



The Regular Meeting of the
Brian Head Town Council Acting
Brian Head Town Hall – Council Chambers
56 North Highway 143 – Brian Head, UT 84719
www.Zoom.us (Click Here)
Via Zoom Meeting ID# 843 3365 7438
TUESDAY, OCTOBER 8, 2024 @ 1:00 PM

MINUTES OF THE TOWN COUNCIL

Roll Call:

Members Present: Mayor Clayton Calloway, Council Member Martin Tidwell, Council Member Marshall, Council Member Mitch Ricks.

Members Absent: Council Member Larry Freeberg

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk, Jon Ficken, Public Works Director, Chief Dan Benson, Public Safety Director; Shane Williamson, Town Treasurer; Ciera Claridge, Deputy Clerk, Amanda Hunter, Code Enforcement.

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 p.m.

B. PLEDGE ALLEGIANCE

Mayor Calloway led the Council and others in the Pledge of Allegiance.

C. DISCLOSURES

- Mayor Calloway stated he may have a potential conflict of interest with Agenda Item F-2, Construction Mitigation Discussion, in which he is a contractor, but he does not stand to have a financial gain.

There were no other conflicts of interest with today's agenda items. Mayor Calloway stated that the disclosure statements are on file with the Town Clerk and are available for public inspection during normal business hours.

D. APPROVAL OF THE MINUTES:

September 24, 2024, Town Council/RDA Meeting

Motion: Council Member Marshall moved to approve September 24, 2024, Town Council/Redevelopment Agency minutes. Council Member Tidwell seconded the motion.

Action: **Motion carried 3-0-1 (Summary: Yes=3 No=0 Abstain=1 Vote: Yes:** Council Member Marshall, Council Member Ricks, Mayor Calloway. **Abstained:** Council Member Tidwell due to being absent from this meeting).

E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS. Public input is limited to three (3) minutes on non-agenda items.

Bret Howser, Town Manager

1. Attended the Utah Chamber of Commerce meeting in Cedar City and received an award for Brian Head/Parowan Chamber of Commerce.
2. Toured the Aspen Meadows development with developer, Flint Decker. Bret reported that he was impressed with the progress of development.
3. The Public Works department is now fully staffed with the hiring of four new crew members.

F. AGENDA ITEMS:

- 1. PUBLIC HEARING FOR 275 EAST SPECIAL ASSESSMENT AREA.** A public hearing as per state code for property owners within the 275 East Special Assessment Area.

Shane Williamson, Town Treasurer, gave a brief introduction to the public hearing for 273 East Special Assessment Area (SAA). Shane reported that this public hearing is required per State Code and begins the 60-day protest period for the SAA. Shane reported that the next step will be to adopt a Notice of Intent to Create the SAA Resolution in September. Shane reported this SAA is for water system improvements and will connect the Elk Drive water line and loop it to the Mountain View water line. Shane reported the estimates are \$36,000 per lot for the water system improvements.

Mayor Calloway recessed the regular meeting and opened the public hearing at 1:18 pm to receive comments on the 275 East Special Assessment Area. No comments were made, and no written comments were received. Mayor Calloway closed the public hearing at 1:19 pm and reconvened the regular meeting of the Town Council.

- 2. CONSTRUCTION MITIGATION DISCUSSION/DIRECTION.** A discussion on construction mitigation and staff direction.

Greg Sant, Planning Administrator, gave a brief background on the construction mitigation discussion. Greg reported this agenda item is from the request of two contractors who approached the Council requesting an exemption to the no parking on Town roads during the winter season and establish an allowance for contractors to use the Town's right-of-way for the storage of construction materials.

Greg reported that he and Amanda Hunter, Code Enforcement, met with contractors to find a solution for building in the winter season. Greg submitted his recommendation to the Council as follows:

1. Posting a bond to store the construction materials in the Town's right-of-way has changed to a fee to the builder. The amount recommended is between \$5,000 to \$10,000, which would be held in case of damage to the Town's equipment.
2. A site plan would be required to show the location and layout of the construction materials along with their plan for snow removal and parking.
3. No parking will be enforced for two to three days after a winter storm to clean the roads. .
4. Staging and parking on private property would require permission from the property owner.
5. Rebar would be prohibited to be stored in the right-of-way due to the damage it could cause to the Town's blowers and loaders.

6. Contractors will be responsible for installing a temporary fence around the building area to protect adjacent properties.
7. Dust and mud control measures will be taken by the builders to reduce the mud tracked onto the Town's roads.
8. Contractors will be responsible for showing how a wash-out pit would be maintained on site for concrete, drywall mud, stucco, and paint.
9. A 24'x36" sign showing the address including the lot number, the contractor's name and contact information along with the owner's name.
10. Greg recommended the Construction Mitigation policy include the following as well:
 - a. Hours of operation in the city (usually 7am to 9pm M – S and 9am to 6pm on Sunday). They also had certain Holidays that restricted any construction work to be done, i.e., Christmas, New Years, MLK birthday, Presidents Day, Memorial Day, 4th of July, Labor Day, and Thanksgiving.
 - b. Noise Restrictions (65 decibels) and temporary lighting restrictions.
 - c. Roadways and Cul-de-sacs must always be clear for emergency vehicles.
 - d. No rebar to be left in the R.O.W. during the winter.
 - e. During the non-winter/snow months vehicles can be parked in the R.O.W. but not on the road, unless scheduled as noted in 2A above.
 - f. The site must be maintained in a good, clean, and safe condition at all times.
 - g. Planning/Building, Public Safety and Public Works should review the Construction Mitigation Policy (CMP).
11. Enforcement, penalties/fines would follow the Consolidated Fee Schedule as follows:
 - a. 1st Violation – No Charge with a deadline to fix.
2nd Violation – \$100 fine plus \$50 per day of continuing violation for 14 days, and \$100 per day thereafter
Repeat Violations incur a \$50 re-inspection fee, and any higher penalty allowed by Code.
 - b. Egregious Violations can be given a Citation and fine will be determined by Court.

The Council discussed the following:

1. Specific concerns encompassed the assessment of roadway conditions and the uncertainty of future repair costs post-project completion. It was proposed that a structured fee approach could assist in covering related administrative expenses, even if not fully.
2. Discussion emerged around the current practices that entail charging a \$350 permit fee along with a \$100 bond, leading to a total of \$4,500 in fees. There was deliberation on whether this existing fee structure remains suitable or if adjustments should be considered for future implementation.
3. Compounded issues emerged concerning potential liabilities if town operations impact contractors' equipment situated within the public right-of-way, considering contractors' obligatory financial contributions.
4. Concerns from the Council about whether trees would be cut down to store the construction materials on site.
5. Mayor Calloway commented that he views the Town's right-of-way as public property, and the Town is stating that it is the Town's property and is forcing property owners/contractors to store the materials onsite and believes that trees would be cut to accommodate the requirement.
6. Greg presented a site map from a contractor as a sample of what would be required (see attached).

7. John Stark, a resident, commented that he disagrees with a fee for construction mitigation charged on all building permits and suggested that the Council could consider a provision in the Town Code that requires a business license as a condition and has a mechanism for fees and fines.

Consensus of the Council: Directed staff to hold another meeting with the contractors to see what would be acceptable and what they cannot tolerate and draft a policy. Mayor Calloway suggested a field trip with the contractors. The Council agreed to a fee in lieu of a bond.

3. SPECIAL ASSESSMENT AREA POLICY AMENDMENT. A resolution amending the Special Assessment Area Policy

Bret Howser, Town Manager, presented a draft resolution amending the Special Assessment Area Policy (see attached). Bret explained that there is some confusion on the proposed amendments to the SAA Policy in which there are changes in the policy that he was not aware of and requested the Council to table the policy at this time.

Motion: Council Member Marshall moved to table the Special Assessment Area Policy. Council Member Ricks seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes=4 Vote: Yes:** Council Member Marshall, Council Member Ricks Council Member Tidwell, Mayor Calloway. Absent: Council Member Freeberg).

4. ORDINANCE AMENDING THE LAND MANAGEMENT CODE, CHAPTERS 2, 4, 9, 11, 12, & 13 (Definitions, Submittals, Subdivisions, Flexible Approaches, Design Guidelines, & Enforcement). An ordinance amending the LMC for the above-referenced chapters for compliance with the 2024 State Legislature requirements on land use.

Bret Howser, Town Manager, presented a draft ordinance amending the Land Management Code, chapter 2 (Definitions), chapter 4 (Submittals), chapter 9 (Subdivisions), chapter 11 (Flexible Approaches), chapter 12 (Design Guidelines), chapter 13 (Enforcement) (see attached). Bret reported the proposed amendments are a result of the State Legislature new code requirements for subdivisions for all Utah cities and towns. Bret reported that Mike Hansen, from the Rural Community Group, was hired to update the Town's Subdivision Code through a grant provided by the state.

Bret reported that during a previous meeting of the Council, the Council requested the following changes:

1. 9-12-6(E)(1)(a): remove collector road intersections from the street light requirements
2. 9-9-7(B)(3)(b): combine (ii) and (iii)
3. 9-4-1(F)(1): exclude single-family residential from minor structure alteration permit
4. 9-12-11(B): limit retaining wall height.
5. Staff were asked to recommend language. The following language is recommended:
"No single retaining wall face shall exceed seven feet (7') in height and no retaining wall system shall exceed twenty feet (20') in height."

The Council discussed the following:

1. Mayor Calloway commented that he would like to review the retaining wall section in the code: Chapter 12.11.D, in which he would suggest the Council remove "heavy timbers" as a material for retaining walls.

2. Council Member Ricks inquired to Chapter 9-9-8(3), Inclusionary Housing, and if the word “i.e.” should be “or” instead. Consensus: Change the word “i.e.” to “or” in #3 and #4 of 9-9-8.

Motion: Council Member Marshall moved to adopt ordinance No. 24-014, amending the Land Management Code, Chapters 2, 4, 9, 11, 12, and 13 as presented with the following changes:

1. 9-9-8(3) and (4): change “i.e.” to “or”.
 2. 12-11-D: Retaining Walls: remove “heavy timbers” from the list of materials.
- Council Member Tidwell seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes= 4 Vote: Yes:** Council Member Marshall, Council Member Tidwell, Council Member Ricks, Mayor Calloway. **Absent:** Council Member Freeberg).

5. PUBLIC HEARING FOR AN AMENDMENT TO THE LAND MANAGEMENT CODE, CHAPTER 7 ZONE DISTRICT REGULATIONS AND CHAPTER 12 DESIGN GUIDELINES. A public hearing to receive comments on proposed amendments to Chap. 7 & 12 of the LMC

Bret Howser, Town Manager, gave a brief explanation of the proposed amendments to Chapter 7 and Chapter 12 of the Land Management Code. Bret reported the proposed amendments address building spaces, wall plains, and remote parking distance.

Mayor Calloway recessed the regular meeting of the Town Council and opened the public hearing to receive comments on the proposed amendments to the Land Management Code, Chapter 7 and Chapter 12 at 2:58 pm.

There were no comments made, and no written comments were submitted. Mayor Calloway closed the public hearing and reconvened the regular meeting of the Town Council at 2:59 pm.

6. ORDINANCE AMENDING THE LAND MANAGEMENT CODE, CHAPTER 7 ZONE DISTRICT REGULATIONS AND CHAPTER 12 DESIGN STANDARDS. An ordinance amending the LMC for Chapters 7 & 12.

Bret Howser, Town Manager, presented a draft ordinance amending Chapter 7 (Zone District Regulations) and Chapter 12 (Design Guidelines) of the Land Management Code (see attached).

The Council discussed the following:

1. Remote Parking Distance, 12-15-F: Mayor Calloway commented that he would like to change the remote parking distance to less than five hundred’ and should not be identified in the section of the Land Management Code (LMC) since it addresses Multi-Family Residential (R3) zones. Mayor Calloway reported that this was intended for commercial zones and not R3 zones. Mayor Calloway commented that he does not believe this provision should be allowed in R3 zones.
2. Discussion centered on commercial zones regarding shared parking and offsite parking and how it would affect the General Commercial zones. Bret suggested three hundred’ for a remote parking distance from the building.
3. Examples of remote parking were discussed with the Hidden Springs Project that is in a R3 zone, and their remote parking would require the public to cross a road to access

their buildings. Bret reported that a Development Agreement is in place with the Hidden Springs Subdivision.

4. Bret reported that a provision could be identified in a permanent legal document but reported the Council could identify the following language: “or where exclusive and permit use as such is provided on another land or parcel and not more than 300’ radially from the subject lot.
5. Mayor Calloway commented that he believes there should be some separation between commercial and residential.
6. Council Member Marshall commented that she believes there should be a shorter distance to remote parking due to the public bringing their belongings into the buildings.
7. 9-12-7(3): Exterior Walls: Mayor Calloway recommended that the maximum offset of fifty feet (50’) is too much and reduce it to 30’ so that no wall is longer than 30’ without staggering the buildings. **Consensus:** change 50’ to 30’.
8. Council Member Marshall suggested the Council consider an exception for commercial zones. Bret reported that “e” could be added with the following language: *“requirements of this section may be reduced where the Land Use Authority determines where sufficient architectural features have been incorporated into and included into the design to break up the massive and scale of the wall.”* **Consensus:** add “e” for the proposed language.
9. The Council changed the following building separation:
 - (b): Change from 10% to five (5’) feet.
 - (c): the Minimum width offset change to “ten feet (10’).

Motion: Council Member Marshall moved to adopt ordinance No. 24-015 amending the Town Code, Title 9, chapter 7 (Zone District Regulations) and Chapter 12 (Design Guidelines) with the following changes:

1. 9.12.7.(F)(3)(a): Change 50’ to 30’ for R3 and Commercial zones.
2. 9.12.7.(F)(3)(b): Change Minimum Offset Distance: change 10% to 5 feet
3. 9.12.7.(3): ADD “E” language: “Requirements of this section may be reduced where Land Use Authority determines where sufficient architectural features have been incorporated into and included into the design to break up the massive and scale of the wall. (Outlet valve) - consensus of the council
4. 9.12.15 Parking: Staff will identify language for “remote parking to be reduced to 300’)
5. 9/12/15: Parking: Staff will identify language for permanent use of the parking lot.

Council Member Tidwell seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes=4 Vote: Yes:** Council Member Marshall, Council Member Tidwell, Council Member Ricks, Mayor Calloway. **Absent:** Council Member Freeberg).

7. FUTURE AGENDA ITEMS. The Council will discuss potential items for future agendas.

The Council reviewed the Town Council October 22, 2024, Council tentative agenda:

1. Code Enforcement Update
2. Spring Circle SAA Notice of Intent which is tentative currently.
3. Construction Mitigation Policy
4. SAA Policy Amendment.

The Council reviewed the November 5, 2024, Planning Commission meeting:

1. Conditional Use Permit Amendment for 339 Spruce Road
 2. Retaining Wall Design Review for Trail Road.
- Council Member Tidwell commented that the Mall is planning a Christmas event and are encouraging the Holiday Committee to participate.
 - Mayor Calloway requested the 50th Anniversary Event update to be identified on October 22, 2024, Council agenda.
 - Council Member Tidwell inquired as to the completion of the history for the Informational Kiosks. Bret reported that a history panel will be identified on each of the five informational kiosks: The Mall will have Minnie's Masion history; Navajo Lodge will host Prince & Ranger history; Apple Annies will host the founding of the resort.
 - Bret reported that the annual Town's Holiday party is scheduled for November 15, 2024, from 6-9pm at Big Shots in St. George. Council Member Ricks reported that he will not be able to attend the holiday party.
 - Flint Decker, Aspen Meadows Development will host a tour of Aspen Meadows on October 25, 2024, at 2:00 pm. for the Council, Planning Commission, and staff.

G. ADJOURNMENT

Motion: Council Member Marshall moved to adjourn the regular meeting of the Town Council acting as the governing body of the Brian Head Redevelopment Agency for October 8, 2024. Mayor Calloway seconded the motion.

Action: **Motion carried 4-0-0 (Summary: Yes=** Council Member Marshall, Council Member Ricks, Council Member Tidwell, Mayor Calloway. **Absent:** Council Member Freeberg).

The regular meeting of the Brian Head Town Council acting as the governing body for the Brian Head Redevelopment Agency was adjourned at 4:12 p.m. on October 8, 2024.

November 12, 2024
Date Approved

Nancy Leigh
Nancy Leigh, Town Clerk