

**MINUTES
PARADISE TOWN COUNCIL
REGULAR MEETING - 6:00 P.M. – MAY 11, 2010**

The Regular Meeting of the Town Council of the Town of Paradise was called to order by Mayor Lotter 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 Council Member Rutledge.

COUNCIL MEMBERS PRESENT: Steve "Woody" Culleton, Joe DiDuca, Frankie Rutledge and Scott Lotter, Mayor.

COUNCIL MEMBERS ABSENT: Alan White.

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, Assistant Community Development Director Baker, Public Works Director/Town Engineer Schmidt, Acting Fire Chief Jensen and Acting Police Chief Buzzard.

The "Poppy Distribution Week" Proclamation was presented to Rae Marie Johnson, American Legion Auxiliary Unit 259.

Doug Speicher, General Manager of the Northern Recycling and Waste Services, presented the 2009 Annual Report from Northern Recycling and Waste Services (NRWS) stating that for the Town of Paradise 2009 was a successful year resulting in recycling and diverting 17,104 tons of which was broken down into yard waste, solid waste and recyclable amounts. The amount hauled to the landfill was 11,751 tons which is a diversion rate of 59.3%. The Household Hazardous Waste Facility opened October 10, 2009 and has been very successful.

Council Member Rutledge commented on the Chocolate Fest which set a goal of 100% diversion, but was successful in achieving a 99% diversion rate which equaled 720 pounds being diverted out of 722 pounds.

2. ITEMS DEFERRED FROM PREVIOUS MEETING

None.

3. CONSENT CALENDAR

There was one speaker card received from a citizen who wished to speak about items 3(d) and 3(g).

Robin Huffman, Paradise resident, requested that item 3(d) be pulled from the agenda for discussion because she thinks the schedule is not that much different and that Walmart should not be allowed to

extend the payment. Ms. Huffman also spoke as the Advocacy Director from the Butte Environmental Council on Item 3(g) which she stated is an extensive report, that the project description should include the development agreement, that she hopes Honeyrun will be included in the traffic study, that she thinks the EIR should be focused on in-town development to prevent Urban Decay instead of annexing and having to split taxes, and asked that a new wastewater study be done and not use the previous study.

Town Attorney Dwight Moore explained the amendment to the Adrienne Graham agreement, stating that the only thing changed on the contract was the date. The original contract was to have commenced on June 1, 2009 and the agreement needed to be modified to reflect the reality of the work actually beginning May 10, 2010. This is only a schedule of when things need to be done by the consultant not what the consultant is going to be doing. The items mentioned are things that will be thoroughly reviewed during the EIR Process. The actual agreement with Walmart was entered into almost a year ago, to date, they deposited \$404,000 and the actual work did not commence until just recently because the application was not complete. There is \$389,000 remaining and there was no reason to have second installment until October 1 because remaining funds would not be used up until the time the second payment is due.

Manager Rough stated that the series of consultants attached to the review are more specialized consultants than Walmart would have agreed to including the engineering review and planning consultant and the contracted consultants have not previously been used by Walmart.

Agenda Item 3(a): MOTION by Rutledge, seconded by DiDuca, Approved Minutes of the April 13, 2010 Regular Meeting and the April 21, 2010 Special Meeting. Roll call vote was unanimous with White absent and not voting.

TC (MIN) [APPR]
Minutes of 4/13/2010
Regular & 4/21/2010
Special Meeting.

Agenda Item 3(b): MOTION by Rutledge, seconded by DiDuca, Approved Check Register in the amount of \$1,346,026.49. Roll call vote was unanimous with White absent and not voting.

TC (FIN) [APPR] Check
Register in amount of
\$1,346,026.49. (310-10-
26)

Agenda Item 3(c): MOTION by Rutledge, seconded by DiDuca, Concurred with Town Planning Director's California Environmental Quality Act (CEQA) Determination of Categorical Exemption per CEQA Guidelines Sections 15301 & 15311, Class 1 and 11 for the Pearson Park and Ride Project. Roll call vote was unanimous with White absent and not voting.

TC (PW) [CONCU]
CEQA Exemption for
Pearson Park and Ride
Project. (950-40-16)

Agenda Item 3(d): MOTION by Rutledge, seconded by DiDuca, Authorized the Mayor and Town Manager to execute a "Second Amendment to Agreement" between the Town of Paradise and Wal-Mart Real Estate Business Trust to change the payment date for the second installment of \$125,000 relating to consultant and attorney costs associated with the processing of Wal-Mart's application from April 19, 2010 to October 1, 2010. Roll call vote was unanimous with White absent and not voting.

TC (AGT) [AUTH]
Second Amendment to
Agt with Wal Mart.
(C09-09)

Agenda Item 3(e): MOTION by Rutledge, seconded by DiDuca, Adopted Resolution No. 10-08, A Resolution of Hardship With Regards to the State of California's Proposal to Suspend Highway User Tax Account (HUTA) Funds for the Town of Paradise. Roll call vote was unanimous with White absent and not voting.

TC (RES) [ADOPT] Res
No 10-08, Hardship re
suspension of HUTA
Fund. (395-50-22)

Agenda Item 3(f): MOTION by Rutledge, seconded by DiDuca, (1) Waived reading of entire Ordinance No. 499 and approved reading by title only; and, (2) Adopted Ordinance No. 499, An Ordinance of the Town of Paradise Amending Section 2.45.070 of the Paradise Municipal Code Relating to Purchases. (Adds the purchase of computer software as a category exempt from the Town's regular defined bid process.) Roll call vote was unanimous with White absent and not voting.

TC (ORD) [ADOPT] Ord
No 499 amending PMC
re Purchases (adds
exemption for computer
software (380-05-07)
(540-10-68)

Agenda Item 3(g): MOTION by Rutledge, seconded by DiDuca, Authorized the Mayor and the Town Manager to execute an amendment to the agreement between the Town of Paradise and Adrienne Graham, concerning preparation of the environmental impact report for the proposed Wal-Mart supercenter to reflect the current time table for steps required to complete Ms. Graham's services. Roll call vote was unanimous with White absent and not voting.

TC (AGT) [AUTH]
amendment to
agreement with
Adrienne Graham re Wal
Mart EIR. (C09-09)

4. PUBLIC HEARING PROCEDURE

Mayor Lotter informed the public of the public hearing procedure.

5. PUBLIC HEARINGS

Assistant Community Development Director Baker reported to Council regarding Planning Commission recommendation for Town Council adoption of proposed text amendments to subdivision regulations contained in Paradise Municipal Code Title 16, [Town Subdivision Ordinance] affecting municipal code statutes related to responsibilities of the planning director, expiration of time limits for tentative maps, and, parcel map time extensions; and, to zoning

regulations contained Paradise Municipal Code Title 17, [Zoning] affecting municipal code statutes related to a land use definition for "fuelwood sales" activity and which zoning district whereby such activity may be potentially permitted.

Mayor Lotter opened the public hearing at 7:02 p.m.

Speaking in favor of the proposed amendments: None.

Speaking against the proposed amendments:

1. John Remalia, 8178 Skyway, stated that he is the owner of Wildfire Solutions a company that provides fuel management services, pest control herbicide application, prevention consulting, fuel wood sales, both wholesale from the job sites and on a retail level. He stated that he has two patents pending on fire suppression systems which fit the custom manufacture permitted use in the "CC" zone and that he has plans for a retail saw shop. Mr. Remalia stated that he has between three and twelve employees and although the majority of his business comes from fuel management right of way and contract equipment work, fuelwood sales are important to his business as they provide his employees with year around work as they are precluded from working in the woods during wet weather. Mr. Remalia explained that he conducts his business from three locations and that his concern is that he has made a substantial investment in properties and that the Town has not answered what permits would allow this business to be legally established. He stated that he was informed that an operational permit would not apply to this business, that he disagrees and has asked for an interpretation from the State Fire Marshal. Mr. Remalia stated that he thinks an operational permit would prove that his business is vested, or that he has a non-conforming conditional use. He stated that he is also concerned with the way this matter was previously noticed for the Planning Commission meeting because it did not say that fuelwood sales might be excluded from the "C-C" zone and only permitted in the "I-S" zone, that the resolution in the Planning Commission packet proposed the use as a conditional use, and that he would like a determination that his business does exist at one or both locations.

Mayor Lotter closed the public hearing at 7:15 p.m.

Agenda Item 5(a): MOTION by Rutledge, seconded by Culleton, eliminated Sections 4 and 5 from the proposed ordinance relating to regulation of fuelwood sales activity, directed staff to bring back the

TC (ORD) [INTRO] Ord
No 501 Amending Text
Regulations re Title 16
(Parcel Map Time

matter of regulation of fuelwood sales activity to Council after discussion has occurred with the Redevelopment Advisory Committee; concurred with the project California Environmental Quality Act (CEQA) determination findings adopted by the Planning Commission on April 20, 2010 and embodied within Planning Commission Resolution No. 10-04; waived the reading of entire Ordinance No. 501 and approved reading by title only; and introduced Ordinance No. 501, An Ordinance Amending Text Regulations within Paradise Municipal Code Title 16 Relating to Parcel Map Time Extensions, Planning Director Responsibilities, and Time Limits Expiration for Tentative Maps. Roll call vote was unanimous with White absent and not voting.

Extensions, Planning Dir Responsibilities & Time limits for expiration for Tentative Maps).

Agenda Item 5(b): Council concurred to continue the public hearing regarding adoption of a resolution of the Town Council of the Town of Paradise Establishing an Updated and Revised Schedule of Fees for Town Services for the Town of Paradise during the 2010/2011 Fiscal Year to the June 8, 2010, Regular Town Council Meeting.

TC (FIN) [CONT] Public hearing re master services fee schedule.

6. PUBLIC COMMUNICATION

1. Mark Hill, stated that he is concerned with the loss of businesses in Town, that a Town representative came to his business claiming to be part of the fire prevention, that he has rented this building for 11 years, has never before had an inspection, but has now been informed that he needs an annual inspection, that he will need to pay an annual inspection fee, that he thinks that service should be covered by what is already paid in property taxes, and questioned the need to post MSDS sheets.

Manager Rough explained that there has always been a requirement and an associated fee for annual commercial fire inspections, and that the Town has initiated a very pro-active inspection program to insure that the annual inspections are accomplished, and that the reasons for commercial inspections are not only for the protection of the individual businesses but also for the protection of neighboring businesses.

7. COUNCIL CONSIDERATION

Council concurred to move agenda item 7e regarding endorsement of a grant for the Gold Nugget Museum to be heard at this time on the agenda.

Sam Dresser explained that State Proposition 84 provides an opportunity for funding for the museum to provide an educational pavilion on museum grounds, explained the plan and the community outreach program that the museum would implement if the grant is awarded, and asked the Council to endorse the application and if the Town could commit to any funding towards the project.

Agenda Item 7(e): Council concurred to endorse the Gold Nugget Museum grant application to the State for funding to build a nature education pavilion on museum grounds and directed staff to draft a letter of support that would include a general statement that the Town would be looking for any available funding to contribute, if possible, from any available Town resource, and that the letter would be included in next year's Community Development Block Grant sub-recipient process.

TC (REC) [CONCU]
Endorse Gold Nugget
Museum grant
application. (1060-20-
04)

Agenda Item 7(a): MOTION by Rutledge, seconded by Culleton, (1) Concurred with the findings of the Town Planning Director in determining that the 2010 Road Maintenance Services Project relating to the restriping of various roadways and the chip seal of Neal Road from south Town Limits is categorically exempt from the requirements of the California Environmental Quality Act (Class 1 Project) per CEQA Guidelines Section 15301; (2) Approved the "Mutual Aid Agreement to Provide Road Maintenance Services Between the Town of Paradise and the County of Butte; and, (3) Authorized the Mayor to execute the contract. **Fiscal Impact:** Approval will result in expenditure of approximately \$25,000 including a 10% contingency for the striping portion of the agreement and \$100,000 for the Chip Seal portion of the contract. Funds will be drawn from Proposition 1-B funds approved and allocated by the State Controller's officer.

TC (AGT) [APPR]
Mutual Aid Agreement
with Butte County for
road maintenance. (C10-
04) (950-40-13)

Agenda Item 7(b): Council concurred to authorize staff to draft a letter for the Mayor's signature expressing opposition to AB-155, which would prevent local governments from filing for bankruptcy under Chapter 9 without first receiving permission for the California Debt and Advisory Commission, to send to the Governor and the members of the State Legislature on behalf of the Town.

TC (LEGAL) [CONCU]
Letter of opposition to
AB 155 for Mayor
Signature. (550-40-21)

Following a report from Town Manager Rough regarding the proposed adoption of Ordinance No. 500, which if adopted would place a proposed public safety protection (police/fire) special tax on the November 2, 2010, General Election ballot that would require approval by two-thirds of the Town's voters to become effective, Mayor Lotter opened the matter to public input.

1. Adam Deppe asked for clarification that the adoption of the ordinance is to place the matter on the ballot, if the Town has looked at other ways to create income, that the crime rate in Paradise is below the national average, and asked if the Town has made an effort to establish community watch programs.
2. Fred Hofer asked if taxpayers can be guaranteed that the money will only go for new staffing and not for increases to current salaries.
3. Neil Risely stated that he has crime statistics that he found on the internet using the zip code for the Town of Paradise and asked if someone in the Town could compare these to the Town's statistics.

Agenda Item 7(c): For the purpose of placing a proposed public safety protection (police/fire) special tax on the November 2, 2010, General Election ballot that will require approval by two-thirds of the Town's voters to become effective, the Council took the following action:

MOTION by Rutledge, seconded by Culleton, waived reading of entire Ordinance No. 500 and approved reading by title only; and, adopted Ordinance No. 500, An Ordinance of the Town of Paradise Adopting a Special Police/Fire Tax Pursuant to Government Code Section 53978, Adding Chapter 3.50 to the Paradise Municipal Code (Flax Tax Rate of \$110 per parcel with a six year sunset clause), to be placed on the ballot. Ayes of Culleton, Rutledge and Mayor Lotter, no of DiDuca, White absent and not voting.

TC (ORD) [ADOPT] Ord No 500, special police fire tax as ballot measure for 11/2/2010 general election. (540-10-69) (440-160-17)

Agenda Item 7(d): **MOTION by Culleton, seconded by Rutledge**, adopted Resolution No. 10-09, A Resolution of the Town Council of the Town of Paradise Adopting a Policy Directive Related to the Exemption of Application of Town Adopted Design Review Service Fees. Roll call vote was unanimous with White absent and not voting.

TC (RES) [ADOPT] Police directive: Exemption of Town adopted design review service fees. (710-80-08)

8. COUNCIL COMMUNICATION (Council Initiatives)

Council concurred to move agenda item 8b to be heard at this time on the agenda, to discuss allowing limited numbers of fowl and/or rabbits on residential properties smaller than one acre in the Town of Paradise and consider direction to staff for possible municipal code amendment.

Council asked Assistant Community Development Director Baker to discuss the current code regulations regarding this matter, and Mr. Baker summarized that, with a few exceptions, the regulations include a requirement of one acre of land or more for farm animals with an administrative permit and fee, and that some zones permit farm animals outright.

Mayor Lotter opened the matter for public input.

1. Sherri Marten stated that Skyway Feed sold 2,500 chicks last year, that she thinks there are many advantages to citizens being able to have chickens, such as being able to have organic eggs, and suggested Council consider allowing two hens (per household).
2. Fred Hofer stated that lives on 2.5 acres, raises chicken, that he has had no complaints from his neighbors, that chickens make good neighbors and good pets, that he doesn't encourage roosters, disagrees with the Town's permit fee, and that he thinks chicken ownership should be compared to dog ownership.

Agenda Item 8b: Council concurred to direct staff to draft a municipal code amendment and bring back a recommendation that would allow limited numbers of chickens and rabbits as a permitted accessory use with no fee required, with a prohibition on roosters, on smaller lots in Paradise. Staff stated that this since this is a land use issue, the matter would first need to be presented to the Planning Commission prior to coming back to the Council.

TC (LEGAL) [CONCU]
Directed staff re code amendment to allow chickens and rabbits on small lots. (580-10-19)

Agenda Item 8(a): Council Member Rutledge reported that the Chocolate Festival was a successful event, and that the RDA Advisory Committee meeting was cancelled.

Council Member DiDuca reported that he attended a dinner for Jerry Smith, the Butte College event that honored Aaron Rogers, threw out the first pitch for North Little League, attended the Gold Nugget Museum luncheon, Kid's Fishing Day, all Chocolate Festival Events and a Community Foundation luncheon.

Council Member Culleton reported that he attended the Silver Dollar Fair kickoff dinner and the Chocolate Festival events, and will be attending the LCC Legislative Action Days and LCC Policy Committee Meetings in June; the Sacramento Valley Division Membership Meeting in Redding on July 23; is coordinating the

Cowboy Dutch Oven Cookoff and Cowboy Poetry event for August 21; and volunteered to be part of Quota's contest, "Boys of Paradise, in September.

Mayor Lotter reported that he attended the Silver Dollar Fair Kickoff dinner; the LAFCo meeting; and the City Selection Committee appointed a new city member, Jerry Fichter, Mayor of Gridley, and Ann Schwab, Mayor of Chico as the alternate.

9. STAFF/COMMISSION/COMMITTEE COMMUNICATION

None.

10. CLOSED SESSION

At 9:10 p.m. Mayor Lotter announced that pursuant to Government Code Section 54957.6, the Town Council will hold a closed session to meet with Charles L. Rough, Jr., Dennis Ivey, and Gina Will, its designated representatives, regarding labor relations between the Town and the Police Mid-Management Association; the Paradise Firefighters' Association; the Confidential/Mid-Management Association; the General Employees Unit; and the Management Unit.

Mayor Lotter reconvened the meeting 10:00 p.m. and announced that direction was given and no action was taken in closed session.

11. ADJOURNMENT

The Town Council Meeting was adjourned at 10:00 p.m.

APPROVED: June 8, 2010


SCOTT LOTTER, Mayor


JOANNA GUTIERREZ, CMC, Town Clerk