BRIAN HEAD

The Regular Meeting of the

Brian Head Town Council

Brian Head Town Hall – Council Chambers

56 North Highway 143 – Brian Head, UT 84719

[www.Zoom.us (Click Here)](www.Zoom.us)

Via Zoom Meeting ID# 858 4452 9711

TUESDAY, SEPTEMBER 10, 2024 @ 1:00 PM

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Town Council to order at 1:00 p.m. for September 10, 2024. Mayor Calloway initiated proceedings with a moment of silence in remembrance, followed by the pledge of allegiance. Mayor Calloway highlighted the need for ongoing awareness and respect for those who have suffered due to past tragic events.

B. PLEDGE ALLEGIANCE

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

C. DISCLOSURES

- Mayor Calloway stated that he may have a potential conflict of interest with Agenda Item: Construction Mitigation Discussion in which he is a licensed contractor working in Brian Head. It was decided to proceed as this interest did not appear to result in a financial conflict.

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:

August 27, 2024, Town Council Meeting Minutes.

Motion: Council Member Marshall moved to approve August 27, 2024, Town Council minutes. Council Member Freeberg seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Tidwell, Council Member Ricks, Council Member Marshall, Council Member Freeberg, Mayor Calloway).

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

Mayor Calloway commented positively on the warm weather in Brian Head.

Bret Howser, Town Manager

1. Provided an update on Town cleanup efforts, detailing the event's success and the involvement of thirteen local volunteers.
2. Updated the Council on the Chamber of Commerce event, which was well attended by locals and showcased active engagement within the community.
3. Shared further updates from professional conferences attended, including discussions on statewide focuses, such as the impact of nightly rentals and legislation regarding land use and housing affordability. He noted key insights gained at these events, emphasizing the implications for a resort community like Brian Head.
4. The Town will begin working on a new hiking trail in Aspen Meadows and should be a benefit to the community altogether.
5. Updated the Council on the grant-funded trail projects, achievements in trail restoration, and continued investment in local infrastructure, particularly related to outdoor recreation.
6. The Utah Outdoor Recreation visited Brian Head on a tour of the trails they gave grant funding on and were impressed to see what the Town is doing. They reported that Brian Head is punching above its weight when it comes to trails.
7. There will be the Fall Community Hike scheduled for September 19, 2024. Those interested in participating will meet at the Town Hall at 9 am. The hike will be at the Cedar Breaks National Monument on the South Rim Trail. Lunch will be provided afterwards.

Greg Sant, Planning Administrator, reported on the Utah League of Cities and Towns conference in which the main topic was land use and affordable housing.

Linda Cook, Snowflake Lane property owner, reported that she and her husband are new to Brian Head in which they are purchasing a lot. Ms. Cook expressed appreciation for local initiatives like the dark skies program and addressed forthcoming construction projects in the town. Ms. Cook mentioned engaging local engineering firms for upcoming lots and expressed excitement about the climate diversity in Brian Head compared to St. George, Utah.

Mayor Calloway prompted attendees on Zoom to signal their presence, then checked for any additional comments but received none.

F. AGENDA ITEMS:

1. **A RESOLUTION OF THE TOWN COUNCIL (THE "COUNCIL") OF THE TOWN OF BRIAN HEAD, UTAH (THE "TOWN"), DECLARING ITS INTENTION TO DESIGNATE THE SPRING CIRCLE ASSESSMENT AREA FOR THE PURPOSE OF LEVYING ASSESSMENTS AGAINST PROPERTIES WITHIN THE SPRING CIRCLE ASSESSMENT AREA TO FINANCE THE COSTS OF CERTAIN WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS IN THE ASSESSMENT AREA, AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST THE ASSESSMENT AREA AND ITS ASSESSMENTS, AND RELATED MATTERS.** A resolution for the Spring Circle Notice of Intent for water system improvements.

Shane Williamson, Town Treasurer, gave a brief introduction to the Spring Circle Special Assessment Area. Shane reported that the following has taken place:

1. A petition submitted to the Town Council and accepted by the Council in July 2024.
2. Updated estimates have been received by the Town's Engineer, Alpha Engineering.
3. The total estimated cost for Spring Circle SAA is $2,254,000, which would give an assessment of $55,000 per lot and these lots cannot meet the State requirement of not exceeding 33% of the appraised lot with the improvements included. The losses would need to be appraised at an average of $165,000 per lot to meet the one-third value.

4. Discussion regarding challenges, state legal limits on assessment per lot, engineering uncertainties, potential financial protests by lot owners, and necessary action to finalize current proposals. investigate feasibility and funding sources before incurring any financial commitments on improvements.
5. There were concerns regarding the disparity between current price estimates and initial ones which were noted, along with risks of protests related to costs.
6. The Fire Mitigation Map for SAA identifies this area as a "C" which is the lowest priority for consideration and requires a 5:1 assessment value.
7. Staff worked with the Town's Engineer on reviewing the project to re-routing the line, the PRV's that may be needed and adding more lots to the SAA boundary area to reduce the cost per lot.
8. Bret Howser, Town Manager, reported that in reviewing the project, staff do not see a way to reduce the assessment amount to $30,000 per lot, which is the average for other SAAs assessment per lot.
9. Bret reported that the Council could adopt the Notice of Intent Resolution, but it does not bind the Town or the property owners until the Final Assessment Ordinance is adopted. The town could continue through the process until all the questions are answered.

Motion: Council Member Freeberg moved to table the Agenda Item for the Notice of Intent for Spring Circle Special Assessment Area and directed staff to further research grant options and implications on the SAA, the costs of adding the extra 15 lots and looping the waterline, the reason the loop was added on from the original petition. Council Member Marshall seconded the motion.

Council Member Marshall commented that she would like to see additional information about the Division of Drinking Water funding and any other grant funding options; the cost and process of the SAA if the extra fifteen lots were included in the SAA.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

2. A RESOLUTION OF THE TOWN COUNCIL (THE "COUNCIL") OF THE TOWN OF BRIAN HEAD, UTAH (THE "TOWN"), DECLARING ITS INTENTION TO DESIGNATE THE 275 EAST ASSESSMENT AREA FOR THE PURPOSE OF LEVYING ASSESSMENTS AGAINST PROPERTIES WITHIN THE 275 EAST ASSESSMENT AREA TO FINANCE THE COSTS OF CERTAIN WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS IN THE ASSESSMENT AREA, AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST THE ASSESSMENT AREA AND ITS ASSESSMENTS, AND RELATED MATTERS. A resolution for the 275 East Special Assessment Area Notice of Intent.

Shane Williamson, Town Treasurer, introduced a draft resolution for the Notice of Intent for 275 East Special Assessment Area (SAA). Shane explained its similarities to the Spring Circle SAA and its budget implications for lot assessments, but in which this SAA had notably lower assessment costs and compliance with statutory regulations, facilitating an easier execution without financial hindrances from the owners.

Shane reported the assessments per property are $36,238.10 and the total assessment was estimated at $761,000. This project will connect to the Elk Drive waterline that is being proposed. Shane reported that the laterals were removed from this project which was at the request of the petitioner due to the costs that were being presented.

Motion: Council Member Marshall moved to adopt resolution No. 24-550, a resolution declaring its intent to designate 275 East Special Assessment Area for water system improvements as presented. Council Member Freeberg seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

3. **SPECIAL ASSESSMENT AREA THRESHOLD AND IFD'S DISCUSSION AND DIRECTION.** A discussion on the Special Assessment Area maximum bonding cap and IFD's.

Bret Howser, Town Manager prompted discussion on the Town's capped capacity for assessments of five million dollars, suggesting potential revision due to changing demands. The Council considered scenarios, illustrated risks linked to financial liabilities and equity in levying impact fees among property owners benefiting from infrastructure funded via Special Assessment Areas (SAAs).

Consensus of the Council: The Council will wait until all Council Members are present to have a say in the policy. Staff will bring this agenda item back during the next regular meeting.

4. **SNOWSHOE/TOBOGGAN SPECIAL ASSESSMENT AREA WATER IMPACT FEE ADMINISTRATIVE DIRECTION.** Bret Howser, Town Manager. The Council will give administrative directions on the Snowmobile/Toboggan Special Assessment Area.

Bret reported that the Snowshoe/Toboggan Special Assessment Area (SAA) has been adopted and there was a question regarding whether the impact fees should be waived for the property owners in the Snowshoe/Toboggan SAA area.

Bret gave a brief background on impact fees waiver for previous SAAs but explained that the Snowshoe/Toboggan SAA received grant funding and a loan portion from Utah Division of Drinking Water and the Town contributed approximately $400,000 towards the sewer line improvements. Bret explained that the Council typically have waived impact fees in previous SAAs, the Snowshoe/Toboggan is different with the different funding sources.

The Snowshoe/Toboggan property owners will be paying an annual assessment of under $10,000 which is significantly lower than any of the other SAAs.

Mayor Calloway commented that he has spoken to Council Member Tidwell and Council Member Ricks on this topic, and they are in consensus that the Snowshoe/Toboggan SAA property owners should pay for the impact fees.

Consensus of the Council: Bret reported he has direction from Council that the Snowshoe/Toboggan SAA property owners will pay the full impact fee.

5. **CONSTRUCTION MITIGATION DISCUSSION.** A discussion on construction, parking and material storage.

Grant Sant, Planning Administrator, reported that two contractors, Roger from Choice Builders and Peter from Jacob Construction approached the Council to request a solution to the challenge of construction materials and parking within the Town's right-of-way year-round.

Discussion centered on strategies for mitigating the construction impact on the community and environment and highlighted common problems such as parked vehicles and the misuse of public rights of way. Greg reported that staff have met with the contractors and others to find a resolution.

Some of the potential solutions identified involved revisions to existing policies, suggested requirement proposals in future site planning, recognized contrasts in past behavior between good and bad actors, unforeseen challenges due to changing construction landscapes in localized environments and showcasing exemplary models of good practice in other regions.

The Council sought collaborative mapping of effective strategies between staff and local builders to find solutions better integrating construction with community standards which included some of following:

1. No overnight parking will be allowed and if there is a trailer, it should be allowed onsite.
2. A site map presented before construction begins to show where the construction materials will be stored and identified.
3. A cash bond to be submitted in case of damage to the Town's equipment.
4. If the construction mitigation policy should be incorporated into the Town Code or as an administrative policy.
5. To keep the undistributed area undisturbed and not a place for construction material storage.
6. Consider installing snow markers to identify the construction materials.

Consensus of the Council: Staff will bring back a policy for Council's consideration.

6. PUBLIC HEARING FOR LAND MANAGEMENT CODE AMENDMENTS, CHAPTERS 2, 4, 9, 11, 12, & 13 (Definitions, Subdivisions, Flexible Approaches, Design Guidelines, & Enforcement. A public hearing to receive comments on proposed amendments to the Land Management Code.

Bret Howser, Town Manager, gave a brief introduction to the public hearing for the Land Management Code amendments for subdivisions. Bret explained that the proposed amendments are in line with the new State requirements for subdivisions and are requiring all municipalities to be in place by December 31, 2024. Bret reported that the Town received a grant to bring the Land Management Code as it relates to subdivisions' compliance with the new legislative changes and hired Hansen Planning Group to review and amend the Land Management Code.

Mayor Calloway recessed the regular meeting and opened the public hearing at 3:03 p.m.

No comments were made, and no written comments were submitted. Mayor Calloway closed the public hearing at 3:04 p.m.

7. 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.

Bret Howser, Town Manager, presented a draft ordinance amending the Town Code, Title 9, Land Management Code, chapters 2, 4, 9, 11, 12, and 13 (see attached). Bret reported that the Planning Commission has reviewed the amendments and held their public hearing on the proposed amendments and forwarded a positive response to the Town Council. The Council also held their public hearing for this amendment.

The Council discussed the following:

1. The schematic plan will now be called a Concept Plan.
2. The Town Council has been taken out of the processes except for zone changes.
3. There is a two-step process with optional precursor steps, so if the applicant wants to have a pre-application conference with staff, they can but they are not required to have one.
4. State statute identifies that there can be a public hearing and is identified in the proposed amendment for a preliminary plat process.
5. There was a change for cleanup bonds to be used for cleanup from a contractor/developer who has not completed the job. The cleanup bond is $1,500.
6. Bret reported that he would like to continue to clean up Chapter 2 and Chapter 9 from terms that are not used by the Town. In chapter 9, the concept plan is optional, there is still some language in there that refers to the concept plan that needs to be clean up.
7. Mayor Calloway commented that retaining walls should also be reviewed. 9.12.11.3 as to the height of retaining walls. The council would like to see a maximum of twelve feet (12') in height. It would allow someone to do tiers of three or four feet in height. Consensus of the Council.
8. Mayor Calloway commented that 9.12.11.D – Zoning Administrator is identified and everything else is Land Use Authority. He would like this consistent with the rest of the Title. Bret explained that the Land Use Authority could be different bodies, such as the Planning Commission, Town Council, Appeal Authority, Staff, etc.
9. Mayor Calloway commented that on 9.12.15.3. He would like to see language inserted that would include some type of buffering between an R1 zone and R3 zone that are adjacent to each other.
10. The Council agreed with a proposed change to Chapter 13(9.13.7.2), Enforcement, to increase the performance bond but staff will need to review with the attorney. Mike Hansen explained that the state identifies a 100% bond with 10% administration fee on it but would encourage the Council to verify with the attorney.

Action: Council Member Marshall moved to table this agenda item until further review and refinement of the LMC. Council Member Freeberg seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

8. PAVING CONTRACT AWARD FOR PUBLIC WORKS MAINTENANCE SHOP PARKING LOT AND HIGHWAY 143 INTERSECTIONS OF HUNTER RIDGE ROAD AND RIDGE VIEW STREET. Contract award for the paving of the maintenance shop parking lot and two intersections of Highway 143 at Hunter Ridge Road and Ridge View Street.

Jon Ficken, Public Works Director, presented a bid tabulation for paving the maintenance shop parking lot and the highway intersections of Hunter Ridge Road and Ridge View Street (see attached). Jon reported that by paving the intersections it will improve the functionality of the intersections.

Jon recommended Southern Utah Grade and Pavement in the amount of $103,960 for the pavement contract.

Motion: Council Member ___ moved to award the contract for paving the maintenance shop and the highway intersections of Hunter Ridge Road and Ridge View Street as presented. Council Member ___ seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

9. ASPEN MEADOWS ANNUAL SUMMER UPDATE AND DISCUSSION. A presentation on the Aspen Meadows development activities and a discussion on a road vacation for Peak Road.

Flint Decker, Aspen Meadows Developers, gave a PowerPoint presentation on Aspen Meadows development (see attached). Flint provided a vivid progress account and strategic exploration in developing the alpine community. Presentations scaled completed infrastructure tasks, ongoing work in property development, ski facility concept realization stages aligning with historic and prescient community goals.

Open dialogue facilitated by questioning elucidated neutral perspectives, anticipated broader impacts, co-operating interests between involved neighbors, and shared visions looking forward.

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

The Council reviewed the upcoming tentative agendas for Planning Commission on September 17, 2024, and Town Council meeting scheduled for September 24, 2024.

RECESS:

Motion: Mayor Calloway moved to recess the meeting for a five-minute break. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

The regular meeting of the Town Council was recessed at 4:35 pm.

G. **CLOSED SESSION OF THE TOWN COUNIL** to discuss the sale, lease, and purchase of real property.

Motion: Mayor Calloway moved to enter closed session to discuss the sale, lease, purchase of real property. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

The Town Council entered a closed session at 4:45 p.m.

H. ADJOURNMENT

Motion: Council Member Freeberg moved to adjourn the regular meeting of the Town Council for September 10, 2024. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes**: Council Member Freeberg, Council Member Marshall, Mayor Calloway. **Absent:** Council Member Ricks, Council Member Tidwell,).

The regular meeting of the Brian Head Town Council was adjourned at 4:57 p.m.

October 22, 2024
Date Approved

Nancy Leigh, Town Clerk