

MINUTES

PARADISE TOWN COUNCIL

REGULAR MEETING - 6:00 P.M. – October 13, 2009

The Regular Meeting of the Town Council of the Town of Paradise was called to order by Mayor Rutledge at 6:00 p.m. in the Council Chambers, Town Hall, 5555 Skyway, Paradise, California. Following the pledge of allegiance, the invocation was offered by Mayor Rutledge.

COUNCIL MEMBERS PRESENT: Steve "Woody" Culleton, Joe DiDuca, Scott Lotter, Alan White (arrived at 6:10 p.m.) and Frankie Rutledge, Mayor.

COUNCIL MEMBERS ABSENT: None.

STAFF PRESENT: Town Clerk Gutierrez, Town Manager Rough, Town Attorney Moore, Assistant Manager Ivey, Assistant to the Town Manager/Business & Housing Services Director Gill, Finance Director Will, Community Development Director McGreehan, Human Resources Manager Farrell, Assistant Town Clerk Volenski, Public Works Director/Town Engineer Schmidt, and Police Chief Carrigan.

Agenda Item 1(e): The following Proclamations were presented by Mayor Rutledge: (1) Domestic Violence Awareness Month to Lindsey Hensher of Catalyst; and, (2) Recognition of Sam Simpson, Paradise Volunteer Firefighter.

2. ITEMS DEFERRED FROM PREVIOUS MEETING

None.

3. CONSENT CALENDAR

Agenda Item 3(a): Motion by Lotter, seconded by Culleton, Approved the Minutes of the September 8, 2009 Regular Meeting and the September 28, 2009 Special Meeting. Roll call vote was unanimous with White absent and not voting.

TC (MIN) [APPR]
Minutes of the Sept. 8,
2009 Regular Mtg. and
Sept. 28, 2009 Special
Mtg.

Agenda Item 3(b): Motion by Lotter, seconded by Culleton, Approved the Check Register in the amount of \$1,055,211.93. Roll call vote was unanimous with White absent and not voting.

TC (FIN) [APPR] Check
Register in amount of
\$1,055,211.93 (310-10-
25)

Agenda Item 3(c): Motion by Lotter, seconded by Culleton, Authorized acceptance of building materials from Builders Supply valued at \$342.96 for use in the renovation of Fire Station No. 3. Roll call vote was unanimous with White absent and not voting.

TC (FIN) [ACCEPT]
Building materials
donated for renovation
of Fire Station #3 (395-
50-11)

Agenda Item 3(d): Motion by Lotter, seconded by Culleton, (1) Adopted Resolution No. 09-59, "A Resolution of Approval of Program Supplement Agreements for Federal Aid Project" (Federal Aid

TC (RES) [APPR] Res.
No. 09-59 Approval of
Program Supplement

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Project No. 03-5425R relating to Town of Paradise 2009 Overlay Project No. 1); (2) Authorized the Town Manager to execute in blue ink the Administering Agency-State Agreement for Federal-Aid Project No. 03-5425R; and, (3) Authorized the Town Manager to execute future program supplement Administering Agency-State Agreements for State and Federally funded projects. Roll call vote was unanimous with White absent and not voting.

Agreements for Federal Aid Project and authorized Town Manager to sign. (950-40-14)

Agenda Item 3(e): Motion by Lotter, seconded by Culleton, (1) Approved acceptance of a radio voter receiver MTR2000 from the City of Oroville Police Department as an asset transfer to the Town of Paradise Fire Department; (2) Authorized installation and reprogramming of voter receiver equipment for the Paradise Fire Department; and, (3) Approved the purchase, and declared surplus a battery back-up and transfer of the equipment to the Oroville Police Department. Roll call vote was unanimous with White absent and not voting.

TC (FIN) [APPR] Accept radio voter receiver from City of Oroville Police Dept., install equipment and declared battery back-up surplus and transfer to OPD. (440-30-04)

Agenda Item 3(f): Motion by Lotter, seconded by Culleton, Approved and authorized the Fire Chief to sign an application and letter on behalf of the Town of Paradise with Sierra-Sacramento Valley (SSV) Emergency Medical Services Agency (EMSA) to continue using automatic external defibrillators (AED's) in the course of medical aid calls as needed. Roll call vote was unanimous with White absent and not voting.

TC (AGT) [APPR] Approved Fire Chief to sign letter with SSV, EMSA to continue using AED's (C09-22)

Agenda Item 3(g): Motion by Lotter, seconded by Culleton, Adopted Resolution No. 09-60, A Resolution of the Town Council of the Town of Paradise Authorizing Destruction of Certain Town Records Pursuant to Government Code Section 34090. Roll call vote was unanimous with White absent and not voting.

TC (RES) [ADOPT] Res. No. 09-60 Destruction of Certain Town Records (160-20-13)

Agenda Item 3(h): Motion by Lotter, seconded by Culleton, Adopted Resolution No. 09-61, A Resolution of the Town Council of the Town of Paradise, California, Rescinding Resolution No. 09-26 and Adopting the Amended Salary Pay Plan for Town of Paradise Employees for Fiscal Year 2009-2010. Roll call vote was unanimous with White absent and not voting.

TC (RES) [ADOPT] Res. No. 09-61 Rescind 09-26 and adopt amended salary pay plan. (610-10-16)

Council Member White arrived at the Council Meeting at 6:10 p.m.

4. PUBLIC HEARING PROCEDURE

Mayor Rutledge informed the public of the public hearing procedure.

5. PUBLIC HEARINGS

Following a report from Assistant to the Town Manager/Business & Housing Services Director Gill regarding the Substantial Amendment on the Community Development Block Grant (CDBG) Annual Action Plans for the 2004-2008 Program Years, Mayor Rutledge opened the public hearing at 6:20 p.m.

There were no speakers for or against the matter and Mayor Rutledge closed the public hearing at 6:20 p.m.

Agenda Item 5(a): Motion by Lotter, seconded by White, (1)
Approved the following amendments and adopted the draft Substantial Amendment to the Community Development Block Grant (CDBG) Action Plans for program years 2004-2009 as proposed: (a) Reallocated a portion of park funds originally dedicated to the Estes Park/Dorville Fields and develop a phased development for the site; (b) Canceled the RBEG Incubator Grant Project and reallocated the funds; (c) Approved use of some of the reallocated funds for current housing program; and, (d) Reallocated funds for land acquisition for wastewater treatment facility and redevelopment slum/blight removal; and, directed staff to move \$20,000 to public facilities/land acquisition from the housing allocation. Roll call vote was unanimous.

TC (P&CD) [APPR]
Substantial Amendment
to CDBG Action Plans
with amendments. (710-
10-62)

6. PUBLIC COMMUNICATION

1. Angelo Austin, stated that that he was at the meeting to learn about Council meetings and asked who he should see about filling out the request to address Council card.

Council directed Mr. Austin to see the Town Clerk and suggested he pick up a business card that was available outside the window of Room 3 for the Clerk's contact information.

7. COUNCIL CONSIDERATION

Finance Director Will reported to Council that the emergency suspension of Proposition 1A was passed by the Legislature and signed by the Governor, which enables the State of California to borrow 8% of the Town's property tax revenue which the county certifies to be \$584,816.76.

Under the Securitization Program, California Communities will simultaneously purchase the Proposition 1A Receivables, issue bonds ("Prop 1A Bonds") and provide each local agency with the

cash proceeds in two equal installments, on January 15, 2010 and May 3, 2010 (to coincide with the dates that the State will be shifting property tax from local agencies). The purchase price paid to the local agencies will equal 100% of the amount of the property tax reduction. All transaction costs of issuance and interest will be paid by the State of California. Participating local agencies will have no obligation on the bonds and no credit exposure to the State.

The program was instituted by California Communities to enable local agencies to sell their respective Proposition 1A Receivable to California Communities. California Communities is League of California Cities and the California State Association of Counties is putting together a bond measure that is financed by the state, so that the town does not lose any cash flow. The money will be distributed in November and May. California Statewide Communities Development Authority ("California Communities") is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. The member agencies of California Communities include approximately 230 cities and 54 counties throughout California.

Agenda Item 7(a): Motion by Lotter, seconded by Culleton, Adopted Resolution No. 09-62, A Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith. Roll call vote was unanimous.

TC (RES) [ADOPT]

Res. No. 09-62

Authorize Sale of Prop
1A Receivables from the
State (395-50-12)

Community Development Director McGreehan reported to Council regarding the proposed Memorandum of Understanding between the Town and Chuck Horning stating that although the MOU is non-binding, it provides a necessary background, history and current status and gives an understanding of the scope of the project. Mayor Rutledge opened the matter for public input.

1. Howard Johnson asked Council to approve the MOU as it is an integral part of the Southeast Specific Plan, that one will not work without the other, that the area is currently a fire trap, that the development will be built in remembrance of the developer's father for people over the age of 55 based on similar developments done in Oregon and California and would be a really good thing for Paradise.
2. Steve Gibson, owner's representative for the Merritt Ridge Project, stated that the Southeast Specific Plan has been

improved to show where densities will go, that this will be a community where people can live in a safe, desirable environment, and that they would like to verify that Council is conceptually in favor of the project. Mr. Gibson stated that densities are important to the project and the MOU is not intended to provide project approval, but to recognize the good faith effort put forward by the Town. There are five reasons he was drawn to the project: (1) the vision for a high quality, non-stereo-typical retirement community that puts the experience of the residents first by providing opportunities for seniors; (2) the beauty of the property and the committed desire to retain that beauty; (3) commitment to a sustainable development; (4) the project can be successful; and, (5) the project is good for Paradise.

3. Ani Diaz, Land Use and Environmental Planner, gave his background in developing projects similar to the Merritt Ridge Project, stated that he has been working on this project for the last three years, that they have been evaluating components relating to infrastructure, circulation constraints and opportunities, environmental issues, sustainable design components, annexation requirements, federal, state and local permitting requirements.
4. Donna Austin, Paradise resident, asked about fire exits from this community.
5. Angelo Austin, Paradise resident, asked what is the bottom line as to how much is each unit going to cost since this is a senior community, and asked about the cost of broadcasting the Council Meeting:
6. Chuck Horning stated that this a big night for him as the coming of the rain marks the end of the fire season, that this has been a real interesting process, especially with the litigation involved with the property, that he wanted Council to know that he has zero experience with developing real estate and this project is designed around his experience in elderly care for institutionalizing people in facilities which they learned could be avoided by providing a facility such as the one he is proposing. He stated that the concept of the project is good and he wants the Council to understand and see it as a good project that is good for Paradise and one that will be a significant help to the quality of life for those who need it.

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Agenda Item 7(b): Motion by Lotter, seconded by Culleton, (1) Approved the proposed Memorandum of Understanding (MOU) between the Town of Paradise and Mr. Chuck Horning for the Merritt Ridge Development; and, (2) Authorized the Town Manager to execute the approved MOU on behalf of the Town. Roll call vote was unanimous.

TC (P&CD) [AUTH]
MOU with TOP and
Chuck Horning for
Merritt Ridge
Development (750-75-
59) (C09-23)

Town Attorney Moore reported on the Oak Creek Estates litigation, stating that the Town won the appeal relating to the lawsuit, that the appeal only dealt with a certain portion of the lawsuit, that those remaining issues could be brought back to a trial court and litigated but that Mr. Buckthal chose to enter into the dismissal and tolling agreement that tolls the litigation to a date certain. Attorney Moore stated that if the other issues were brought back, he is of the opinion that the Town would prevail.

1. Howard Johnson stated that the Town spent a large sum of money dealing with the lawsuit, and that there is no insurance policy if the lawsuit is reintroduced.
2. Chuck Horning stated with respect to the lawsuit, that the tolling agreement was a central part of the arrangement with Mr. Buckthal and that the lawsuit would go away upon approval of the land development by the Town Council. He stated that time is needed to get approval for the project because at the end of any tolling period Mr. Buckthal could buy the land and reinstitute the proceedings, and that he does not intend to proceed unless enough time is given for an approval.

Agenda Item 7(c): Motion by Lotter, seconded by White, (1) Approved the "Third Amendment to Dismissal and Tolling Agreement" between the Town of Paradise and Oak Creek Estates extending the tolling date to November 1, 2011 if Mr. Buckthal is agreeable to the two-year extension, providing that if Mr. Buckthal does not agree, the extension would be to November 1, 2010; and, (2) Authorized the Mayor and Town Manager to execute the agreement. Council vote was unanimous.

TC (AGT) [APPR] Oak
Creek Estates -Third
Amendment to Dismissal
& Tolling Agt. (C07-24)

8. COUNCIL COMMUNICATION (Council Initiatives)

Agenda Item 8(a): Vice Mayor Culleton stated that he received an executive call from the Sacramento Valley Division president, that they are working on the budget and training opportunities, Legislative Actions days are coming up and individuals can participate via Webcast for \$50 per site; is attending the Project Vision Youth

Council meetings which is still in its infancy regarding organization; the Home Cooking Show will take place on October 15th; the Ridge Area Ad Hoc Committee will take place tomorrow; and, that he attended League of California Cities (LCC) Annual Conference in San Jose from which he brought home good information.

Council Member DiDuca stated that he attended the Water Advisory Committee Meeting regarding technical clean-up of reporting process and making sure large developments have adequate water supply; attended LCC Annual Conference and attended a session regarding Fire Preparedness attend the "Leave Early or Stay and Defend", and learned that Paradise is way ahead of the country with regard to our emergency preparedness.

Council Member Lotter reported that he attended the LCC Annual Conference, that Town Manager Rough was one of the presenters, along with the Director of Homeland Security for San Diego County, regarding emergency preparedness; and that Paradise and Butte County are doing a great job regarding evacuations and notifications; attended session that provided information about funding for park projects related to low and moderate income housing projects; attended LAFCo which tentatively approved Municipal Service Reviews for the City of Oroville and shared the wastewater issues that Oroville is experiencing; and attended a ribbon cutting for the Paradise Ridge Youth Soccer Club and the Paradise Community village.

Council Member White stated that he attended the LCC Annual Conference; the Butte County Association of Governments is holding unmet transit needs hearings; Butte County Air Quality Management District had a split vote north-south county regarding mandatory no-burn days for certain areas; attended the Paradise Community Village meeting; went on the Sierra Oro Farm Tour; and signed up for the PG&E LED webinar regarding street lighting.

Mayor Rutledge reported that she did not attend the Supplemental Benefits Fund Meeting in Oroville as the Lime Saddle area is included in the strategic plan and Paradise has no projects at this time. She informed of the 30th Year Anniversary committee plans for the November 21st celebration, that tickets will be \$15 each and the proceeds will be used for the 4th of July Bluegrass Festival.

Agenda Item 8(b): Council member White informed Council that he placed consideration of appointing a new Council Member representative to the Paradise Community Village Project as he has ongoing scheduling conflicts and has not been able to attend all of

the PCV meetings. Council concurred that Council Member White continue as the Council's representative and to attend as many meetings as he is able to attend.

Agenda Item 8(c): Motion by White, seconded by Culleton authorized the Mayor to sign a letter as an organization endorsement supporting California Forward's proposed 2010 Reform Plan for governance in this State. Roll call vote was unanimous.

1. Tom Kelly stated that the Whiskey Flatts bridge on Jordan Hill is 73 years old and needs to be rebuilt.

Agenda Item 8(d): Motion by White, seconded by Culleton, Authorized the Mayor to send a letter on behalf of the Town to the Federal Bureau of Land Management to urge them to upgrade and/or replace their bridges on Doe Mill/Garland and Jordan Hill Roads so that fire fighting engine units and other heavy duty fire suppression equipment are able to cross the bridges during fire incidents and emergencies. Roll call vote was unanimous.

9. STAFF/COMMISSION/COMMITTEE COMMUNICATION

None.

At 7:55 p.m, Mayor Rutledge adjourned the Council Meeting to convene a meeting of the Paradise Redevelopment Agency. Mayor Rutledge reconvened the Council Meeting at 8:05 p.m.

10. CLOSED SESSION

Mayor Rutledge announced that pursuant to Government Code Section 54956.9(a), the Town Council would recess to hold a closed session with the Town Attorney regarding the following existing litigation:

- Lacey Martin vs. Town of Paradise, Case No. 2:08-CV-02301-JAM-EFB, U.S. District Court, Eastern District of California;
- Harold Funk vs. Town of Paradise, Case No. 2:09-CV-01000-MCE-KJM, U. S. District Court, Eastern District of California;
- Louise H. and Patrick M. Cornelius vs. Feather River Hospital and Town of Paradise, Superior Court of California, County of Butte, Case No. 147778;

- Phillip Rose vs. Town of Paradise, Superior Court of California, County of Butte, Case No. 146540;
- Art Steward vs. Town of Paradise, Case No. CIV. S-08-2622 LKK/CMK, U.S. District Court, Eastern District of California; and,
- Diana Stevens as Guardian Ad Litem for Alayna Peters vs Town of Paradise, Superior Court of California, County of Butte, Case No. 142909.

Mayor Rutledge reconvened the Town Council Meeting at 8:45 p.m. and announced that direction was given to the Town Attorney regarding the litigation.

Agenda Item 10(a): Motion by White, seconded by Lotter, Authorized an agreement with Peters, Rush, Habib & McKenna to provide legal services for the Town relating to the matter of Cornelius vs. Town of Paradise, in an amount not to exceed \$20,000. Roll call vote was unanimous.

11. ADJOURNMENT

MOTION by White, seconded by Lotter adjourned the Council meeting at 8:47 p.m. Council vote was unanimous.

APPROVED: November 10, 2009


FRANKIE RUTLEDGE, Mayor


JOANNA GUTIERREZ, CMC, Town Clerk

