



# TOWN OF PARADISE

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[www.townofparadise.com](http://www.townofparadise.com)

## Management Staff:

Charles L. Rough, Jr., Town Manager

Dwight L. Moore, Town Attorney

Joanna Gutierrez, Town Clerk

Lauren Gill, Assistant Town Manager

Craig Baker, Community Development Director

Dennis Schmidt, Public Works Director/Town Engineer

Chris Jensen, Fire Chief

Chris Buzzard, Police Chief

Gina Will, Finance Director/Town Treasurer

## Town Council:

Alan White, Mayor

Steve "Woody" Culleton, Vice Mayor

Joe DiDuca, Council Member

Scott Lotter, Council Member

Tim Titus, Council Member

## TOWN COUNCIL AGENDA

SPECIAL MEETING – 3:00 p.m. - March 1, 2011

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 only on the items listed on the Special Meeting Agenda. If you wish to address the Town Council, 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 within 72 hours of a Regular Meeting will be available for public inspection at the time the subject writing or document is distributed to a majority of the subject body. The information will be available at the Town Hall in the Town Clerk's Department at 5555 Skyway, Paradise, California, during regular business hours 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. CONSENT CALENDAR

- 2a. Consider adopting Resolution No. 11-\_\_, A Resolution of the Town Paradise Rescinding Resolutions 04-21, 04-22, 04-23 and 04-24, and Decertifying the Environmental Impact Report Relating to the FHK

Paradise, LLC Skyway Plaza Shopping Center Development Project and Finding That the Related Development Agreement is Null and Void.  
**(ROLL CALL VOTE)**

### **3. COUNCIL CONSIDERATION**

- 3a. Consider (1) Approving a 5-year interest bearing loan at 4.5% interest from the Town of Paradise to the Paradise Redevelopment in the amount of \$479,613 to cover Agency non-housing administrative and program costs through June 2011; and, (2) Authorize the Mayor to execute the loan agreement with the Paradise Redevelopment Agency. **(ROLL CALL VOTE)**

### **4. CLOSED SESSION**

- 4a. Pursuant to Government Code Section 54956.8, the Town Council will hold a closed session with its negotiators, Charles L. Rough, Jr., Lauren Gill, Gina Will, Dennis Schmidt and Doug Danz to discuss the price and terms to acquire real property from the owner Frank Nichols. The property is described as follows: Real property located within a 229 acre parcel of real property located south of Town along the side of Skyway within the Blue Oaks Phase III subdivision area, identified as AP #055-540-037.

### **4. ADJOURNMENT**



STATE OF CALIFORNIA)  
COUNTY OF BUTTE     ) ss.

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:

\_\_\_\_\_  
Deputy Clerk/Assistant Clerk/Town Clerk

**TOWN OF PARADISE**  
**Council Agenda Summary**  
**Date: March 1, 2011**

**Agenda No. 2(a)**

**ORIGINATED BY:** Dwight L. Moore, Town Attorney   
**REVIEWED BY:** Craig Baker, Community Development Director  
Charles L. Rough, Jr., Town Manager   
**SUBJECT:** Resolution Rescinding Town of Paradise Approvals Relating to the  
FHK Paradise, LLC Skyway Plaza Shopping Center Project

**COUNCIL ACTION REQUESTED:** Consider adopting Resolution No. \_\_\_\_\_, "A Resolution of the Town Council of the Town of Paradise Rescinding Resolutions 04-21, 04-22, 04-23 and 04-24 and Decertifying the Environmental Impact Report Relating to the FHK Paradise, LLC Skyway Plaza Shopping Center Project and Finding that the Related Development Agreement is Null and Void."

**BACKGROUND:** As a result of the Court of Appeal ruling in *Save Our Gateway v. Town of Paradise et al.*, the environmental impact report (EIR) in respect to the Town Council's approvals associated with the defunct FHK Skyway Plaza Shopping Center Project was ordered decertified.

**DISCUSSION:** Contemporaneously with the decertification of the EIR, the resolutions approving the defunct FHK Skyway Plaza Shopping Center Project need to be rescinded. It is not necessary to take any action regarding the Project development agreement because it became null and void on December 31, 2010 by operation of law. The rescission of the prior resolutions applies only to the former FHK Project. The proposed action is not connected to any other project.

**FINANCIAL IMPACT:** There is no financial impact associated with the approval of this resolution. Under the agreement between FHK Paradise, LLC and the Town, FHK is required to pay all the costs associated with litigation.

Attachment

**TOWN OF PARADISE  
RESOLUTION NO. 11-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE  
TOWN OF PARADISE RESCINDING RESOLUTIONS 04-21, 04-22, 04-23  
AND 04-24 AND DECERTIFYING THE ENVIRONMENTAL  
IMPACT REPORT RELATING TO THE FHK PARADISE, LLC SKYWAY PLAZA  
SHOPPING CENTER DEVELOPMENT PROJECT AND FINDING THAT  
THE RELATED DEVELOPMENT AGREEMENT IS NULL AND VOID**

**WHEREAS**, the Court of Appeal ruling in *Save Our Gateway v. Town of Paradise*, relating to the FHK Paradise, LLC Skyway Plaza Shopping Center Project (Project) ordered decertification of the environmental impact report (EIR) for the Project; and

**WHEREAS**, pursuant to Government Code section 65865 subdivision (b), the Project site had to be annexed to the Town no later than December 31, 2010; and

**WHEREAS**, based on the Court of Appeal ruling, the Town Council's approvals of the Project need to be rescinded.

**NOW, THEREFORE, BE IT RESOLVED BY the Town Council of the Town of Paradise as follows:**

**SECTION 1.** The following Town Council resolutions are hereby rescinded:

- |                      |                                                                                                                                                                                                                                                                                                                                                     |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Resolution No. 04-21 | A Resolution Of The Town Of Paradise Certifying The Final Environmental Impact Report For Skyway Plaza Shopping Center Development Project (SCH Number: 2001122020)                                                                                                                                                                                 |
| Resolution No. 04-22 | A Resolution Of The Town Council Of The Town of Paradise Adopting Findings Of Fact, A Statement Of Overriding Considerations, And A Mitigation Monitoring And Reporting Program In Accordance With The California Environmental Quality Act For The Skyway Plaza Shopping Center Project For Which An Environmental Impact Report Has Been Prepared |
| Resolution No. 04-23 | A Resolution Of The Town Council Of The Town Of Paradise Amending The Land Use Map Of The 1994 Paradise General Plan (GR-01-2-FHK Companies)                                                                                                                                                                                                        |

**RESOLUTION NO. 11-\_\_**

Resolution No. 04-24

A Resolution Of The Town Council Endorsing The Initiation Of The Processing Proceedings For The FHK Companies Annexation Application [AN-01-1] With The Butte Local Agency Formation Commission

**SECTION 2.** The Town Council finds that the Development Agreement with FHK as authorized by Town of Paradise Ordinance No. 422 for the Skyway Plaza Shopping Center Project is null and void by operation of law pursuant to Government Code section 65865 subdivision (b) in that the annexation of the Project site to the Town was not completed by December 31, 2010.

**SECTION 3.** Furthermore, the Town Council authorizes the filing of any required court documents as a result of this resolution.

**PASSED AND ADOPTED** by the Town Council of the Town of Paradise, County of Butte, State of California, on this \_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

ATTEST:

\_\_\_\_\_  
Alan White, Mayor

\_\_\_\_\_  
JOANNA GUTIERREZ, Town Clerk


APPROVED AS TO FORM:

\_\_\_\_\_  
DWIGHT L. MOORE, Town Attorney

**TOWN OF PARADISE  
COUNCIL AGENDA SUMMARY  
Date: March 1, 2011**

**AGENDA NO:3(a)**

**ORIGINATED BY:** Gina S. Will, Finance Director/Town Treasurer 

**REVIEWED BY:** Charles L. Rough, Jr., Town Manager   
Dwight L. Moore, Town Attorney

**SUBJECT:** Recommend Approval of 5-Year Interest Bearing Loan from the Town of Paradise to the Paradise Redevelopment Agency

**RECOMMENDATION:**

1. Approve 5 year interest bearing loan at 4.5% interest from the Town of Paradise to the Paradise Redevelopment Agency in the amount of \$479,613 to cover Agency non-housing administrative and program costs through June 2011;
2. Authorize the Mayor to execute the loan agreement with the Paradise Redevelopment Agency; or
3. Decline to enter into a loan agreement at this time.

**BACKGROUND:**

The Paradise Redevelopment Agency (Agency) currently in its 9th year, is a relatively young agency and while tax increment grew steadily prior to the recession, tax increment dollars are currently used primarily for the repayment and retirement of long term debt. Also, Redevelopment Agency's cannot collect their tax increment property tax dollars unless they have incurred debt through loans, tax allocation notes or bonds.

The Agency issued its first bond in the amount of \$4,480,000 October 2009 to repay its first two tax allocation notes, (\$1,600,000 and \$2,300,000). Interest payments began June 2010 and principal payments begin in 2017. In addition to the bond, one supplemental tax allocation note remains in the amount of \$1,300,000. This note matures in full in December 2016. The proceeds from these notes were used by the Agency to fund initial non-housing capital projects and housing programs/projects.

The Agency also has two relatively small notes outstanding for the purchase of property within the project area. As of June 30, 2010 one of the notes had remaining principal of \$16,838 and matures in full on December 1, 2011. The other note had remaining principal of \$110,108 and matures in full on June 2, 2019.

# 5-Year Interest Bearing Loan Between the RDA and the Town of Paradise

March 1, 2011

Page 2

The Town of Paradise and the Agency have entered into five, short term interest bearing loan agreements since the inception of the Agency. The agreements are mutually beneficial to both organizations as the Agency receives desired funds at a reasonable rate and the Town's General Fund receives additional interest income and an asset for its books. As of June 30, 2010, \$84,766 remained on the fourth loan which matures on March 21, 2012. The fifth and most recent loan has a balance as of June 30, 2010 of \$657,595 and matures on July 1, 2015. The other loans have been paid in full. Following is a Long Term Debt summary schedule for the Agency:

Debt Identification	Origination Date	Principal	Interest Rate	Maturity Date	Principal Balance at 6/30/10
RDA 2003 Tax Allocation Note	12/03/03	\$1,600,000	4.5%	12/03/10	\$0
RDA 2005 Tax Allocation Note	10/05/05	\$2,300,000	4.0%	10/05/10	\$0
RDA 2006 Tax Allocation Note	12/19/06	\$1,300,000	4.9%	12/19/16	\$1,300,000
RDA 2009 Bond	10/21/09	\$4,480,000	Varies	10/21/19	\$4,480,000
RDA Land Purchase	06/02/04	\$150,000	8%	06/02/19	\$110,108
RDA Land Purchase	11/01/04	\$70,000	6.5%	12/01/11	\$16,838
Town Loan #1/Admin Expenses	05/01/03	\$88,654	4.5%	05/01/08	\$0
Town Loan #2/Admin Expenses	11/01/04	\$148,164	4.5%	11/01/09	\$0
Town Loan #3/Admin Expenses	06/01/05	\$124,150	4.5%	06/01/10	\$0
Town Loan #4/Admin Expenses	03/01/07	\$198,712	4.5%	03/21/12	\$84,766
Town Loan #5/Admin Expenses	07/01/10	\$657,595	4.5%	07/01/15	\$657,595
<b>Totals</b>		<b>\$11,117,275</b>			<b>\$6,649,307</b>

**DISCUSSION:**

The Agency is requesting authorization to obtain a sixth, five year, short term, interest bearing loan from the Town of Paradise in the amount of \$479,613 with an interest rate of 4.50%. This loan would cover cash advances already made and estimated advances needed by the Agency for non-housing administrative and program costs from July 1, 2009 to June 30, 2011. These costs include such expenses as Agency management, legal services to the Agency, engineering, and general operating expenses.

This creates a sound investment opportunity for the Town. If approved, over the term of the loan, \$66,646.16 interest will be earned for the Town's General Fund. 4.5% is a reasonable return for the Town given the current economic conditions where the Town's current investments have been earning less than 1%. The Agency has also consistently demonstrated its ability to repay these loans, sometimes even prior to maturity.

The loan would also be favorable for the Agency considering that an outside source would require a higher interest rate and fees associated with generating a new loan.

The loan agreement and amortization schedule is attached for the Board's review.

It should be noted, however, that this loan agreement includes a subordination clause which sets higher priority on the payment of outstanding bonds and tax allocation notes. If needed, the Agency would renegotiate the terms of the loan agreement with Town of Paradise to avoid defaulting on any payment obligations.

**FINANCIAL IMPACT:**

If approved, the loan payments would begin March 1, 2011 and would be \$109,251.83 annually for five years, thus the last payment would take place March 1, 2016. Again, the loan would generate additional interest income of \$66,646.16 for the Town's General Fund over the term of the loan. Overall, interest bearing loans between the Town and the RDA (including those already paid off and those pending) will net the Town's General Fund \$235,796.50 in additional interest earnings.



## **AGREEMENT**

This Agreement is made and entered into on March 1, 2011 between the Town of Paradise, a municipal corporation ("Town")) and the Paradise Redevelopment Agency, a political subdivision of the State of California, ("Agency").

## **RECITALS**

**WHEREAS**, the Town Council of the Town of Paradise activated the Agency on February 12, 2002 by adopting Ordinance No. 374; and

**WHEREAS**, three previous start-up loans from the Town to the Agency have been fully repaid with interest; and

**WHEREAS**, a forth loan in the amount of \$198,712 between the Town and the Agency will be repaid by March 21, 2012 and a fifth loan in the amount of \$657,595 between the Town and the Agency will be repaid by July 1, 2015; and

**WHEREAS**, the Agency is young and in the initial stages of start-up in which necessary expenses need to be covered for various redevelopment administrative and program expenditures until the Agency is earning sufficient property tax increment revenues to cover such expenditures; and

**WHEREAS**, it is necessary for the Town again to lend funds to the Agency for the costs of general administrative and program costs.

**NOW, THEREFORE**, the Town and Agency do mutually agree as follows:

Section 1. The Town shall lend the Agency the amount of \$479,613 ("Loan") for the purpose of paying the costs associated with the general administration of the Agency and for professional and program services relating to carrying out the goals and objectives of the Redevelopment Plan for the Paradise Redevelopment Project. The annual simple interest of the Loan shall be four point five percent (4.5%). The loan payment schedule is attached as Exhibit "A".

Section 2. The Agency shall repay the Loan to the Town in five years by making five annual payments in the amounts set forth in Exhibit A from tax increment funds for the duly adopted Redevelopment Project Plan Area.

Section 3. The due date of each annual payment from the Agency shall be March 1<sup>st</sup> or sooner at the election of the Agency. The entire Loan may be repaid by the Agency prior to the due date without penalty.

Section 4. The Town agrees that this Loan is subordinate to outstanding bonds and tax allocation notes of the Agency, and the Town agrees to renegotiate the terms of the Loan if needed in order for the Agency not to default on any other loan.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the date first written above.

**TOWN OF PARADISE**

**PARADISE REDEVELOPMENT  
AGENCY**

BY: \_\_\_\_\_  
Alan White  
Mayor

BY: \_\_\_\_\_  
Charles L. Rough, Jr.  
Executive Director

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
Dwight L. Moore  
Town Attorney

BY: \_\_\_\_\_  
Joanna Gutierrez  
Town Clerk

PARADISE REDEVELOPMENT AGENCY  
AMORTIZATION SCHEDULE

Enter values	
Loan amount	\$ 479,613.00
Annual interest rate	4.50 %
Loan period in years	5
Number of payments per year	1
Start date of loan	3/1/2011
Optional extra payments	

Loan summary	
Scheduled payment	\$ 109,251.83
Scheduled number of payments	5
Actual number of payments	5
Total early payments	\$ -
Total interest	\$ 66,646.16

Lender name: TOWN OF PARADISE

Pmt. No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	3/1/2012	\$ 479,613.00	\$ 109,251.83	\$ -	\$ 109,251.83	\$ 87,669.25	\$ 21,582.59	\$ 391,943.75	\$ 21,582.59
2	3/1/2013	\$ 391,943.75	\$ 109,251.83	\$ -	\$ 109,251.83	\$ 91,614.36	\$ 17,637.47	\$ 300,329.39	\$ 39,220.05
3	3/1/2014	\$ 300,329.39	\$ 109,251.83	\$ -	\$ 109,251.83	\$ 95,737.01	\$ 13,514.82	\$ 204,592.38	\$ 52,734.88
4	3/1/2015	\$ 204,592.38	\$ 109,251.83	\$ -	\$ 109,251.83	\$ 100,045.17	\$ 9,206.66	\$ 104,547.21	\$ 61,941.53
5	3/1/2016	\$ 104,547.21	\$ 109,251.83	\$ -	\$ 109,251.83	\$ 104,547.21	\$ 4,704.62	\$ -	\$ 66,646.16