: Town Clerk Gutierrez, Town Manager Rough, Town Attorney Moore, Assistant Town Manager Gill, Finance Director Will, Community Development Director Baker, Public Works Director/Town Engineer Schmidt, Acting Fire Chief Jensen and Police Chief Buzzard.

Recognitions by Police Chief Buzzard

1. Police Officer of the Year – Tim Denochochea
2. Police Dispatcher of the Year – Karen Braun
3. Volunteer in Police Service (VIPS) of the Year – Joe Shaw
4. PASH Volunteer of the Year – Barbara Duffy

2. ITEMS DEFERRED FROM PREVIOUS MEETING

Special Projects Manager McGreehan reported to Council regarding the continued and closed public hearing regarding the two options proposed for a one-time only monthly services rate compensation increase to the Town's franchisee Northern Recycling & Waste Services monthly solid waste collection rate schedule, either a 5% increase with a contract amendment approving a methodology index based upon 100% CPI – All Items for all Urban Consumers West Urban Area (Western Cities Index) for future annual cost of living adjustments; or, a 7.9% increase with a methodology index based upon 75% CPI California Statewide Consumer Price Index – All Urban Customers, pursuant to the terms of the current contract. (The franchise agreement allows application for a rate adjustment after four years of service operation as it relates to the fifth year of operation, in the event there was a revenue shortfall - also referred to as a "true-up" to the actual costs of operation.)

Mayor White stated that he would like Council's concurrence to reopen the public hearing only to address the financial documents which are part of the January 11 packet, but were not available to the public at the last meeting. Council concurred and Mayor White opened the hearing at 6:35 p.m.

1. Ward Habriel stated that he would like to know if anyone asked NRWS if they would like to put off this increase for another year.

Mayor White stated that the hearing was opened only to address the financial information. There were no other speakers and Mayor White closed the public hearing at 6:37 p.m.

There was a **MOTION** by Lotter, seconded by Culleton, to (1) Approve, effective January 11, 2011, a "one-time only" 5% monthly services rate compensation increase to the Northern Recycling & Waste Services solid waste collection rate schedule; and, approve the "Third Amendment to the Franchise Agreement" whereby a methodology index based upon 100% CPI – All Items for all Urban Consumers West Urban Area is established for application to possible future annual rate adjustments during Rate Year Six and the subsequent years of the franchise; and, (2) Authorize the Town Manager to execute and direct the filing of the "Third Amendment to the Franchise Agreement" on behalf of the Town of Paradise.

Following discussion, the **MOTION** was amended to include direction to the Town Attorney to draft an amended Third Agreement to include a reopening provision based on review of audited financial statements exclusive to the Town of Paradise.

ROLL CALL VOTE: Ayes of Culleton and Lotter; noes of DiDuca, Titus and Mayor White. Motion did not pass.

MOTION by White, seconded by Culleton, (1) Approved, effective January 11, 2011, a "one-time only" 5% monthly services rate compensation increase to the Northern Recycling & Waste Services solid waste collection rate schedule; and, approved the "Third Amendment to the Franchise Agreement" whereby a methodology index based upon 100% CPI – All Items for all Urban Consumers West Urban Area is established for application to possible future annual rate adjustments during Rate Year Six and the subsequent years of the franchise; and, (2) Authorized the Town Manager to execute and direct the filing of the "Third Amendment to the Franchise Agreement" on behalf of the Town of Paradise. Ayes of Culleton, Lotter and Mayor White; noes of DiDuca and Titus.

TC (AGT) [ADOPT]

One-time only 5% increase to rate schedule and Third Amendment to Franchise Agreement for Northern Recycling & Waste Services. (940-10-19)

3. CONSENT CALENDAR

At the request of Town staff, Council concurred to remove agenda item 3g from the agenda, a proposed license agreement with the USPS to relocate a bus stop, to be brought back at the next regular Council meeting.

Agenda Item 3(a): MOTION by DiDuca, seconded by Lotter, approved Minutes of the December 14, 2010 Regular Meeting. Roll call vote was unanimous.

TC (MIN) [APPR]
Minutes of the
December 14, 2010
Regular Meeting

Agenda Item 3(b): MOTION by DiDuca, seconded by Lotter, approved Check Register in the amount of \$1,081,675.99. Roll call vote was unanimous.

TC (FIN) [APPR] Check
Register in amount of
\$1,081,675.99 (310-10-
26)

Agenda Item 3(c): MOTION by DiDuca, seconded by Lotter, accepted a monetary donation of \$8,000 to the Police Department from the Paradise Community Council. (The money is to be used at the discretion of the department and will be used to purchase a Radar "Feedback" Sign system.) Roll call vote was unanimous.

TC (FIN) [ACCEPT]
Donation of \$8,000 from
Paradise Community
Council (395-50-13)

Agenda Item 3(d): MOTION by DiDuca, seconded by Lotter, adopted Resolution No. 11-01, A Resolution of the Town Council of the Town of Paradise Establishing a Community Action Volunteer Worker Program. Roll call vote was unanimous.

TC (RES) [ADOPT]
Res. No. 11-01,
Establish Community
Action Volunteer Worker
Program (670-20-10)

Agenda Item 3(e): MOTION by DiDuca, seconded by Lotter, (1) Awarded bid to Lehr Auto Electric for 12 mobile data computers for the Town of Paradise Police Department; and, (2) Authorized purchase and installation from Lehr Auto Electric of 12 mobile data computers for the Town of Paradise Police Department, including all required mounts, wiring, and accessories for a total not-to-exceed \$83,811.48. (There is no impact to the General Fund as the entire \$83,811.48 will be paid from private donations/trust to the Town of Paradise Police Department.) Roll call vote was unanimous.

TC (HS&W) [APPR]
Award Bid for 12 mobile
data computers for
Police Department
(money from private
donation) (480-35-02)

Agenda Item 3(f): MOTION by DiDuca, seconded by Lotter, approved the request by Chris Paul to adopt a portion of the Paradise Memorial Trailway to provide for litter pickup and general light maintenance from the Paradise Community Park northerly to Bille Road. Roll call vote was unanimous.

TC (PW) [APPR] Chris
Paul adopted a portion
of Memorial Trailway
(950-18-07)

Agenda Item 3(g): Item removed from the Agenda

Agenda Item 3(h): MOTION by DiDuca, seconded by Lotter, acknowledged receipt of the 1st Quarter Investment Report for the

TC (FIN) [ACK]
Receipt of Invest. Report

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Fiscal Year ended June 30, 2011. Roll call vote was unanimous.

for 1st QTR of FY ended
6/30/11. (360-30-05)

Agenda Item 3(i): MOTION by DiDuca, seconded by Lotter, (1) Authorized the Town Manager to enter into an agreement with North Bay Pensions to complete an Other Post-Employment Benefits (OPEB) actuarial study; and (2) Approved a supplemental budget adjustment of \$1,400 to account 1010.25.4400.5213.100. (The Governmental Accounting Standards Board (GASB) has introduced GASB 45 which requires government employers to measure and report the liabilities associated with other post-employment benefits in their financial statements.) Roll call vote was unanimous.

TC (AGT) [APPR]
Agreement with North
Bay Pensions for Other
Post-Employment
Benefits actuarial study.
(380-60-22 & 510-20-20)

Agenda Item 3(j): MOTION by DiDuca, seconded by Lotter, acknowledged receipt of the treasury investment options provided by the Finance Director/Town Treasurer for the investment of non-operating cash including funds previously held with the Local Agency Investment Fund (LAIF). Roll call vote was unanimous.

TC (FIN) [ACK]
Investment options from
Finance Director of non-
operating cash funds
previously held with
LAIF. (360-30-01)

Agenda Item 3(k): MOTION by DiDuca, seconded by Lotter, approved the reassignment of six staff hours from the Housing Analyst position to the Housing Coordinator position to address a recent vacancy in the division in order to delay the backfilling of the Housing Analyst position. (There is no impact to the General Fund, as all the funding for this division comes from CDBG, HOME and/or Cal Home grant funds.) Roll call vote was unanimous.

TC (APPR) [ADOPTED]
Reassigned Staff Hours
from Housing Analyst to
Housing Coordinator.
(610-10-17)

4. PUBLIC HEARING PROCEDURE

Mayor White informed the public there were no public hearings scheduled.

5. PUBLIC HEARINGS – None.

6. PUBLIC COMMUNICATION

1. Ward Habriel stated that he is addressing the Council on behalf of the Paradise Garden Club, that Jayne Locas is being honored as the "Lady of the Year" on February 19, 2011 at the Elks Lodge and invited the Council to attend, stating that the sole purpose of the Daffodils on the Ridge Project was to beautify the Town.

7. COUNCIL CONSIDERATION

Community Development Director Baker and Attorney Moore reported to Council regarding the proposed interim urgency ordinance enacting a moratorium on medical marijuana distribution

facilities and the establishment or operation of collectives for the cultivation of medical marijuana. Mr. Baker stated both the City of Chico and the County of Butte are in the process of developing ordinances to regulate medical marijuana distribution facilities and collectives for the cultivation of marijuana; and that given the proximity of Paradise to the community of Chico and the County of Butte, staff recommends the Council enact an urgency ordinance that would enact a moratorium on the establishment of medical marijuana distribution facilities and the operation and establishment of collectives in order to allow the staff and Town Attorney opportunity to develop regulations for the control and location of these types of facilities to bring to Council for possible adoption. Mr. Baker referred to two letters that were presented to Council from an attorney who is present this evening and who may wish to speak on this issue.

Town Attorney Moore discussed Health and Safety code provisions as they relate to seriously ill individuals who have a legal right to possess and grow marijuana; that the Town is not attempting to prevent an individual from possessing or cultivating marijuana in accordance with Proposition 215; discussed the applicability of the City of Claremont vs. Cruz which determined that cities have the right to regulate the establishment of medical marijuana distribution facilities and collectives; and, that a city's zoning regulations are not pre-empted by Proposition 215. Mr. Moore stated the staff is requesting a moratorium on these types of establishments so the Town will have an opportunity to study the issue and determine whether or not the Town wants to regulate these types of facilities.

Mayor White opened the matter for public comment:

1. Eric Berg, Berg and Associates, referred to his two letters delivered this afternoon to Council and staff; informed Council that his client has invested \$50,000 into an old building to provide a place for seriously ill patients to exercise their constitutional rights to produce marijuana and to associate collectively to produce marijuana; that the building is located in a zone that allows manufacturing; and asked the Council to reject the proposed moratorium.
2. Ward Habriel stated that he is dead set against marijuana use but doesn't think Council should take away anyone's property rights.
3. Jon Remalia, discussed the proposed location and his plans to provide a safe and secure place for people in the community to rent a space to grow marijuana, that it would keep it out of the store fronts

and out of the back yards, and that if the Council approves the moratorium he hopes that the process will not take as long as a year.

4. Eric Berg discussed the case Medical Marijuana Collectives vs. the City of Los Angeles; stated there were situations in Butte County wherein citizens had their marijuana and the right to grow marijuana taken from them and were subsequently given the right to sue and prevailed; that he does not see any problem that makes this an urgent matter, but if there are, then define what the specific problems are and propose an ordinance to deal with those specific problems and asked Council to not adopt the urgency ordinance.

Agenda Item 7(a): MOTION by Lotter, seconded by Culleton, (1)

Concurred with the amendments to the ordinance as stated by the Town Attorney, [to delete section "c" from Section 1 and renumber the paragraphs; and, insert the words "who do not cohabit at the location" after the word "persons" in Section 2(b)]; (2) Waived the reading of entire Ordinance No. 509 and approved reading by title only; and, (3) Adopted Ordinance No. 509, "An Interim Urgency Ordinance of the Town Council of the Town of Paradise Enacting a Moratorium on Marijuana Distribution Facilities and the Establishment or Operation of Collectives for the Cultivation of Medical Marijuana." Ayes of Culleton, DiDuca, Lotter, and Titus; no of Mayor White.

TC (ORD) [ADOPT]

Ord. 509 Interim Urgency Ordinance enacting a moratorium on marijuana distribution facilities and operation of collectives. (750-95-10 & 540-16-78)

Agenda Item 7(b): MOTION by Titus, seconded by Lotter,

authorized the Town Manager to increase the Police Department budget allocation and hire two replacement police officers, temporarily increasing the authorized number of Town police officer positions to eighteen. [The supplemental cost to the General Fund for two police officers positions (salary and benefits) for FY 10/11 is \$49,778.00 if hired no sooner than March 1, 2011.] Roll call vote was unanimous.

TC (HS&W) [AUTH]

Increase PD budget allocation and hire two replacement officers. (610-10-17)

Agenda Item 7(c): MOTION by Lotter, seconded by DiDuca, (1)

adopted Resolution No. 11-02, "A Resolution of Intention to Approve an Amendment to the Contract between the Board of Administration California Public Employees Retirement System and the Town Council of the Town of Paradise (to implement a two-tiered retirement system for new hires). Roll call vote was unanimous.

TC (RES) [ADOPT] Res

No 11-02, Intention to approve amendment with CalPERS and TOP (630-10-09)

Agenda Item 7(d): MOTION by Titus, seconded by Lotter, (1)

Waived the reading of entire Ordinance No. 510, and approved reading by title only; (2) Introduced Ordinance No. 510, An Ordinance of the Town of Paradise Amending Paradise Municipal Code Sections 15.02.230 and 15.09.090 relating to roof coverings

TC (ORD) [INTRO] Ord.

No 510 Amending PMC sections 15 related to roof coverings and open burning. (440-05-15 & 740-30-11)

and Open Burning; and, (3) Directed the Town Attorney to draft a summary of the Ordinance. (Approval will eliminate the requirement for Class A roof coverings to be on all structures no later than January 1, 2015; and, provides exemption from burn permit for certain outdoor fireplaces or warming devices.) Roll call vote was unanimous.

8. COUNCIL COMMUNICATION (Council Initiatives)

Agenda Item 8(a): Council Member Titus reported that he toured and is impressed with the Northern Recycling and Waste Services facility and its benefit to the community; and, asked if there are special recognitions that could be given to organizations such as "Heart-to-Hand" which helped over 300 children at Christmas.

Council noted that organizations and individuals are recognized upon request by mayoral proclamation at Council Meetings.

Council Member Lotter reported on his attendance at the Local Area Formation Committee (LAFCo) board meeting; and informed that a new radar sign was purchased by the Police Department from a donation received from the Community House.

Council Member DiDuca reported that his December meetings were cancelled; that he attended the Nutcracker; and lined up donations for the Help-4-People building, a window from Miller Glass, a door from Builders Supply and the installation of both, and that an NRWS employee installed the bars on their window.

Vice Mayor Culleton reported that none of his committees held meetings; that he is on the League of California Cities Policy Committee which will be meeting on March 25 in Anderson; and, that the LCC will be sponsoring a golf tournament in April.

Mayor White reported that neither BCAG nor BCAQMD met; and that the Paradise Community Village has MOU approval by Paradise Recreation and Park District for infrastructure for affordable housing, skate park and soccer fields that is to come to the Town in February.

Following a report from Vice Mayor Culleton regarding the proposal to change the regular meeting date of the Council from the second Tuesday of the month to the first Tuesday, Mayor White opened the matter for public input.

1. Ward Habriel spoke in favor of keeping the Town Council meeting on the second Tuesday of the month.

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2. Loren Harvey spoke in favor of changing the meeting to the first Tuesday of the month.

Agenda Item 8b: MOTION by Titus, seconded by Culleton, approved changing the Paradise Town Council regular meeting day from the second Tuesday of the month to the first Tuesday of the month, and directed staff to bring back an ordinance document to amend the Paradise Municipal Code (PMC) as it relates to the regular meeting date of the Town Council. Ayes of Culleton, DiDuca, Titus and Mayor White; no of Lotter.

TC (LEGAL) [APPR]
Change Town Council
meetings to once a
month on first Tuesday
at 6:00 p.m.

9. STAFF/COMMISSION/COMMITTEE COMMUNICATION

Agenda Item 9a: Manager Rough discussed Governor Brown's proposal for re-alignment of services and possible effects on the Town of Paradise, including possible elimination of redevelopment agencies by July 1, 2011; granting authority for cities to pass tax measures with a simple majority vote; different funding sources for the COPS grants; and the different relationships with CalFire and the United States Forest Service.

10. CLOSED SESSION – None.

11. ADJOURNMENT

The Town Council Meeting was adjourned at 9:40 p.m.

APPROVED: February 8, 2011

ALAN WHITE, Mayor



JOANNA GUTIERREZ, CMG, Town Clerk