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)
Via Zoom Meeting ID# 892 7566 7485
TUESDAY, AUGUST 27, 2024 @ 1:00 PM

AGENDA

A. CALL TO ORDER

B. PLEDGE ALLEGIANCE

C. DISCLOSURES

D. APPROVAL OF THE MINUTES:

- July 11, 2024, Town Council Special Meeting Minutes
- July 23, 2024, Town Council Meeting Minutes
- August 13, 2024, Town Council Meeting Minutes

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

F. AGENDA ITEMS:

1. **PUBLIC HEARINGS ON THE CREATION OR DESIGNATION OF THE:**
   1) **RANGER COURT SPECIAL ASSESSMENT AREA (2024-01),**
   2) **ELK DRIVE SPECIAL ASSESSMENT AREA (2024-02)**

   The Council will hold a public hearing to receive comments or objections to the 1) designation of the proposed creation of the Ranger Court and Elk Drive SAAs, 2) improvements proposed to be provided in the assessment areas 3) the amount that property reasonably and equitably benefits from the improvements and 4) inclusion of unassessed benefitted government property (of which there is none).

2. **FINDINGS, RECOMMENDATION AND DECISION OF THE BOARD OF EQUALIZATION FOR ASSESSMENT AREA NO. 2023-1 (SNOWSHOE-TOBOGGAN) AND AN ORDINANCE CONFIRMING THE ASSESSMENT LISTS AND LEVYING AN ASSESSMENT AGAINST CERTAIN PROPERTIES IN THE DESCRIBED ASSESSMENT AREA, FOR THE PURPOSE OF PAYING ALL OR A PORTION OF THE COST OF WATER IMPROVEMENTS; ESTABLISHING A RESERVE FUND; ESTABLISHING THE EFFECTIVE DATE OF THIS ORDINANCE; AND RELATED MATTERS.** Shane Williamson, Town Treasurer. The Council will consider an ordinance adopting the final assessment for the Snowshoe/Toboggan SAA.

3. **LAND MANDMENT CODE AMENDMENTS FOR CHAPTER 7 ZONE DISTRICT REGULATIONS FOR SETBACK EXCEPTIONS AND CHAPTER 12 DESIGN STANDARDS FOR SNOW STORAGE, CLADDING, AND COLORS.** Bret Howser, Town Manager. The Council will consider an ordinance amending the Land Management Code, Chapter 7 and Chapter 12 for setback exceptions, cladding requirements, snow storage, and colors.

4. **WATER AND WASTEWATER IMPACT FEE ORDINANCE.** Bret Howser, Town Manager. The Council will consider an ordinance adopting the Water and Wastewater Impact Fees.

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

G. ADJOURNMENT

BRIAN HEAD

Date: August 22, 2024

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the public board may participate by means of electronic communications. In compliance with the Americans with Disabilities Act, persons needing auxiliary communications aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029 at least three days in advance of the meeting.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda at the following conspicuous locations; the Post Office, The Mall, and the Brian Head Town Hall and have posted copies on the Utah Meeting Notice Website and the Brian Head Town website and have caused a copy of this notice to be delivered to the Daily Spectrum, a newspaper of general circulation.
Nancy Leigh, Town Clerk

BRIAN HEAD

ITEM: RANGER COURT (CEDAR BREAKS MOUNTAIN HOMESITES) SAA PUBLIC HEARING

AUTHOR: Shane Williamson, Town Treasurer
DEPARTMENT: Administration
DATE: August 27, 2024
TYPE OF ITEM: Informational

SUMMARY:

The Council will hold a public hearing for the Ranger Court (Cedar Breaks Mountain Homesites) SAA. The Council has the option to hold a discussion once the public hearing is closed to answer any questions that may have been brought up during the public hearing or if the Council has any questions. No action is needed by the Council for this agenda item.

BACKGROUND:

Ryan Ricks, sponsor of the SAA, submitted a petition to the Council in June 2024. This project would include a total of 18 lots. In July 2024, the Council adopted a resolution for a Notice of Intent to Create the Ranger Court SAA. With this resolution, the public hearing date was set along with the 60-day protest period. As part of the state law requirement, the property owners within the SAA were put on notice in writing.

ANALYSIS:

As part of state law requirements, a public hearing is to be held which will officially kick off the 60-day protest period. This will allow any property owner within the proposed SAA to protest the creation of the SAA, in writing.

Staff mailed a written notification to each property owner located within the SAA boundary letting them know the public hearing date and protest requirements. As per state law requirements, if the Town receives 40% written protests, then the SAA automatically fails. During a later Council meeting, the Council will either adopt a resolution creating SAA or a resolution abandoning the SAA based on the number of protests the Town receives.

FINANCIAL IMPLICATIONS:

The public hearing has no direct financial implications itself. However, if the SAA proceeds, the Town will Bond for the project which will be backed by assessments placed on each property.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

N/A

PROPOSED MOTION:

No motion. Public Hearing only.

ATTACHMENTS:

A – Notice of Intent
B – Ranger Court SAA Map
C – Protest Letter(s)

TOWN OF BRIAN HEAD, UTAH
NOTICE OF INTENTION TO DESIGNATE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA 2024-01(Ranger Court)
July 11, 2024

RESOLUTION NO. 24-547

A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS FOR THE RANGER COURT AREA OF THE CEDAR BREAKS MOUNTAIN HOMESITES, UNIT B, BLOCKS A, B & C SUBDIVISON; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2024-01 (RANGER COURT); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS.

WHEREAS, pursuant to the Utah Assessment Area Act, Title 11, Chapter 42, of the Utah Code, the Town Council of the Town of Brian Head, Iron County, Utah (the Town) has the power to make or cause to be made all of the following improvements, water system improvements that will benefit certain properties in and around the Ranger Court area of the Cedar Breaks Mountain Homesite subdivision (the Improvements); and

WHEREAS, the Town has received petitions from property owners desiring the water system improvements described herein; and

WHEREAS, the Town desires to designate or create a Special Tax Assessment Area and impose a special tax assessment against the portion of the properties in the Town that will be directly or indirectly benefitted by the Improvements:

BE IT RESOLVED by the Town Council of the Town of Brian Head, Utah:

Section 1. The Town Council of the Town hereby determines that it will be in the best interest of the Town to finance and install or have installed the Improvements in specified locations of the Town, and to complete the whole in a proper and workmanlike manner according to plans, profiles and specifications that have been presented to the Town and are on file in the Office of the Town Clerk. In order to finance the costs of the Improvements, the Town proposes to create, establish, and designate a Special Tax Assessment Area. A description of the proposed Special Tax Assessment Area is more particularly described in the Notice of Intention to construct the proposed Improvements hereinafter set forth.

Section 2. The proposed Assessment Area shall be known as the Town of Brian Head, Utah Special Tax Assessment Area No. 2024-01 (Ranger Court) (the "Special Tax Assessment Area).

Section 3. The cost and expenses of the proposed Improvements shall be paid by a special tax assessment to be levied against the properties on a per lot basis for lots that will be benefited directly or indirectly from the Improvements, or which may be affected or specially benefitted, directly or indirectly, by any of such Improvements, such assessment to be paid in not more than ten (10) annual installments with interest on the unpaid balance until due and paid. An allowance shall be made for corner lots, if applicable, so that such lots are not assessed at the full rate on both streets.

Section 4. The Town Council hereby finds that the water system improvements, including any modifications to streets, that is proposed for Special Tax Assessment Area No. 2024-01 (Ranger Court) are necessary or convenient to enable the Town to provide the water service that the Town proposes and is authorized to provide in Special Tax Assessment Area No. 2024-01 (Ranger Court).

Section 5. A public hearing is called for the Town Council meeting on August 27, 2024, at 1:00 p.m., at the Town offices located at 56 N. Highway 143, Brian Head, Utah 84719 to hear from any person desiring to be heard and objections to a) the designation of the proposed Town of Brian Head, Utah Special Tax Assessment Areas No. 2024-01 (Ranger Court) or the improvements proposed to be provided in said assessment area; b) the amount that a property reasonably and equitably benefits from the improvements; and c) the inclusion of unassessed benefitted government property.

Section 6. Any owner of property that is proposed to be assess and who does not want its property to be included in the proposed Special Tax Assessment Area No. 2024-01 (Ranger Court) may file a written protest against:

a) The designation of the Special Tax Assessment Area No. 2024-01 (Ranger Court);
b) The inclusion of the owner's property in the proposed Special Tax Assessment Area No. 2024-01 (Ranger Court):
c) The proposed improvements to be acquired or constructed; or
d) If applicable, the inclusion of an unassessed benefitted government property, the benefit for which the other assessed properties will collectively pay (of which there are none)

Each written protest shall:

a) Describe or otherwise identify the property owned by the person filing the protest; and
b) Include the signature of the owner of the property.

The failure of a property owner within the proposed Special Tax Assessment Area No. 2024-01 (Ranger Court) to file a timely written protest constitutes a waiver of any objection to:

a) The designation of the Special Tax Assessment Area No. 2024-01 (Ranger Court);
b) Any improvement to be provided to property within the Special Tax Assessment Area No. 2024-01 (Ranger Court);
c) The inclusion of the owner's property within the Special Tax Assessment Area No. 2024-01 (Ranger Court);
d) The fact, but not amount, of benefit to the to the owner's property; and
e) The inclusion of an unassessed benefitted government property in the assessment areas (of which there are none).

The Town Council hereby directs the Town Clerk to post the total and percentage of the written protests that the Town receives on the Town's website, and at the Town office at least five days before the August 27, 2024 meeting against the proposed Improvements or against the creation of the Special Tax Assessment Area must be presented and filed in the Office of the Town Clerk on or before August 22, 2024, at the hour of 4:00 p.m. Any person desiring to be heard may file a written protest or objection to a) the designation of the proposed Town of Brian Head, Utah Special Tax Assessment Areas No. 2024-01 (Ranger Court) or the improvements proposed to be provided in said assessment area; b) the amount that a property reasonably and equitably benefits from the improvements; and c) the inclusion of unassessed benefitted government property (of which there is none). Thereafter at 1:00 p.m. on August 27, 2024, at 56 N. Highway 143, Brian Head, Utah, 84719, any such written protests shall be heard and considered by the Town Council.

Section 7. The Town Clerk is hereby directed to give notice of intention to make the proposed improvements and of the public hearing and of the time within which protests against the proposed improvements or the designation of the proposed Special Tax Assessment Area may be filed and the date when such protests will be heard and considered by publishing a notice of intention to create the Assessment Area as a class B notice under Section 63G-30-102 of the Utah Code, no fewer than 20 day and no more than 35 days before the public hearing, which includes (a) posting on the Utah Public Notice Website, (b) posting on the Town website, (c) posting at the Town office, (d) posting on the affected streets, and (e) mailing to each residence and to each property owner within the proposed special assessment area. Said Notice shall be in substantially the following form:

NOTICE OF INTENTION

PUBLIC NOTICE IS HEREBY GIVEN that the Town Council (the "Town Council") of the Town of Brian Head, Utah (the "Town"), intends to create or designate a Special Tax Assessment Area to be known as the Town of Brian Head, Utah Special Tax Assessment Area No. 2024-01 (Ranger Court) (the "Special Tax Assessment Area"). Accordingly, the Town Council called a public hearing regarding the creation or designation of the Special Tax Assessment Area to be held on August 27, 2024, at 1:00 p.m. at the Town Office at 56 N. Highway 143, Brian Head, Utah 84719, to hear from any person desiring to be heard and objections to a) the designation of the proposed Town of Brian Head, Utah Special Tax Assessment Areas No. 2024-01 (Ranger Court) or the improvements proposed to be provided in said assessment area; b) the amount that a property reasonably and equitably benefits from the improvements; and c) the inclusion of unassessed benefitted government property (of which there is none). It is the intention of the Town Council to make water system improvements within the Special Tax Assessment Area and to levy special assessments as provided in Title 11, Chapter 42, Utah Code Annotated 1953, as amended, on the real estate lying within the Special Tax Assessment Area as described herein for the benefit of which such assessments are to be assessed in the making of such improvements.

DESCRIPTION OF SPECIAL TAX ASSESSMENT AREA

The proposed Special Tax Assessment Area shall include the following real property in the Town of Brian Head, Iron County, UT and is described as:

The properties in the Ranger Court area of the Cedar Breaks Mountain Homesite subdivision and some adjoining properties in the Town of Brian Head, Utah. More specifically the following parcel numbers in respective subdivisions as described below. Properties other than the identified parcel numbers will not be included in the proposed Special Tax Assessment Area.

Lot	Parcel #	Physical Address of lot	Subdivision	Unit	Block
1	A-1143-0001-0016	913 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A
2	A-1143-0001-0011	933 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A
3	A-1143-0001-0010	949 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A
4	A-1143-0001-0014	965 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A
5	A-1143-0001-0013	977 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A

6	A-1143-0001-0010-01	995 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A
7	A-1143-0001-0015	1011 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	A
1	A-1143-0001-0021-01	942 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	B
2	A-1143-0001-0007	972 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	B
3	A-1143-0001-0026	1002 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	B
8	A-1143-0001-0001	1001 E. Meadow Dr.	Cedar Breaks Mtn. Homesites	B	B
9	A-1143-0001-0031	971 E. Meadow Dr.	Cedar Breaks Mtn. Homesites	B	B
10	A-1143-0001-0017-01	945 E. Meadow Dr.	Cedar Breaks Mtn. Homesites	B	B
1	A-1143-0001-0020-05	912 E. Ridge Top Dr.	Cedar Breaks Mtn. Homesites	B	C
2	A-1143-0001-0008	6 S. Ranger Court	Cedar Breaks Mtn. Homesites	B	C
3	A-1143-0001-0027	36 S. Ranger Court	Cedar Breaks Mtn. Homesites	B	C
10	A-1143-0001-0020-01	946 E. Meadow Dr.	Cedar Breaks Mtn. Homesites	B	C
11	A-1143-0001-0004	978 E. Meadow Dr.	Cedar Breaks Mtn. Homesites	B	C

INTENDED IMPROVEMENTS

The improvements to be constructed within the Special Tax Assessment Area are as follows:

Water System Improvement: Water System Improvements to extend water lines on Ridge Top Drive, E. Meadow Drive, and Ranger Court, and related improvements, and complete the whole in a proper and workman like manner with all drainage and other improvement appurtenant and useful to a water system, including street improvements, and associated municipal improvements.

ESTIMATED COST AND METHOD OF ASSESSMENT

Estimated Cost and Method of Assessment: The total cost of Improvements in the Special Tax Assessment Area is currently estimated to be $480,000.00, of which the Town will pay $0 leaving a remainder of $480,000.00 which shall be paid by special tax assessment on the private property within the Special Tax Assessment Area.

This includes engineering costs, overhead costs and funding of a reserve fund described herein, all of which shall be paid by special tax assessment to be levied against the properties which may be directly or indirectly benefited by the Improvements which benefits need not actually increase the fair market value of the property to be assessed. The property owners' portion of the total estimated cost of the Improvements may be financed during the construction period by the use of interim warrants, in which case the interest on said warrants will be assessed to the property owners.

In lieu of utilizing a guaranty fund, the Town Council intends to create a special reserve fund, if desired by lenders, to secure payment of the special assessment bonds (the "Bonds") anticipated to be issued by the Town to finance the proposed Improvements. The reserve fund will be either initially funded with proceeds of the Bonds in an amount equal to approximately ten percent (10%) of the total principal amount of Bonds to be issued, or by building up a reserve fund over a period of six years until an amount equal to approximately ten percent (10%) of the total principal amount of Bonds to be issued is placed in the reserve fund. The Town Council anticipates applying any moneys remaining in the reserve fund to the final payment on the Bonds which, in turn, would offset the final assessment payments to be made by the owners of property benefited by such Improvements, all of which will be further described in the assessment ordinance to be adopted by the Town. Any money in the reserve fund upon full payment of the Bonds is to be disbursed ratably to each assessed lot owner as of the date of disbursement. In addition, estimated costs of assessment include estimated overhead costs which the Town projects to incur in the creation and administration of the Special Tax Assessment Area. If

Bonds are issued, the current estimated interest rate is 8.25% per annum and the estimated discount is no more than 2.00%, subject to market rates at the time of issuance and the current estimated term of financing is ten (10) years.

The estimated cost and method of assessment against the properties for the Improvements are as follows:

Improvement	Estimated Assessment	Method of Assessment
Water System Improvement	$480,000 total cost or $26,667 per lot.	Per lot.
Total of All Improvements	**$480,000 total cost or $26,667 per lot**	**Per lot.**

For assessment purposes, if applicable, an owner of a lot is defined herein to be the owner of a platted lot within the Town of Brian Head, Iron County, Utah according to the official records of the Town of Brian Head, upon which a residential, commercial, or other structure to be used for human occupancy is now or may be located consistent with the "lot size" requirements of the applicable Town of Brian Head Land Management ordinances in place as of the date this is adopted.

LEVY OF ASSESSMENTS

It is the intention of the Town Council to levy assessments as provided by the laws of Utah on all property, parcels, and lots of real property to be benefited by the proposed improvements within the Special Tax Assessment Area. The purpose of the assessment and levy is to pay those costs of the improvements which the Town will not assume and pay. The method of assessment shall be per lot, as set forth herein.

The assessments may be paid by property owners in not more than ten (10) annual installments with interest on the unpaid balance at a rate or rates fixed by the Town, or the whole or any part of the assessment may be paid without interest within twenty-five (25) days after the ordinance levying the assessment becomes effective. The assessments shall be levied according to the benefits to be derived by each property within the Special Tax Assessment Area. Other payment provisions and enforcement remedies shall be in accordance with Title 11, Chapter 42, Utah Code Annotated 1953, as amended. The assessment method will be by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401 of the Utah Code.

A map of the proposed Special Tax Assessment Area is on file in the Town offices which will make such information available to all interested persons. Copies of plans, profiles and specifications of the proposed improvements shall be made available by the Town as soon as thy have been prepared.

TIME FOR FILING PROTESTS

Any person who is the owner of record of property to be assessed in the Special Tax Assessment Area described in this Notice of Intention shall have the right to file in writing a protest against the creation of the Special Tax Assessment Area or to make any other objections relating thereto. Protests shall describe or otherwise identify the property owner of record by the person or persons making the protest and shall indicate the total number of lots represented by said protest. Protests shall be filed with the Town Clerk of the Town of Brian Head, Utah, on or before sixty (60) days after the public hearing to be held August 27, 2024, at 1:00 p.m. at the Town Office. The Town Council will meet on November 12, 2024, at 1:00 p.m. in public meeting at the regular meeting place of the Town Council at the Town Office at 56 N. Highway 143, Brian Head, Utah 84719 to consider all protests so filed and hear all objections relating to the proposed improvements. Each protest must be filed in writing and describe or otherwise identify the property owned by the person filing the protest and include the signature of the property owner.

A PROPERTY OWNER MUST PROTEST THE DESIGNATION OF THE SPECIAL TAX ASSESSMENT AREA IN WRITING IF THE OWNER OBJECTS TO (1) THE DESIGNATION OF THE SPECIAL TAX ASSESSMENT AREA, (2) ANY PROPOSED IMPROVEMENT, (3) THE INCLUSION OF THE OWNER'S PROPERTY, OR (4) THE FACT, BUT NOT AMOUNT, OF BENEFIT TO THE OWNER'S PROPERTY. Failure of an owner of property to file a timely written protest can constitute a waiver.

After such consideration and determination, the Town Council shall adopt a resolution either abandoning the Special Tax Assessment Area or creating and designating the Special Tax Assessment Area either as described in this Notice of Intention or with deletions and changes made as authorized by law; but the Town Council shall abandon the Special Tax Assessment Area and not create the same if the necessary number of protests as provided herein have been filed on or before the time specified in this Notice of Intention for the filing of protests after eliminating from such filed protests: (i) protests relating to property or relating to a type of improvement which has been deleted from the Special Tax Assessment Area, and (ii) protests which have been withdrawn in writing prior to sixty (60) days after the public hearing. The necessary number of protests shall mean the aggregate of the protests representing forty percent (40%) of the owners proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied.

BY ORDER OF THE TOWN COUNCIL OF TOWN OF BRIAN HEAD, IRON COUNTY, UTAH

/s/ Nancy Leigh
Town Clerk

Posted as a Class B notice as provided in Section 63G-30-102 of the Utah Code at least 20 days and not more than 35 days before August 27, 2024.

Section 8. The Town Council reasonably expects, to reimburse the Town from proceeds of the Bonds for capital expenditures paid by the Town (whether or not such expenditures are paid from proceeds of interim warrants) with respect to the Improvements.

Section 9. This declaration is intended to be a declaration of official intent under Treasury Regulation 1.103-18(1).

Section 10. The maximum principal amount of debt expected to be issued for reimbursement purposes is $480,000.00. This amount will be reduced by cash payments received by the Town from property owners who elect to pay their assessment in full during the cash payment period immediately following the effective date of the assessment ordinance.

Section 11. This declaration of official intent is consistent with the Town's budgetary and financial circumstances. No funds from sources other than the Bonds are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Town or by any member of the same controlled group pursuant to their budget or financial policies with respect to the expenditures to be reimbursed.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, IRON COUNTY, UTAH THIS July 11, 2024.

Clayton Calloway, Mayor

ATTEST:

Nancy Leigh, Town Clerk

(SEAL)

RECORD OF PROCEEDINGS

A special meeting of the Town Council of the Town of Brian Head, Iron County, Utah was held on July 11, 2024, at 1:00 p.m., or as soon thereafter as feasible, at the special meeting place of said Town Council at 56 N. Highway 143, Brian Head, Utah 84719 at which meeting there were present and answering roll call the following members who constituted a quorum:

Clayton Calloway	Mayor
Martin Tidwell	Council Member
Mitch Ricks	Council Member
Larry Freeberg	Council Member

Also present:

Nancy Leigh	Town Clerk
Bret Howser	Town Manager

Absent:

Kelly Marshall	Council Member

After the meeting had been duly called to order and other matters not pertinent to this resolution had been discussed, the Town Clerk presented to the Town Council a Certificate of Compliance with Open Meeting Law with respect to this July 11, 2024 meeting, a copy of which is attached hereto.

Council Member Tidwell introduced the foregoing resolution in writing and moved its adoption. Council Member Ricks seconded the motion to adopt the foregoing resolution. The motion and resolution were adopted on the following recorded vote:

Those voting AYE:	Mayor Calloway Council Member Tidwell Council Member Ricks Council Member Freeberg
Those voting NAY:	None
Those ABSTAINING:	None

After the conduct of other business not pertinent to the above, the meeting was adjourned.

STATE OF UTAH)

: ss.

COUNTY OF IRON)

I, Nancy Leigh, the duly chosen, qualified and acting Town Clerk of the Town of Brian Head, Iron County, Utah, do hereby certify as follows:

That the foregoing typewritten pages constitute a full, true and correct copy of the record of proceedings of the Town Council taken at a special meeting thereof held in said Town on July 11, 2024, at the hour of 1:00 p.m., insofar as said proceedings relate to the consideration and adoption of a resolution declaring the intention of the Town Council to create the Town of Brian Head, Utah Assessment Area No. 2024-01 (Ranger Court) and make certain improvements therein described as the same appears of record in my office; that I personally attended said meeting, and that the proceedings were in fact held as in said minutes specified.

That due, legal, and timely notice of said meeting was served upon all members as required by law and the rules and ordinances of said Town.

That the above resolution was deposited in my office on July 11, 2024, has been recorded by me, and is a part of the permanent records of the Town of Brian Head, Iron County, Utah.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and affixed the seal of said Town this July 11, 2024.

Nancy Leigh

Nancy Leigh, Town Clerk

(SEAL)

BRIAN HEAD TOWN
A MUNICIPAL CORPORATION
THE GREAT SEAL OF THE STATE OF UTAH
1896

(ATTACH POSTING OF CLASS B NOTICE PURSUANT TO SECTION 63G-30-102)

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Nancy Leigh, the undersigned Town Clerk of the Town of Brian Head, Iron County, Utah (the Town), do hereby certify, according to the records of the Town in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the July 11, 2024 public meeting held by the Town as follows:

(a) By causing a Notice, in the form attached hereto (the "Meeting Notice"), to be posted at the principal office of the Issuer at least twenty-four (24) hours prior the convening of the meeting, the Meeting Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of the Meeting Notice to be posted on the Town website at least twenty-four (24) hours prior to the convening of the meeting; and

(c) By causing a copy of the Meeting Notice to be published on the Utah Public Notice Website at least twenty-four (24) hours prior to the convening of the meeting; and

In addition, the Notice of 2024 Annual Meeting Schedule for the Issuer, attached hereto, specifying the date, time and place of the regular meetings of the governing body of the Issuer to be held during the calendar year 2024 was (1) posted on December 13, 2023, at the principal offices of the Issuer; (2) provided for posting on the town website on December 13, 2023; and (3) published on the Utah Public Notice Website on March 21, 2024.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this July 11, 2024.

Nancy Leigh, Town Clerk

(S E A L)

SCHEDULE "1"

NOTICE OF MEETING and EVIDENCE OF POSTING MEETING NOTICE ON PUBLIC NOTICE WEBSITE AND TOWN WEBSITE AND AT TOWN OFFICE

SCHEDULE "2"

NOTICE OF ANNUAL MEETING SCHEDULE

EVIDENCE OF POSTING ANNUAL NOTICE ON PUBLIC NOTICE WEBSITE AND TOWN WEBSITE AND AT TOWN OFFICE

Special Meeting of the Town Council

General Information

Government Type:

Municipality

Entity:

Brian Head

Public Body:

Brian Head Town Council

Give Feedback

Notice Information

Add Notice to Calendar

Notice Title:

Special Meeting of the Town Council

Notice Subject(s):

Public Meetings

Notice Type(s):

Meeting

Event Start Date & Time:

July 11, 2024 01:00 PM

Event End Date & Time:

July 11, 2024 03:00 PM

Description/Agenda:

A. CALL TO ORDER
B. PLEDGE ALLEGIANCE
C. DISCLOSURES
D. APPROVAL OF THE MINUTES: June 11, 2024, Town Council Meeting

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

F. AGENDA ITEMS:

1. HIDDEN SPRINGS PREMILARY PLAT APPROVAL. Lester Ross, Building & Planning Official. The Council will review the Preliminary Plat for the Hidden Springs Subdivision.

2. A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS FOR THE RANGER COURT AREA OF THE CEDAR BREAKS MOUNTAIN HOMESITES, UNIT B, BLOCKS A, B & C SUBDIVISON; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2024-01 (RANGER COURT); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS. Shane Williamson, Town Treasurer. The Council will consider a resolution adopting the Ranger Court Special Service Area Notice of Intent for water

system improvements.

3. A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS FOR THE ELK DRIVE AREA OF THE CEDAR BREAKS MOUNTAIN ESTATES, UNIT C SUBDIVISION; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2024-02 (ELK DRIVE); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS. Shane Williamson, Town Treasurer. The Council will consider a resolution adopting the notice of intent for the Elk Drive Special Assessment Area for water system improvements.

4. SPRING CIRCLE SPECIAL ASSESSMENT AREA PETITION. Shane Williamson, Town Treasurer. The Council will consider an SAA petition for Spring Circle for Water System Improvements.

5. GENERAL FINANCE MANAGEMENT POLICY AND PROCEDURES. Nancy Leigh, Town Clerk. The Council will consider a resolution for the General Finance Management Policy & Procedures.

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

G. ADJOURNMENT

Notice of Special Accommodations (ADA):

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nancy Leigh (435) 677-2029 at least three days prior to the meeting.

Notice of Electronic or Telephone Participation:

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the Council may participate by means of electronic com

Meeting Information

Meeting Location:

Town Hall Council Chambers
56 North SR 143
Brian Head, UT 84719
Show in Apple Maps Show in Google Maps

Contact Name:

Nancy Leigh

Contact Email:

nleigh@bhtown.utah.gov

Contact Phone:

(435)677-2029

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Notice Posting Details

Notice Posted On:

July 09, 2024 05:13 PM

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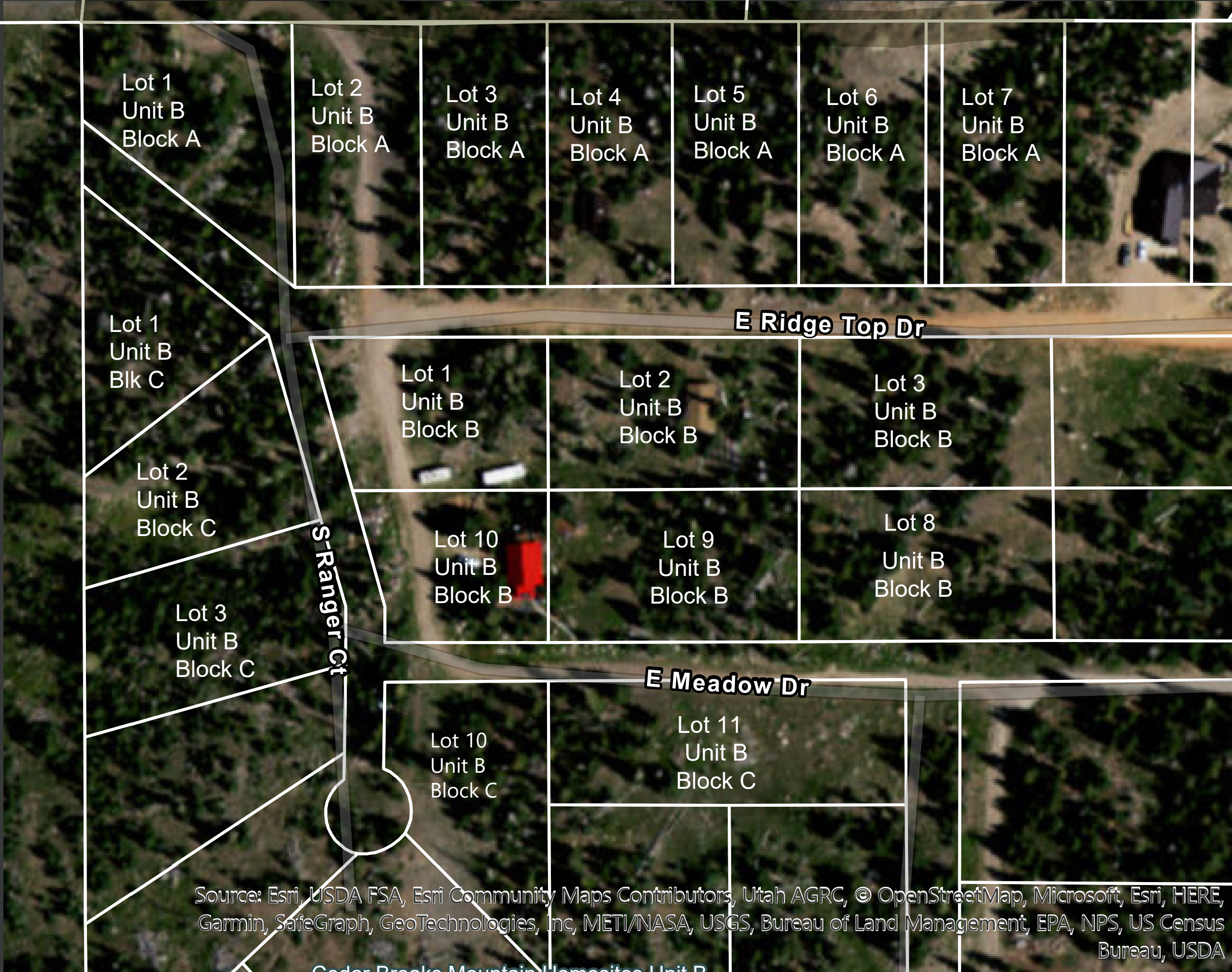

Lot 1 Unit B Block A
Lot 2 Unit B Block A
Lot 3 Unit B Block A
Lot 4 Unit B Block A
Lot 5 Unit B Block A
Lot 6 Unit B Block A
Lot 7 Unit B Block A
E Ridge Top Dr
Lot 1 Unit B Blk C
Lot 1 Unit B Block B
Lot 2 Unit B Block B
Lot 3 Unit B Block B
Lot 2 Unit B Block C
S Ranger Ct
Lot 10 Unit B Block B
Lot 9 Unit B Block B
Lot 8 Unit B Block B
Lot 3 Unit B Block C
E Meadow Dr
Lot 10 Unit B Block C
Lot 11 Unit B Block C
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Brian Head Town
PO Box 190068
56 North Hwy 143
Brian Head, UT 84719

August 19, 2024

To Whom it May Concern,

I am writing concerning the creation of the Special AssessmentArea No. 2024-01 (Ranger Court). My name is Ray Inkel and co owner with Susan Baughman of Parcel # A-1143-0001-0010, Lot #3 Block A 949 E. Ridge Top Drive. We have owned this property for over 15 years and spend time with family in the area often.

I am writing in PROTEST of this special tax assesment.

The description of the work to be done is lacking in specificity and does not provide landowners with the information for what the assesment will cover. One sentence in a 5 page document that refers to "Water System Improvements" does not define the scope of work. Does Water improvements and extending water lines also include sewer lines for drainage? Does the extention of water lines include fire hydrant access for emergency fire situations? Does the extending of waterlines and street improvements mean regrading roads? For an assessment of over $26,000 we deserve to know more about what work will be done.

Plans for the work will be made after the Assessment is put in place. Added "improvements" may drive up costs changing our assessment. I understand in several other previous SAA's that cost overruns have been the normal and residents end up paying more than the original assessment.

If "Water System Improvement" is only water infrastructure and not wastewater/sewer infrastructure it is very unwise. If water is provided to an area the city should take concern with how waste and drainage will happen. Current city codes require new construction to be connected to sewer lines and that no septic systems can be constructed if not already in place and formerly permitted. (Town Code 7-2-3 B). Bringing water to this area without additional sewer asks for contamination of the groundwater and obvious disregard of city regulations. I know that most of the properties in this assessment area do not have any preexisting septic systems. This is unacceptable and a gross oversight by the city if it is intent on protecting its water sources.

Overall we would agree to the SAA if indeed it does address water AND sewer infrastructure. If we will be assessed for future sewer improvements then it would be wise to do all of the work at one time.

This Special Assessment Area was presented before in 2022. At that time I pointed out that the map of affected lots which lists property owners that have agreed to the assesment petition was incorrect. Lot 3 Unit B Block A (949 E. Ridge Top) is marked as a YES but this is our property and we did not agreed to this assesment. This map has not been updated and should be before any more meetings or hearings.

Sincerely

Ray Inkel
Susan Baughman
c/o 2119 N. Sawmill St,
Cedar City, UT 84721
435-701-6176
rinkel@aol.com

ITEM: ELK DRIVE (CEDAR BREAKS MOUNTAIN ESTATES) SAA PUBLIC HEARING

AUTHOR: Shane Williamson, Town Treasurer
DEPARTMENT: Administration
DATE: August 27, 2024
TYPE OF ITEM: Informational

SUMMARY:

The Council will hold a public hearing for the Elk Drive (Cedar Breaks Mountain Estates) SAA. The Council has the option to hold a discussion once the public hearing is closed to answer any questions that may have been brought up during the public hearing or if the Council has any questions. No action is needed by the Council for this agenda item.

BACKGROUND:

Janell Cassell, sponsor of the SAA, submitted a petition to the Council in June 2024. This project would include a total of 25 lots. In July 2024, the Council adopted a resolution for a Notice of Intent to Create the Elk Drive SAA. With this resolution, the public hearing date was set along with the 60-day protest period. As part of the state law requirement, the property owners within the SAA were put on notice in writing.

ANALYSIS:

As part of state law requirements, a public hearing is to be held which will officially kick off the 60-day protest period. This will allow any property owner within the proposed SAA to protest the creation of the SAA, in writing.

Staff mailed a written notification to each property owner located within the SAA boundary letting them know the public hearing date and protest requirements. As per state law requirements, if the Town receives 40% written protests, then the SAA automatically fails. During a later Council meeting, the Council will either adopt a resolution creating SAA or a resolution abandoning the SAA based on the number of protests the Town receives.

FINANCIAL IMPLICATIONS:

The public hearing has no direct financial implications itself. However, if the SAA proceeds, the Town will Bond for the project which will be backed by assessments placed on each property.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

N/A

PROPOSED MOTION:

No motion. Public Hearing only.

ATTACHMENTS:

A – Notice of Intent
B – SAA Map

TOWN OF BRIAN HEAD, UTAH
NOTICE OF INTENTION TO DESIGNATE TOWN OF BRIAN HEAD, UTAH
SPECIAL TAX ASSESSMENT AREA 2024-02(Elk Drive)
July 11, 2024

RESOLUTION NO. 24-548

A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS FOR THE ELK DRIVE AREA OF THE CEDAR BREAKS MOUNTAIN ESTATES, UNIT C SUBDIVISON; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2024-02 (ELK DRIVE); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS.

WHEREAS, pursuant to the Utah Assessment Area Act, Title 11, Chapter 42, of the Utah Code, the Town Council of the Town of Brian Head, Iron County, Utah (the Town) has the power to make or cause to be made all of the following improvements, water system improvements that will benefit certain properties in and around the Elk Drive area of the Cedar Breaks Mountain Estates Unit C subdivision (the Improvements); and

WHEREAS, the Town has received petitions from property owners desiring the water system improvements described herein; and

WHEREAS, the Town desires to designate or create a Special Tax Assessment Area and impose a special tax assessment against the portion of the properties in the Town that will be directly or indirectly benefitted by the Improvements:

BE IT RESOLVED by the Town Council of the Town of Brian Head, Utah:

Section 1. The Town Council of the Town hereby determines that it will be in the best interest of the Town to finance and install or have installed the Improvements in specified locations of the Town, and to complete the whole in a proper and workmanlike manner according to plans, profiles and specifications that have been presented to the Town and are on file in the Office of the Town Clerk. In order to finance the costs of the Improvements, the Town proposes to create, establish, and designate a Special Tax Assessment Area. A description of the proposed Special Tax Assessment Area is more particularly described in the Notice of Intention to construct the proposed Improvements hereinafter set forth.

Section 2. The proposed Assessment Area shall be known as the Town of Brian Head, Utah Special Tax Assessment Area No. 2024-02 (Elk Drive) (the "Special Tax Assessment Area).

Section 3. The cost and expenses of the proposed Improvements shall be paid by a special tax assessment to be levied against the properties on a per lot basis for lots that will be benefited directly or indirectly from the Improvements, or which may be affected or specially benefitted, directly or indirectly, by any of such Improvements, such assessment to be paid in not more than ten (10) annual installments with interest on the unpaid balance until due and paid. An allowance shall be made for corner lots, if applicable, so that such lots are not assessed at the full rate on both streets.

Section 4. The Town Council hereby finds that the water system improvements, including any modifications to streets, that is proposed for Special Tax Assessment Area No. 2024-02 (Elk Drive) are necessary or convenient to enable the Town to provide the water service that the Town proposes and is authorized to provide in Special Tax Assessment Area No. 2024-02 (Elk Drive).

Section 5. A public hearing is called for the Town Council meeting on August 27, 2024, at 1:00 p.m., at the Town offices located at 56 N. Highway 143, Brian Head, Utah 84719 to hear from any person desiring to be heard and objections to a) the designation of the proposed Town of Brian Head, Utah Special Tax Assessment Areas No. 2024-02 (Elk Drive) or the improvements proposed to be provided in said assessment area; b) the amount that a property reasonably and equitably benefits from the improvements; and c) the inclusion of unassessed benefitted government property.

<u>Section 6.</u> Any owner of property that is proposed to be assess and who does not want its property to be included in the proposed Special Tax Assessment Area No. 2024-02 (Elk Drive) may file a written protest against:

a) The designation of the Special Tax Assessment Area No. 2024-02 (Elk Drive);
b) The inclusion of the owner's property in the proposed Special Tax Assessment Area No. 2024-02 (Elk Drive):
c) The proposed improvements to be acquired or constructed; or
d) If applicable, the inclusion of an unassessed benefitted government property, the benefit for which the other assessed properties will collectively pay (of which there are none)

Each written protest shall:

a) Describe or otherwise identify the property owned by the person filing the protest; and
b) Include the signature of the owner of the property.

The failure of a property owner within the proposed Special Tax Assessment Area No. 2024-02 (Elk Drive) to file a timely written protest constitutes a waiver of any objection to:

a) The designation of the Special Tax Assessment Area No. 2024-02 (Elk Drive);
b) Any improvement to be provided to property within the Special Tax Assessment Area No. 2024-02 (Elk Drive);
c) The inclusion of the owner's property within the Special Tax Assessment Area No. 2024-02 (Elk Drive);
d) The fact, but not amount, of benefit to the to the owner's property; and
e) The inclusion of an unassessed benefitted government property in the assessment areas (of which there are none).

The Town Council hereby directs the Town Clerk to post the total and percentage of the written protests that the Town receives on the Town's website, and at the Town office at least five days before the August 27, 2024 meeting against the proposed Improvements or against the creation of the Special Tax Assessment Area must be presented and filed in the Office of the Town Clerk on or before August 22, 2024, at the hour of 4:00 p.m. Any person desiring to be heard may file a written protest or objection to a) the designation of the proposed Town of Brian Head, Utah Special Tax Assessment Areas No. 2024-02 (Elk Drive) or the improvements proposed to be provided in said assessment area; b) the amount that a property reasonably and equitably benefits from the improvements; and c) the inclusion of unassessed benefitted government property (of which there is none). Thereafter at 1:00 p.m. on August 27, 2024, at 56 N. Highway 143, Brian Head, Utah, 84719, any such written protests shall be heard and considered by the Town Council.

Section 7. The Town Clerk is hereby directed to give notice of intention to make the proposed improvements and of the public hearing and of the time within which protests against the proposed improvements or the designation of the proposed Special Tax Assessment Area may be filed and the date when such protests will be heard and considered by publishing a notice of intention to create the Assessment Area as a class B notice under Section 63G-30-102 of the Utah Code, no fewer than 20 day and no more than 35 days before the public hearing, which includes (a) posting on the Utah Public Notice Website, (b) posting on the Town website, (c) posting at the Town office, (d) posting on the affected streets, and (e) mailing to each residence and to each property owner within the proposed special assessment area. Said Notice shall be in substantially the following form:

NOTICE OF INTENTION

PUBLIC NOTICE IS HEREBY GIVEN that the Town Council (the "Town Council") of the Town of Brian Head, Utah (the "Town"), intends to create or designate a Special Tax Assessment Area to be known as the Town of Brian Head, Utah Special Tax Assessment Area No. 2024-02 (Elk Drive) (the "Special Tax Assessment Area"). Accordingly, the Town Council called a public hearing regarding the creation or designation of the Special Tax Assessment Area to be held on August 27, 2024, at 1:00 p.m. at the Town Office at 56 N. Highway 143, Brian Head, Utah 84719, to hear from any person desiring to be heard and objections to a) the designation of the proposed Town of Brian Head, Utah Special Tax Assessment Areas No. 2024-02 (Elk Drive) or the improvements proposed to be provided in said assessment area; b) the amount that a property reasonably and equitably benefits from the improvements; and c) the inclusion of unassessed benefitted government property (of which there is none). It is the intention of the Town Council to make water system improvements within the Special Tax Assessment Area and to levy special assessments as provided in Title 11, Chapter 42, Utah Code Annotated 1953, as amended, on the real estate lying within the Special Tax Assessment Area as described herein for the benefit of which such assessments are to be assessed in the making of such improvements.

DESCRIPTION OF SPECIAL TAX ASSESSMENT AREA

The proposed Special Tax Assessment Area shall include the following real property in the Town of Brian Head, Iron County, UT and is described as:

The properties in the Elk Drive area of the Cedar Breaks Mountain Homesite subdivision and some adjoining properties in the Town of Brian Head, Utah. More specifically the following parcel numbers in respective subdivisions as described below. Properties other than the identified parcel numbers will not be included in the proposed Special Tax Assessment Area.

Lot #	Parcel #	Physical Address of lot	Subdivision	Unit
79	A-1211-0079-0000	245 N ELK DR	Cedar Breaks Mountain Estates	C
80	A-1211-0080-0000	267 N ELK DR	Cedar Breaks Mountain Estates	C
81	A-1211-0081-0000	289 N ELK DR	Cedar Breaks Mountain Estates	C
82	A-1211-0082-0000	299 N ELK DR	Cedar Breaks Mountain Estates	C
83	A-1211-0083-0000	315 N ELK DR	Cedar Breaks Mountain Estates	C

84	A-1211-0084-0000	329 N ELK DR	Cedar Breaks Mountain Estates	C
85	A-1211-0085-0000	345 N ELK DR	Cedar Breaks Mountain Estates	C
86	A-1211-0086-0000	361 N ELK DR	Cedar Breaks Mountain Estates	C
87	A-1211-0087-0000	377 N ELK DR	Cedar Breaks Mountain Estates	C
88	A-1211-0088-0000	391 N ELK	Cedar Breaks Mountain Estates	C
89/90	A-1211-089A-0000	405 N ELK DR	Cedar Breaks Mountain Estates	C
91	A-1211-0091-0000	419 N ELK DR	Cedar Breaks Mountain Estates	C
92	A-1211-0091-0000	433 N ELK DR	Cedar Breaks Mountain Estates	C
93	A-1211-0093-0000	466 N ELK DR	Cedar Breaks Mountain Estates	C
94	A-1211-0094-0000	448 N ELK DR	Cedar Breaks Mountain Estates	C
95	A-1211-0095-0000	430 N ELK DR	Cedar Breaks Mountain Estates	C
96	A-1211-0096-0000	414 N ELK DR	Cedar Breaks Mountain Estates	C
97	A-1211-0097-0000	404 N ELK	Cedar Breaks Mountain Estates	C
98	A-1211-0098-0000	386 N ELK DR	Cedar Breaks Mountain Estates	C
99	A-1211-0099-0000	364 N ELK DR	Cedar Breaks Mountain Estates	C
100	A-1211-0100-0000	348 N ELK DR	Cedar Breaks Mountain Estates	C
101	A-1211-0101-0000	330 N ELK DR	Cedar Breaks Mountain Estates	C
102	A-1211-0102-0000	312 N ELK DR	Cedar Breaks Mountain Estates	C
103	A-1211-0103-0000	302 N ELK DR	Cedar Breaks Mountain Estates	C
104	A-1211-0104-0000	280 N ELK DR	Cedar Breaks Mountain Estates	C
105	A-1211-0105-0000	262 N ELK DR	Cedar Breaks Mountain Estates	C

INTENDED IMPROVEMENTS

The improvements to be constructed within the Special Tax Assessment Area are as follows:

Water System Improvement: Water System Improvements to extend water lines on Elk Drive, and related improvements, and complete the whole in a proper and workman like manner with all drainage and other improvement appurtenant and useful to a water system, including street improvements, and associated municipal improvements.

ESTIMATED COST AND METHOD OF ASSESSMENT

Estimated Cost and Method of Assessment: The total cost of Improvements in the Special Tax Assessment Area is currently estimated to be $710,000.00, of which the Town will pay $0 leaving a remainder of $710,000.00 which shall be paid by special tax assessment on the private property within the Special Tax Assessment Area.

This includes engineering costs, overhead costs and funding of a reserve fund described herein, all of which shall be paid by special tax assessment to be levied against the properties which may be directly or indirectly benefited by the Improvements which benefits need not actually increase the fair market value of the property to be assessed. The property owners' portion of the total estimated cost of the Improvements may be financed during the construction period by the use of interim warrants, in which case the interest on said warrants will be assessed to the property owners.

In lieu of utilizing a guaranty fund, the Town Council intends to create a special reserve fund, if desired by lenders, to secure payment of the special assessment bonds (the "Bonds") anticipated to be issued by the Town to finance the proposed Improvements. The reserve fund will be either initially funded with proceeds of the Bonds in an amount equal to approximately ten percent (10%) of the total principal amount of Bonds to be issued, or by building up a reserve fund over a period of six years until an amount equal to approximately ten percent (10%) of the total principal amount of Bonds to be issued is placed in the reserve fund. The Town Council anticipates applying any moneys remaining in the reserve fund to the final payment on the Bonds which, in turn, would offset the final assessment payments to be made by the owners of property benefited by such Improvements, all of which will be further described in the assessment ordinance to be adopted by the Town. Any money in the reserve fund upon full payment of the Bonds is to be disbursed ratably to each assessed lot owner as of the date of disbursement. In addition, estimated costs of assessment include estimated overhead costs which the Town projects to incur in the creation and administration of the Special Tax Assessment Area. If Bonds are issued, the current estimated interest rate is 8.25% per annum and the estimated discount is no more than 2.00%, subject to market rates at the time of issuance and the current estimated term of financing is ten (10) years.

The estimated cost and method of assessment against the properties for the Improvements are as follows:

Improvement	Estimated Assessment	Method of Assessment
Water System Improvement	$710,000 total cost or $27,308 per lot.	Per lot.
Total of All Improvements	**$710,000 total cost or $27,308 per lot**	**Per lot.**

For assessment purposes, if applicable, an owner of a lot is defined herein to be the owner of a platted lot within the Town of Brian Head, Iron County, Utah according to the official records of the Town of Brian Head, upon which a residential, commercial, or other structure to be used for human occupancy is now or may be located consistent with the "lot size" requirements of the applicable Town of Brian Head Land Management ordinances in place as of the date this is adopted.

LEVY OF ASSESSMENTS

It is the intention of the Town Council to levy assessments as provided by the laws of Utah on all property, parcels, and lots of real property to be benefited by the proposed improvements within the Special Tax Assessment Area. The purpose of the assessment and levy is to pay those costs of the improvements which the Town will not assume and pay. The method of assessment shall be per lot, as set forth herein.

The assessments may be paid by property owners in not more than ten (10) annual installments with interest on the unpaid balance at a rate or rates fixed by the Town, or the whole or any part of the assessment may be paid without interest within twenty-five (25) days after the ordinance levying the assessment becomes effective. The assessments shall be levied according to the benefits to be derived by each property within the Special Tax Assessment Area. Other payment provisions and enforcement remedies shall be in accordance with Title 11, Chapter 42, Utah Code Annotated 1953, as amended. The assessment method will be by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401 of the Utah Code.

A map of the proposed Special Tax Assessment Area is on file in the Town offices which will make such information available to all interested persons. Copies of plans, profiles and specifications of the proposed improvements shall be made available by the Town as soon as thy have been prepared.

TIME FOR FILING PROTESTS

Any person who is the owner of record of property to be assessed in the Special Tax Assessment Area described in this Notice of Intention shall have the right to file in writing a protest against the creation of the Special Tax Assessment Area or to make any other objections relating thereto. Protests shall describe or otherwise identify the property owner of record by the person or persons making the protest and shall indicate the total number of lots represented by said protest. Protests shall be filed with the Town Clerk of the Town of Brian Head, Utah, on or before sixty (60) days after the public hearing to be held August 27, 2024, at 1:00 p.m. at the Town Office. The Town Council will meet on November 12, 2024, at 1:00 p.m. in public meeting at the regular meeting place of the Town Council at the Town Office at 56 N. Highway 143, Brian Head, Utah 84719 to consider all protests so filed and hear all objections relating to the proposed improvements. Each protest must be filed in writing and describe or otherwise identify the property owned by the person filing the protest and include the signature of the property owner.

A PROPERTY OWNER MUST PROTEST THE DESIGNATION OF THE SPECIAL TAX ASSESSMENT AREA IN WRITING IF THE OWNER OBJECTS TO (1) THE DESIGNATION OF THE SPECIAL TAX ASSESSMENT AREA, (2) ANY PROPOSED IMPROVEMENT, (3) THE INCLUSION OF THE OWNER'S PROPERTY, OR (4) THE FACT, BUT NOT AMOUNT, OF BENEFIT TO THE OWNER'S PROPERTY. Failure of an owner of property to file a timely written protest can constitute a waiver.

After such consideration and determination, the Town Council shall adopt a resolution either abandoning the Special Tax Assessment Area or creating and designating the Special Tax Assessment Area either as described in this Notice of Intention or with deletions and changes made as authorized by law; but the Town Council shall abandon the Special Tax Assessment Area and not create the same if the necessary number of protests as provided herein have been filed on or before the time specified in this Notice of Intention for the filing of protests after eliminating from such filed protests: (i) protests relating to property or relating to a type of improvement which has been deleted from the Special Tax Assessment Area, and (ii) protests which have been withdrawn in writing prior to sixty (60) days after the public hearing. The necessary number of protests shall mean the aggregate of the protests representing forty percent (40%) of the owners proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied.

BY ORDER OF THE TOWN COUNCIL OF TOWN OF BRIAN HEAD, IRON COUNTY, UTAH

/s/ Nancy Leigh
Town Clerk

Posted as a Class B notice as provided in Section 63G-30-102 of the Utah Code at least 20 days and not more than 35 days before August 27, 2024.

Section 8. The Town Council reasonably expects, to reimburse the Town from proceeds of the Bonds for capital expenditures paid by the Town (whether or not such expenditures are paid from proceeds of interim warrants) with respect to the Improvements.

Section 9. This declaration is intended to be a declaration of official intent under Treasury Regulation 1.103-18(1).

Section 10. The maximum principal amount of debt expected to be issued for reimbursement purposes is $710,000.00. This amount will be reduced by cash payments received by the Town from property owners who elect to pay their assessment in full during the cash payment period immediately following the effective date of the assessment ordinance.

Section 11. This declaration of official intent is consistent with the Town's budgetary and financial circumstances. No funds from sources other than the Bonds are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Town or by any member of the same controlled group pursuant to their budget or financial policies with respect to the expenditures to be reimbursed.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, IRON COUNTY, UTAH THIS July 11, 2024.

Clayton Calloway, Mayor

ATTEST:

Nancy Leigh, Town Clerk

(SEAL)

RECORD OF PROCEEDINGS

A special meeting of the Town Council of the Town of Brian Head, Iron County, Utah was held on July 11, 2024, at 1:00 p.m., or as soon thereafter as feasible, at the special meeting place of said Town Council at 56 N. Highway 143, Brian Head, Utah 84719 at which meeting there were present and answering roll call the following members who constituted a quorum:

Clayton Calloway	Mayor
Martin Tidwell	Council Member
Mitch Ricks	Council Member
Larry Freeberg	Council Member

Also present:

Nancy Leigh	Town Clerk
Bret Howser	Town Manager

Absent:

Kelly Marshall	Council Member

After the meeting had been duly called to order and other matters not pertinent to this resolution had been discussed, the Town Clerk presented to the Town Council a Certificate of Compliance with Open Meeting Law with respect to this July 11, 2024 meeting, a copy of which is attached hereto.

Council Member Freeberg introduced the foregoing resolution in writing and moved its adoption. Council Member Tidwell seconded the motion to adopt the foregoing resolution. The motion and resolution were adopted on the following recorded vote:

Those voting AYE:	Mayor Calloway Council Member Freeberg Council Member Tidwell Council Member Ricks
Those voting NAY:	None
Those ABSTAINING:	None

After the conduct of other business not pertinent to the above, the meeting was adjourned.

STATE OF UTAH)

: ss.

COUNTY OF IRON)

I, Nancy Leigh, the duly chosen, qualified and acting Town Clerk of the Town of Brian Head, Iron County, Utah, do hereby certify as follows:

That the foregoing typewritten pages constitute a full, true and correct copy of the record of proceedings of the Town Council taken at a special meeting thereof held in said Town on July 11, 2024, at the hour of 1:00 p.m., insofar as said proceedings relate to the consideration and adoption of a resolution declaring the intention of the Town Council to create the Town of Brian Head, Utah Assessment Area No. 2024-02 (Elk Drive) and make certain improvements therein described as the same appears of record in my office; that I personally attended said meeting, and that the proceedings were in fact held as in said minutes specified.

That due, legal, and timely notice of said meeting was served upon all members as required by law and the rules and ordinances of said Town.

That the above resolution was deposited in my office on July 11, 2024, has been recorded by me, and is a part of the permanent records of the Town of Brian Head, Iron County, Utah.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and affixed the seal of said Town this July 11, 2024.

Nancy Leigh

Nancy Leigh, Town Clerk

(SEAL)

BRIAN HEAD TOWN MUNICIPAL CORPORATION

THE GREAT SEAL OF THE STATE OF UTAH 1896

(ATTACH POSTING OF CLASS B NOTICE PURSUANT TO SECTION 63G-30-102)

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Nancy Leigh, the undersigned Town Clerk of the Town of Brian Head, Iron County, Utah (the Town), do hereby certify, according to the records of the Town in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the July 11, 2024 public meeting held by the Town as follows:

(a) By causing a Notice, in the form attached hereto (the "Meeting Notice"), to be posted at the principal office of the Issuer at least twenty-four (24) hours prior the convening of the meeting, the Meeting Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of the Meeting Notice to be posted on the Town website at least twenty-four (24) hours prior to the convening of the meeting; and

(c) By causing a copy of the Meeting Notice to be published on the Utah Public Notice Website at least twenty-four (24) hours prior to the convening of the meeting; and

In addition, the Notice of 2024 Annual Meeting Schedule for the Issuer, attached hereto, specifying the date, time and place of the regular meetings of the governing body of the Issuer to be held during the calendar year 2024 was (1) posted on December 13, 2023, at the principal offices of the Issuer; (2) provided for posting on the town website on December 13, 2023; and (3) published on the Utah Public Notice Website on March 21, 2024.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this July 11, 2024.

Nancy Leigh

Nancy Leigh, Town Clerk

(SEAL)

BRIAN HEAD TOWN A MUNICIPAL CORPORATION

THE GREAT SEAL OF THE STATE OF UTAH 1896

SCHEDULE "1"

NOTICE OF MEETING and EVIDENCE OF POSTING MEETING NOTICE ON PUBLIC NOTICE WEBSITE AND TOWN WEBSITE AND AT TOWN OFFICE

SCHEDULE "2"

NOTICE OF ANNUAL MEETING SCHEDULE

EVIDENCE OF POSTING ANNUAL NOTICE ON PUBLIC NOTICE WEBSITE AND TOWN WEBSITE AND AT TOWN OFFICE

Support

PUBLIC NOTICE WEBSITE
DIVISION OF ARCHIVES AND RECORDS SERVICE

Special Meeting of the Town Council

General Information

Government Type:

Municipality

Entity:

Brian Head

Public Body:

Brian Head Town Council

Give Feedback

Notice Information

Add Notice to Calendar

Notice Title:

Special Meeting of the Town Council

Notice Subject(s):

Public Meetings

Notice Type(s):

Meeting

Event Start Date & Time:

July 11, 2024 01:00 PM

Event End Date & Time:

July 11, 2024 03:00 PM

Description/Agenda:

A. CALL TO ORDER

B. PLEDGE ALLEGIANCE

C. DISCLOSURES

D. APPROVAL OF THE MINUTES: June 11, 2024, Town Council Meeting

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

F. AGENDA ITEMS:

1. HIDDEN SPRINGS PREMILARY PLAT APPROVAL. Lester Ross, Building & Planning Official. The Council will review the Preliminary Plat for the Hidden Springs Subdivision.

2. A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS FOR THE RANGER COURT AREA OF THE CEDAR BREAKS MOUNTAIN HOMESITES, UNIT B, BLOCKS A, B & C SUBDIVISON; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2024-01 (RANGER COURT); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS. Shane Williamson, Town Treasurer. The Council will consider a resolution adopting the Ranger Court Special Service Area Notice of Intent for water

system improvements.

3. A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS FOR THE ELK DRIVE AREA OF THE CEDAR BREAKS MOUNTAIN ESTATES, UNIT C SUBDIVISION; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2024-02 (ELK DRIVE); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS. Shane Williamson, Town Treasurer. The Council will consider a resolution adopting the notice of intent for the Elk Drive Special Assessment Area for water system improvements.

4. SPRING CIRCLE SPECIAL ASSESSMENT AREA PETITION. Shane Williamson, Town Treasurer. The Council will consider an SAA petition for Spring Circle for Water System Improvements.

5. GENERAL FINANCE MANAGEMENT POLICY AND PROCEDURES. Nancy Leigh, Town Clerk. The Council will consider a resolution for the General Finance Management Policy & Procedures.

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

G. ADJOURNMENT

Notice of Special Accommodations (ADA):

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nancy Leigh (435) 677-2029 at least three days prior to the meeting.

Notice of Electronic or Telephone Participation:

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the Council may participate by means of electronic com

Meeting Information

Meeting Location:

Town Hall Council Chambers
56 North SR 143
Brian Head, UT 84719
Show in Apple Maps Show in Google Maps

Contact Name:

Nancy Leigh

Contact Email:

nleigh@bhtown.utah.gov

Contact Phone:

(435)677-2029

Give Feedback

Notice Posting Details

Notice Posted On:

July 09, 2024 05:13 PM

Notice Last Edited On:

July 09, 2024 05:13 PM

Download Attachments

File Name	Category	Date Added
7-11-24 Council Packet_compressed.pdf	Public Information Handout	2024/07/09 05:13 PM

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Feet

ALPHA ENGINEERING

43 South 100 East, Suite 100 • St George, Utah 84770
T: 435.628.6500 • F: 435.628.6553 • alphaengineering.com

Legend

- Existing 8" Line
- Elk Drive SAA
- Rue Jolley Waterline
- Air/Vac Valve
- Elk Drive Waterline

Elk Drive SAA

Spatial Reference:	UT83-SF
Drawn By:	KAS
Scale:	1" = 300 feet
Date:	April 2024

P:\501-01-2024-0 Brian Head General\Drawings\GIS\501-01-2024-0 ArcGIS Pro\501-01-2024-0 ArcGIS Pro.aprx, 5/14/2024 8:57 AM rbeazer

BRIAN HEAD

ITEM: SNOWSHOE & TOBOGGAN (SKI HAVEN CHALET) SPECIAL ASSESSMENT AREA ASSESSMENT ORDINANCE

AUTHOR: Shane Williamson, Town Treasurer
DEPARTMENT: Administration
DATE: August 27, 2024
TYPE OF ITEM: Legislative Action

SUMMARY:

The Council will consider an ordinance to adopt the final assessment for the Ski Haven Chalet Special Assessment Area (SAA).

BACKGROUND:

In June of 2023, the Council accepted a petition for the special assessment area, consisting of sixty-nine (69) lots and receiving over 70% support from the property owners in the defined area. Prior to the adoption of the Notice of Intent to Create the SAA, two of the lots were combined, and the council adopted the Notice of Intent in August 2023 with sixty-eight (68) lots in the SAA. From August to November 2023, the 60-day protest was open, and the SAA received no written protests.

In July 2024, the Council convened as the Board of Equalization (BOE), declaring an assessment of $9,588 per lot, and set three hearing dates in late July and Early August 2024. During the scheduled hearings, no property owners appealed the potential assessment.

ANALYSIS:

With the BOE hearings complete, the last step in completing the SAA is to review and adopt the Final Assessment Ordinance, which will be recorded with Iron County and the assessment value will be leaned against the properties defined in the SAA boundaries. That said, by adopting the final assessment ordinance, it initiates the 25-day pre-payment period, which allows lot owners to pay their assessment upfront and avoid future interest charges. However, it is important to note that the loan received for this project from the Drinking Water Board is a 0% loan, and there will be no interest applicable to the assessment.

The term of the assessment is ten (10) years. However, the funding requires a debt reserve fund to be built up over the first 6-years of the loan term. Therefore, the first six (6) annual assessment payments will be proportionately higher to include the debt reserve fund build-up, then the final year assessment may be much lower as the debt service reserve fund is released and can be used to make the final bond payment.

Annual assessments will be due each year with the property tax bills, collected by the Iron County Treasurer, and the Iron County Treasurer will pass the fund on to the Town.

The final assessment per lot comes to $9,588.00.

FINANCIAL IMPLICATIONS:

The Town does assume financial risk with any SAA, with this one being no different. Specifically, the Town assumes the debt liability and is potentially on the hook for the bond payments should a property owner default or fail to pay the assessment. However, through a lengthy process, the

Town will be a lean holder on each property with the ability to foreclose should this happen. The total loan amount is $632,000, with $20,000 in addition for the cost of issuance. This makes the debt service total of $652,000. In addition to the risks mentioned above, the Town would be contributing $375,000 to the project. The funds would come from our water capital savings, where we set aside $200k per year to fund water projects.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends that the Council move forward with adopting the Final Assessment Ordinance.

PROPOSED MOTION:

I move to adopt ordinance No. 24-010 adopting the Snowshoe/Toboggan (Ski Haven Chalets) Special Assessment Area Final Assessment ordinance as presented.

ATTACHMENTS:

A – Assessment Ordinance

TOWN OF BRIAN HEAD, UTAH
TOWN COUNCIL
AUGUST 27, 2024

FINDNGS, RECOMMENDATIONS, AND DECISION OF BOARD OF EQUALIZATION AND ASSESSMENT ORDINANCE OF THE TOWN COUNCIL ORDINANCE NO. 24-___

FINDINGS, RECOMMENDATION AND DECISION OF THE BOARD OF EQUALIZATION FOR ASSESSMENT AREA NO. 2023-1 (SNOWSHOE-TOBOGGAN) AND AN ORDINANCE CONFIRMING THE ASSESSMENT LISTS AND LEVYING AN ASSESSMENT AGAINST CERTAIN PROPERTIES IN THE DESCRIBED ASSESSMENT AREA, FOR THE PURPOSE OF PAYING ALL OR A PORTION OF THE COST OF WATER IMPROVEMENTS; ESTABLISHING A RESERVE FUND; ESTABLISHING THE EFFECTIVE DATE OF THIS ORDINANCE; AND RELATED MATTERS.

WHEREAS, the Town Council adopted a Notice of Intention to create the Town of Brian Head, Utah Special Assessment Area No. 2023-1 (Snowshoe-Toboggan) on August 8, 2023, (the "Assessment Area"), and published said Notice as required by law; and

WHEREAS, in accordance with the Notice of Intention and after giving notice as required by statute, public hearings with respect to the above described Assessment Area were held on September 12, 2023; and

WHEREAS, prior to and at the hearing, persons having an interest in the Assessment Area were allowed to protest the creation thereof and all protests, written and verbal against the creation of the above-described Assessment Area were heard and considered by the Town Council; and

WHEREAS, on November 14, 2023, the Town Council designated the Assessment Area No. 2023-1 (Snowshoe-Toboggan) by resolution to construct the improvements as set forth in the associated Notice of Intention for the properties designated, which designation and creation resolution was record with the Iron County Recorder, along with a list of the impact properties, as Entry No. 00812928, in Book 1662, at Pages 1407 through 1445 on December 12, 2023; and

WHEREAS, the Engineer for Town of Brian Head has prepared the proposed assessment list for the Assessment Area and the Town called a board of equalization and review consisting entirely of the Town Council for the purpose of considering any objections and corrections to said assessment lists related to the herein referenced Assessment Area; and

The Board of Equalization and Review for Town of Brian Head, Utah Special Assessment Area No. 2023-1 (Snowshoe-Toboggan) (the "Board") presented to the Town Council its report and stated that it had reviewed statements, comments and complaints on each property in the Assessment Area described herein as listed in the minutes of the hearings of the Board held on July 31, August 1, and 2, 2024.

The following Findings, Recommendations and Decision were then presented to the Town Council by the Board:

FINDINGS

The proposed assessments set forth in the respective assessment lists are just and equitable with the adjustments as noted on the assessment list, that each piece of property will be benefited in an amount not less than the assessment to be levied against it and that no piece of property listed on the assessment list will bear more than its proportionate share of the cost of the improvements

RECOMMENDATION AND DECISION

It is the decision of the Board of Equalization that the proposed assessment list by the Board of Equalization, which assessment list, with any adjustments thereto, is attached hereto, is equitable and that the improvements being financed thereby constitute a benefit to the properties to be assessed. The Board of Equalization respectfully recommends that the Town Council approve and confirm the assessment list and adopt an ordinance levying the assessments set out in the assessment list.

WHEREAS, the Board of Equalization found that the proposed assessments set forth in the assessment list are just and equitable, that each piece of property will be benefited in an amount not less than the assessment to be levied against it, and that no piece of property listed on the assessment list will bear more than its proportionate share of the cost of the improvements; and

Motion was then made by Council Member ___________________ and seconded by Council Member ___________________ that the Town Council accept the Recommendation and Decision of the Board regarding the proposed assessments to be levied within the Assessment Area. The motion carried unanimously.

WHEREAS, the Town Council desires to adopt an assessment ordinance consistent with the findings and recommendations of the Board of Equalization:

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF TOWN OF BRIAN HEAD, UTAH:

Section 1. Ratification of Proceedings. The Town Council hereby ratifies all actions taken by the Town, including the calling of the Board of Equalization, and otherwise approves of all notices and actions related to the assessment list for the Assessment Area.

Section 2. Determination of Costs. All costs and expenses for the making of the Improvements within the respective Assessment Area as herein described have been determined, the property price for all property to be acquired to make the Improvements has been finally determined and the reasonable cost of any work to be done has been determined.

Section 3. Approval of Assessment Lists; Findings. The Town Council (the "Council") of the Town of Brian Head, Utah (the "Issuer") hereby accepts the findings and recommendations of the Board of Equalization and Review and confirms the assessment list, (the "Assessment List") for Town of Brian Head, Utah Special Assessment Area No. 2023-1 (Snowshoe-Toboggan) (the "Assessment Area"), and hereby confirms that the Assessment List is just and equitable; that each piece of property to be assessed within the Assessment Area will be benefitted in an amount not less than the assessment to be levied against said property; and that no piece of property listed in the Assessment List will bear more than its proportionate share of the cost of such Improvements.

Section 4. Levy of Assessments. The Town Council of the Issuer does hereby levy an assessment to be assessed upon the real property identified in the Assessment List. The assessments levied upon each parcel of property therein described shall be in the amount set forth in the Assessment List.

The assessments hereby levied are for the purpose of paying the costs of the water improvements and of completing any miscellaneous work necessary to complete the improvements in a proper and workmanlike manner (collectively, the "Improvements").

The assessments are hereby levied and assessed upon each of the parcels of real property described in the Assessment List according to the extent that they are specially benefitted by the Improvements acquired or constructed within the Assessment Area. The assessments are levied upon the parcels of land in the Assessment Area at equal and uniform rates for engineering fees and at actual cost per connection.

Section 5. Cost of Improvements; Amount of Total Assessments. The total estimated cost of the Improvements in the Assessment Area No. 2023-1 (Snowshoe-Toboggan) is $2,881,000.00, of which total estimated cost the Issuer's portion or amount to be paid by the Issuer is $2,2229,000, such that the total assessment for all properties to be assessed equal $652,000.00, or for a single lot the amount to be assessed of $9,588.00.

The Issuer's portion for the Assessment Area includes that part of the overhead costs for which an assessment cannot be levied, if any, and the cost of making improvements for the benefit of property against which an assessment may not be levied, if any. The amount to be assessed against property affected or benefitted by the Improvements in the Assessment Area is $652,000.00, which amount does not exceed in the aggregate the sum of: (a) the total contract price or prices for the improvements under contract duly let to the lowest and best responsible bidders therefor and a portion of the costs of engineering, designing, and inspection; (b) the acquisition price of improvements; (c) the reasonable cost of utility services, maintenance, labor, materials or equipment supplied by the Issuer, if any; (d) the property price, if any; (e) connection fees, if any; (f) the interest on any interim warrants issued against the Assessment Area; (g) overhead costs not to exceed fifteen percent (15%) of the sum of (a), (c) and (e); and (h) where the assessment is levied prior to the time all of the Improvements in the Assessment Area are entirely completed and accepted, an amount for contingencies of not to exceed 10% of the sum of (a), (c) and (d).

Section 6. Method and Rate. The total assessment for the Assessment Area is levied in accordance with the following method and at the following rates:

> The total assessment for each water improvement within the Assessment Area No. 2023-1 (Snowshoe-Toboggan) and is the estimated cost of construction per lot with the maximum construction cost for a lot of $9,588.00, as set forth in the Assessment List in the office of the Town Clerk.

Section 7. Payment of Assessments. The whole or any part of the assessments for the Assessment Area may be paid without interest within 25 days after this Ordinance becomes effective. Any part of the assessment not paid within such 25-day period shall be payable over a period of 10 years from the effective date of this Ordinance in 10 substantially equal annual installments, including interest (which interest may include ongoing local entity costs incurred for administration of the assessment area) on the unpaid balance of the assessment at the same rate as the net effective interest rate of the Assessment Bonds as herein described anticipated to be issued by the Issuer to amortize all or part of the Assessment. The assessment payment dates shall be due with the annual property tax assessment on approximately December 1st of each year. Interest shall accrue from the effective date of this Ordinance until paid.

> (i) After the above-referenced 25-day period, all unpaid installments of an assessment levied against any piece of property may be paid prior to the dates on which they become due, but any such prepayment must include an additional amount equal to the interest which would accrue on the assessment to the next succeeding date on which interest is payable on any special assessment bonds issued in anticipation of the collection of the assessments plus such additional amount as, in the opinion of the Town Manager, is necessary to assure the availability of money to pay interest on the special assessment bonds as interest becomes due and payable plus any premiums which may be charged and

become payable on redeemable bonds which may be called in order to utilize the assessments paid in advance.

(ii) If prepayment of an assessment, or any part thereof, arises out of a need of the property owner to clear the assessment lien from a portion (the "Release Parcel") of the parcel now being assessed (the "Assessed Parcel"), the assessment lien upon the Release Parcel may be released by the Issuer, but only if all of the following conditions are met:

A. The property owner prepays the assessment of the Release Parcel which is calculated as follows: (1) multiply the total assessment, including all accrued and unpaid interest, then outstanding on the Assessed Parcel by a fraction, the numerator of which is the total area of the Release Parcel, including a pro rata portion of the undevelopable area of the Assessed Parcel, if any, and the denominator of which is the total area of the Assessed Parcel including the Release Parcel; and then (2) multiplying such amount by 1.25.

For purposes of determining prepayment amounts provided in (A) above, regularly scheduled payments shall not be taken into account. For example, should a property owner desire to clear the assessment lien from a portion of a parcel now being assessed after the lien has been reduced through regularly scheduled payments, he/she would need to prepay a portion of the then outstanding assessment as determined under (A) above. The regularly scheduled assessment payments previously made would not entitle the property owner to a release of a portion of the Assessed Parcel without such prepayment.

B. The Town Manager must determine that the partial release of lien upon payment of the prepayment amount determined under (A) above does not diminish the security of the bondholders based upon the amount of the remaining assessment compared with the amount and value of land remaining to secure such debt. For purposes of this subparagraph (B), security of the bondholders will not be considered diminished if the fair market value of the remaining property subject to the assessment equals or exceeds four times the remaining unpaid assessment on such property. The Town Manager shall have the right to obtain the opinion of an independent appraiser as to the value of the remaining property, and the cost of obtaining such opinion or appraisal shall be paid by the property owner requesting the release.

C. The additional payment for premiums and interest is paid as required above for any prepayment.

For purposes of determining prepayment amounts as provided in (A.) above, regularly scheduled payments shall not be taken into account. For example, should a property owner desire to clear the assessment lien from a portion of a parcel now being assessed after the lien has been reduced through regularly scheduled payments, he/she would need to prepay a portion of the then outstanding assessment as determined under (A) above. The regularly scheduled assessment payments previously made would not entitle the property owner to a release of a portion of the Assessed Parcel without such prepayment. Following a prepayment made pursuant to this subsection, the Town Manager shall recalculate the amount of all subsequent assessment installments to be paid on the remaining portion of the Assessed Parcel, after taking into account the reduction in the outstanding principal balance of the assessment resulting from such prepayment.

(iii) In the event all or any portion of the property assessed hereunder is subdivided into smaller parcels as evidenced by a subdivision plat approved by the Issuer and recorded at the Iron County Clerk's office, the Issuer may elect, at its discretion, to allocate the assessment balance on the previously undivided property on a proportionate basis to the extent possible based on the method of assessment for the applicable project. The required annual assessment installment payments for each subdivided parcel shall be allocated proportionately to the extent possible based on the method of assessment for the applicable project so that the aggregate total of all of the annual assessment installments for each of the subdivided parcels will equal the total annual assessment installment for the previously undivided property. When an assessment lien is perfected for each of the subdivided parcels, the total assessment levied against the previously undivided property will be released having been replaced by the aggregate of the assessments allocated to each of the subdivided parcels. A release of the new assessment lien for a given subdivided parcel will be delivered by the Issuer at the time the assessment balance for that subdivided parcel is paid in full.

All prepayments paid pursuant to subsection (ii) above must include (i) an additional amount equal to the interest which would accrue on the assessment to the next succeeding date on which interest is payable on any special assessment bonds ("Assessment Bonds") to be issued pursuant to a bond resolution adopted by the Issuer (the "Bond Resolution") ; (ii) such additional amount as, in the opinion of the Town Manager, is necessary to assure the availability of money to pay interest on the Assessment Bonds as interest becomes due and payable; and (iii) any premiums which may be charged and become payable on the Assessment Bonds which may be called on a redemption date in order to utilize the assessments paid in advance.

Section 8. Default in Payment. If a default occurs in the payment of any installment of principal or interest, when due, the Town Manager, on behalf of the Town Council, may declare the unpaid amount to be immediately due and payable and subject to collection as provided herein. In addition, the Town Manager, on behalf of the Town Council, may accelerate payment of the total unpaid balance of the assessment and declare the whole of the unpaid principal and interest then due to be immediately due and payable. Interest shall accrue and be paid on all amounts declared to be delinquent or accelerated and immediately due and payable at the same rate or rates of interest as are applied to delinquent real property taxes for the year in which the assessment installment becomes delinquent (the "Delinquent Rate"). In addition to interest charges at the Delinquent Rate, costs of collection, as approved by the Town Manager on behalf of the Town Council, including, without limitation, attorneys' fees, trustee's fees and court costs, incurred by the Issuer or required by law shall be charged and paid on all amounts declared to be delinquent or accelerated and immediately due and payable.

Upon any default, the Town Manager shall give notice in writing of the default to the owner of the property in default, as shown by the last available equalized assessment rolls of Iron County. Notice shall be effective upon deposit of the notice in the U.S. Mail, postage prepaid, and addressed to the owner as shown on the last equalized assessment rolls of Iron County. The notice shall provide for a period of thirty (30) days in which the owner shall pay the installments then due and owing, after which the Town Manager, on behalf of the Issuer, may place in operation the procedure necessary to provide for payment as provided by Section 11-42-502.1 of the Utah Code Annotated 1953, as amended, or other provisions of Title 11, Chapter 42 of the Utah Code, which may include the sale of property for delinquent general property taxes or judicial foreclosure.

The remedies provided herein for the collection of assessments and the enforcement of liens shall be deemed and construed to be cumulative and the use of any one method or means of collection or enforcement shall not deprive the Issuer of the use of any other method or means. The amounts of accrued interest and all costs of collection, including trustee's fees, attorneys' fees and costs, shall be added to the amount of the assessment up to, and including, the date of foreclosure sale.

Section 9. Remedy of Default. If prior to the final date payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, the property owner pays the full amount of all unpaid installments of principal and interest which are past due and delinquent with interest on such installments at the rate or rates set forth in Section 5 hereof to the payment date, plus all trustee's fees, attorneys' fees and other costs of collection, the assessment of said owner shall be restored and the default removed, and thereafter the owner shall have the right to make the payments in installments as if the default had not occurred. Any payment made to cure a default shall be applied, first, to the payment of attorneys' fees and other costs incurred as a result of such default; second, to interest charged on past due installments, as set forth above; third, to the interest portion of all past due assessments; and last, to the payment of outstanding principal.

Section 10. Lien of Assessment. An assessment or any part or installment of it, any interest accruing and the penalties, trustee's fees, attorneys' fees and other costs of collection shall constitute a lien against the property upon which the assessment is levied on the effective date of this Ordinance. Said lien shall be superior to the lien of any trust deed, mortgage, mechanic's or materialman's lien or other encumbrance and shall be equal to and on a parity with the lien for general property taxes. The lien shall continue until the assessment and any interest, penalties and costs on it are paid, notwithstanding any sale of the property for or on account of a delinquent general property tax, special tax or other assessment or the issuance of tax deed, an assignment of interest by the governing entity or a sheriff's certificate of sale or deed.

Section 11. Special Reserve Fund. The Issuer, in the event a Reserve Fund is desired by the lender selected to finance the Assessment Area's special assessment, in lieu of creating a Guaranty Fund, hereby creates a special Reserve Fund (the "Reserve Fund") to secure payment of the special assessment bonds. The Reserve Fund shall include an allocation equal to 10% of the outstanding Assessment Bonds of the Assessment Area. The entire available balance in the Reserve Fund shall be for the purpose of securing to the extent of such fund the payment of special assessment bonds and interest thereon issued against local improvement Assessment Area for the payment of local improvements therein, all in the manner and to the extent provided by the laws of the State of Utah. In the event the lender selected to finance the Assessment Area's special assessment does not require a Reserve Fund, the Issuer is then authorized to create a guarantee fund and impose the special tax assessment associated with a guarantee fund in the event need arises.

Section 12. Maintenance of Funds. All investment earnings on the Reserve Fund shall be maintained in said Funds respectively and applied in the same manner as the other moneys on deposit therein as provided in the Bond Resolution authorizing the issuance of the Assessment Bonds.

Section 13. Contestability. No assessment shall be declared void or set aside in whole or in part in consequence of any error or irregularity which does not go to the equity or justice of the assessment or proceeding. Any party who has not waived his objections to same as provided by statute may commence a civil action against the Issuer to enjoin the levy or collection of the assessment or to set aside and declare unlawful this Ordinance.

Such action must be commenced and summons must be served on the Issuer not later than 30 days after the effective date of this Ordinance. This action shall be the exclusive remedy of any aggrieved party. No court shall entertain any complaint which the party was authorized to make by statute but did not timely make or any complaint that does not go to the equity or justice of the assessment or proceeding.

After the expiration of the 30-day period provided in this section:

The Assessment Bonds issued or to be issued against the Assessment Area and the assessments levied in the Assessment Area shall become incontestable as to all persons who have not commenced the action provided for in this section; and

No suit to enjoin the issuance or payment of the bonds, the levy, collection or enforcement of the assessment, or in any other manner attacking or questioning the legality of the bonds or assessments may be instituted in this state, and no court shall have authority to inquire into these matters.

Section 14. Notice to Property Owners. The Town Clerk is hereby authorized and directed to give notice of assessment by mail to the property owners in the Assessment Area. Said notice shall, among other things, state the amount of the assessment and the terms of payment. A copy of the form of notice of assessment is available for examination upon request at the office of the County Clerk.

Section 15. <u>All Necessary Action Approved</u>. The officials of the Issuer are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Ordinance.

Section 16. <u>Repeal of Conflicting Provisions</u>. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 17. <u>Publication of Ordinances</u>. Immediately after its adoption, this Ordinance shall be signed by the Mayor and Town Clerk and shall be recorded in the ordinance book kept for that purpose. This Ordinance shall be published once in a newspaper published and having general circulation in the Issuer and shall take effect immediately upon its publication.

PASSED AND APPROVED by the Town Council of the Issuer, this August 27, 2024.

.

____
Clayton Calloway, Mayor

ATTEST:

____
Nancy Leigh, Town Clerk

(S E A L)

RECORD OF PROCEEDINGS

I, Nancy Leigh, the Town Clerk of Town of Brian Head, Utah, certify that this is a full, true and correct copy of the record of proceedings had by the Town Council of Town of Brian Head, Utah at its meeting held on August 27, 2024, insofar as the same relates to or concerns Town of Brian Head, Utah Special Assessment Area No. 2023-1 (Snowshoe-Toboggan), as the same appears of record in my office. The Town Council met in public session on August 27, 2024, at 2:00 p.m., or as soon thereafter as feasible, at its regular meeting place. The following members of the Town Council were present:

Clayton Calloway	Mayor
Larry Freeberg	Council Member
Martin Tidwell	Council Member
Mitch Ricks	Council Member
Kelly Marshall	Council Member

Also present:

Nancy Leigh	Town Clerk
Bret Howser	Town Manager

Absent:

This Assessment Ordinance (the "Ordinance") was then introduced in writing, was fully discussed, and pursuant to motion duly made by Council Member ____________________, and seconded by Council Member ____________________ was adopted by the following vote:

YEA:

NAY:

The Ordinance was then signed by the Mayor in open meeting and recorded by the Town Clerk in the official records of Town of Brian Head, Utah.

DATED: August 27, 2024.

____
Nancy Leigh, Town Clerk

(S E A L)

WHEN RECORDED, RETURN TO:
Brian Head Town
P.O. Box 190068
Brian Head, UT 84719

Eric Todd Johnson, Esq.
Johnson & Yellowhorse
P.O. Box 831
Pleasant Grove, Utah 84062

NOTICE OF ASSESSMENT INTEREST

Notice is hereby given that the Town of Brian Head, Utah (the "Town"), claims an interest in the property described on Exhibit "1" arising out of the requirements of the Town of Brian Head, Utah Special Assessment Area No. 2023-1 (Snowshoe-Toboggan) (the "Assessment Area") and the terms and provisions of the Assessment Ordinance adopted by the Issuer on August 27, 2024, levying an assessment against certain properties in the Assessment Area. For information call the office of the Town Manager in Town of Brian Head, Utah (435-677-2029).

DATED: August 27, 2024.

____
Bret Howser, Town Manager

STATE OF UTAH)
ss.
COUNTY OF IRON)

On August 27, 2024, personally appeared before me, Bret Howser, who duly acknowledged to me that he executed the foregoing instrument on behalf of the Town of Brian Head, Utah, in his capacity as Town Manager for the Town of Brian Head, Utah.

My Commission Expires: __________ ______________________________
Notary Public

(Notary Seal)

<u>Exhibit 1</u>

IDENTIFICATION OF AFFECTED PROPERTY SAA No. 2023-1 (Snowshoe-Toboggan

(LEGAL DESCRIPTION AND TAX ID NUMBER)

Parcel #	Lot #	Block #	Physical Address and Amount
A-1145-0000-000A-06	6	A	201 E STEAM ENGINE DR $9,588.00
A-1215-000A-0001	1	A	235 E SNOW SHOE CIR $9,588.00
A-1216-000C-0002	2	C	202 E STEAM ENGINE DR $9,588.00
A-1215-000B-0002	2	B	224 E SNOW SHOE CIR $9,588.00
A-1215-000B-0003	3	B	238 E SNOW SHOE CIR $9,588.00
A-1215-000B-0011	11	B	265 E SNOWMAN DR $9,588.00
A-1215-000B-0012	12	B	251 E SNOWNAN DR $9,588.00
A-1215-000C-0007	7	C	248 E SNOWMAN DR $9,588.00
A-1215-000B-0013	13	B	237 E SNOWMAN DR $9,588.00
A-1215-000C-0008	8	C	238 E SNOW SHOE DR $9,588.00
A-1215-000C-0015	15	C	295 TOBOGGAN LN $9,588.00
A-1215-000C-0009	9	C	220 E SNOW SHOE DR $9,588.00
A-1215-000B-0014	14	B	231 E SNOWMAN DR $9,588.00
A-1215-000C-0010	10	C	216 E SNOWMAN DR $9,588.00
A-1215-000C-0011	11	C	215 TOBOGGAN LN $9,588.00
A-1215-000B-0015	15	B	225 S SHOW SHOE DR $9,588.00
A-1215-000D-0004	4	D	212 S SNOW SHOE DR $9,588.00
A-1215-000D-0005	5	D	220 S SNOW SHOE DR $9,588.00
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A-1215-000B-0008	8	B	315 E SNOWMAN DR $9,588.00
A-1215-000C-0012	12	C	261 TOBOGGAN LN $9,588.00
A-1215-000C-0013	13	C	289 TOBOGGAN LN $9,588.00

A-1215-000D-0019	19	D	296 TOBOGGAN LN $9,588.00
A-1215-000C-0014	14	C	291 TOBOGGAN LN $9,588.00
A-1215-000D-0020	20	D	306 TOBOGGAN LN $9,588.00
A-1215-000D-0021	21	D	316 TOBOGGAN LN $9,588.00
A-1215-000C-0016	16	C	297 TOBOGGAN LN $9,588.00
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A-1214-000A-0001	1	A	301 TOBOGGAN LN $9,588.00
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A-1215-000D-0018	18	D	343 E TOBOGGAN CIR $9,588.00
A-1215-000D-0014	14	D	296 E TOBOGGAN CIR $9,588.00
A-1215-000D-0017	17	D	333 E TOBOGGAN CIR $9,588.00
A-1215-000D-0016	16	D	332 E TOBOGGAN CIR $9,588.00
A-1215-000D-0015	15	D	314 E TOBOGGAN CIR $9,588.00
A-1143-0011-000E-05	5	E	195 SNOWMOBILE RD $9,588.00
A-1214-000E-0006	6	E	183 SNOWMOBILE RD $9,588.00
A-1143-0011-000E-04	4	E	217 SNOWMOBILE RD $9,588.00
A-1143-0011-000E-03	3	E	239 SNOWMOBILE RD $9,588.00
A-1143-0011-000C-44	44	C	347 E SKATE CIR $9,588.00
A-1143-0011-000B-01	1	B	212 S SNOWMOBILE RD $9,588.00
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A-1214-000E-0008	8	E	165 SNOWMOBILE RD $9,588.00
A-1214-000B-0004	4	B	120 S SNOWMOBILE RD $9,588.00
A-1214-000E-0009	9	E	143 SNOWMOBILE RD $9,588.00
A-1214-000B-0003	3	B	142 S SNOWMOBILE RD $9,588.00
A-1214-000E-0010	10	E	119 SNOWMOBILE RD $9,588.00
A-1214-000E-0011	11	E	92 S SPRING CIR $9,588.00
A-1214-000E-0012	12	E	88 S SPRING CIR $9,588.00
A-1214-000A-0003	3	A	351 TOBOGGAN LN $9,588.00
A-1215-000C-0005	5	C	224 E SNOWMAN DR $9,588.00
A-1215-000B-0010	10	B	279 E SNOWMAN DR $9,588.00
A-1215-000B-0001	1	B	55 S SNOW SHOE DR $9,588.00
A-1216-000D-0001	1	D	91 S SNOW SHOE DR $9,588.00
A-1216-000D-0002	2	D	119 S SOUTH SNOW SHOE DR $9,588.00
A-1216-000D-0003	3	D	137 S SNOW SHOE DR $9,588.00
A-1215-000D-0003	3	D	206 S TOBOGGAN LN $9,588.00
A-1215-000C-0004	4	C	302 E SNOWSHOE DR $9,588.00

Exhibit 1

AFFIDAVIT OF MAILING NOTICE OF ASSESSMENT

I, Nancy Leigh, the duly appointed, qualified and acting Town Clerk of Town of Brian Head, Utah, do hereby certify that on August 27, 2024, I caused to be mailed a Notice of Assessment to each property owner in Town of Brian Head, Utah Special Assessment Area No. 2023-1 (Snowshoe-Toboggan) by United States Mail, postage prepaid, at the last known address of such owner.

____
Nancy Leigh, Town Clerk

(S E A L)

PROOF OF PUBLICATION

Attached to this page is the Proof of Publication, indicating by the affidavit of the publisher that the Notice of Assessment Ordinance levying the special assessments which was contained in the Ordinance adopted by the Town Council on August 27, 2024, was published one time in a newspaper of general circulation within the Issuer.

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Nancy Leigh, the Town Clerk of the Issuer certify, according to the records of the Issuer in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the August 27, 2024, public meeting held by the Issuer as follows:

By causing a Meeting Notice, in the form attached, to be posted at the Issuer's principal offices at least twenty-four (24) hours prior to the convening of the meeting, the Meeting Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

By causing a copy of the Meeting Notice to be delivered to a newspaper of general circulation in the Issuer at least twenty-four (24) hours prior to the convening of the meeting.

By casing a copy of the Meeting Notice to be posted on the Utah Public Notice Website at least 24 hours prior to the meeting.

By causing a copy of the Meeting Notice to be posted on the Town's website at least 24 hours prior to the meeting.

In addition, the attached Notice of 2024 Annual Meeting Schedule for the Town Council was given specifying the date, time and place of the regular meetings of the Town Council to be held during the year, by causing said Notice to be (1) posted on ______________, 20__, at the principal office of the Town Council and by causing a copy of said Notice to be (2) provided to at least one newspaper of general circulation within the Issuer on ________________, 20__, and by causing a copy of said Notice to be (3) posted on the Utah Public Notice Website on ____________________, 20___, and (4) to the posted on the Town's website on __________________, 202__.

DATED: August 27, 2024.

____
Nancy Leigh, Town Clerk

(S E A L)

[Attach Meeting Notice]

[Attach Notice of 2024 Annual Meeting Schedule]

ATTACH POSTING ON WEBSITE

EXHIBIT "A"

ASSESSMENT LIST

IDENTIFICATION OF AFFECTED PROPERTY SAA No. 2023-1 (Snowshoe-Toboggan

(LEGAL DESCRIPTION AND TAX ID NUMBER)

Parcel #	Lot #	Block #	Physical Address and Amount
A-1145-0000-000A-06	6	A	201 E STEAM ENGINE DR $9,588.00
A-1215-000A-0001	1	A	235 E SNOW SHOE CIR $9,588.00
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A-1215-000B-0002	2	B	224 E SNOW SHOE CIR $9,588.00
A-1215-000B-0003	3	B	238 E SNOW SHOE CIR $9,588.00
A-1215-000B-0011	11	B	265 E SNOWMAN DR $9,588.00
A-1215-000B-0012	12	B	251 E SNOWNAN DR $9,588.00
A-1215-000C-0007	7	C	248 E SNOWMAN DR $9,588.00
A-1215-000B-0013	13	B	237 E SNOWMAN DR $9,588.00
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A-1215-000C-0004	4	C	302 E SNOWSHOE DR $9,588.00

BRIAN HEAD

ITEM: **LAND MANAGEMENT CODE AMENDMENT - BUILDING DESIGN STANDARDS – CHAPTER 7 & CHAPTER 12**

AUTHOR: Bret Howser, Town Manager
DEPARTMENT: Administration
DATE: August 27, 2024
TYPE OF ITEM: Legislative Action

SUMMARY:

The Town Council will consider an ordinance amending the Land Management Code, Chapters 7 & 12 concerning building design standards. This item was tabled during the August 13, 2024, Council meeting with directions to staff for additional language on the colors identified in Chapter 12.

BACKGROUND:

In early 2023, staff approached the Planning Commission and Council to determine if any changes to the building cladding standards were needed in light of disagreements in the community about whether recent developments meet the existing standards (or what those standards even mean). A variety of feedback was given, but consensus was difficult to determine.

The conversation was resumed on May 7, 2024, at the Planning Commission meeting. Input received at that time:

- Building Cladding
  - Limited quantities are defined as 25% or less of any face or plane of the building
  - Look into using a color palette to clarify what colors are allowed
  - Possibly only apply color palette to R3 and commercial (stick with existing language for R-1)
  - Setback exception changes:
    - Allow covered decks into the setback, but just 4' not 1/3 of the setback, on the front setback only
    - Allow living space under garage in setback exception
- Snow Storage
  - Address the issue of landscaping doubling as snow storage
  - Increase minimum to 25% in R3

The Planning Commission resumed discussion specifically on building colors on June 18, 2024, specifically discussing the Munsell Color Wheel and its role in Springdale's color requirements. The Planning Commission seemed favorable to limiting the colors as Springdale does, but selecting a more limited set than Springdale has and with a more simple/defined approach (such as listing allowed RGB or Hex codes instead of directing people to the color wheel). They also were favorable to leaving the existing exterior color language to apply to single-family residential, and the more restrictive language to be for R3/Commercial.

The Commission resumed discussion on July 2, 2024, where a set of specific allowable colors was presented by Commissioner Dever. The Commission made a favorable recommendation to the Council.

The Town Council held a public hearing on August 13, 2024, and began deliberations on the proposed changes. After discussing potential issues with the restricted color choices, the Council directed staff to make some changes regarding color regulations and tabled the item.

ANALYSIS:

The attached ordinance reflects the changes proposed by the Town Council to the Planning Commission's recommended changes to the Land Management Code with regard to building design.

The changes would be as follows:

- Setback exception changes:
  - Allow covered decks into a setback, but just 4' not 1/3 of the setback, on front setback only
  - Clarify that basement living space is allowed under a garage which is allowed in the setback by exception
- Snow Storage
  - Address the issue of landscaping doubling as snow storage
  - Increase minimum to 25% in R3
- Cladding materials that are allowed in "Limited quantities" are defined as 25% or less of any face or plane of the building
- Exterior Building Color regulation language is tightened up, including some "strict scrutiny" language for R3 (rather than the prescribed set of colors proposed by the Planning Commission).
- Building articulation (both height and horizontal articulation) language was added similar to Durango, CO language that the Council discussed on Aug 13th.

STAFF RECOMMENDATION:

Staff recommends approving the attached ordinance.

PROPOSED MOTION:

I move to adopt ordinance No. 24-011 amending the Land Management Code, Chapter 7, Zone District Regulations for Setback Exceptions; and Chapter 12, Design Guidelines for Building Cladding, Colors, and Snow Storage as presented.

ATTACHMENTS:

A – Ordinance No. 24-011

ORDINANCE NO. 24-___

AN ORDINANCE AMENDING BRIAN HEAD TOWN CODE, TITLE 9, LAND MANAGEMENT CODE, CHAPTER 7- ZONE DISTRICT REGULATIONS FOR SETBACK EXCEPTIONS IN THE R1, R2, R3 AND GENERAL COMMERICAL ZONES AND CHAPTER 12 DESIGN GUIDELINES FOR CONSTRUCTION FOR BUILDING CLADDING, COLORS AND SNOW STORAGE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Brian Head Town has identified a need to amend the Brian Head Land Management Code to regulate land use within the Town limits of Brian Head, Utah; and,

WHEREAS, the Brian Head Planning Commission held a public hearing on June 6, 2023, giving at least fourteen (14) days' notice before the public hearing to receive public comment. The Planning Commission forwarded their recommendation of approval to the Brian Head Land Management Code, Chapter 7, Zone District Regulations, for setback exceptions and Chapter 12, Design Guidelines for building cladding, colors, and snow storage to the Brian Head Town Council for their consideration and adoption; and

WHEREAS, the Brian Head Town Council held a public hearing on August 13, 2024, giving at least fourteen (14) days' notice to receive public comment on the proposed amendments Brian Head Land Management Code; and

WHEREAS, it is in the best interests of Brian Head Town and the health, safety, and general welfare of its citizens to adopt this Ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF BRIAN HEAD, UTAH, COUNTY OF IRON, STATE OF UTAH, AS FOLLOWS:

Section 1. The Brian Head Land Management Code is hereby amended and incorporated herein by reference as Title 9, Chapter 7 Zone District Regulations, and Chapter 12 Design Guidelines for Constructions hereby as **Attachment "A".** All changes are identified in red font.

Section 2. **Effective Date**. This Ordinance shall take effect upon its passage by a majority vote of the Brian Head Town Council. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah. All provisions of this Ordinance shall be incorporated into Title 9 of the Brian Head Town Code.

Section 3. **Conflict.** To the extent of any conflict between other Town, County, State, or Federal laws, ordinances, or regulations and this Ordinance, the more restrictive is deemed to be controlling.

Section 4. **Severability Clause**. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. **Repealer.** All provisions of the Brian Head Town Code that are inconsistent with the expressed terms of this Ordinance shall be repealed.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF IRON COUNTY, UTAH this _____ day of August, 2024 with the following vote.

TOWN COUNCIL VOTE:

Mayor Clayton Calloway	Aye____	Nay____
Council Member Martin Tidwell	Aye____	Nay____
Council Member Kelly Marshall	Aye____	Nay____
Council Member Larry Freeberg	Aye ____	Nay____
Council Member Mitch Ricks	Aye____	Nay____

BRIAN HEAD TOWN COUNCIL

By: ____________________________
Clayton Calloway, Mayor

ATTEST:

____
Nancy Leigh, Town Clerk

(SEAL)

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance passed by the Town Council on the ____ day of August 2024, and have posted a complete of the ordinance in a conspicuous place within the Town of Brian Head, to-wit: Town Hall and have posted a copy on the Public Meeting Notice Website and on the Town website: brianheadtown.utah.gov as per UCA 63-30-102.

Nancy Leigh, Town Clerk

9-7-1: R-1 SINGLE-FAMILY RESIDENTIAL:

…

D. **Physical Restrictions:**

...

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:

   a. Driveway and walkways.
   b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
   c. Pop out windows, provided the bottom of the pop out structure is no less than four (4') feet above grade, measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3 ½') into the required setback; and,
   d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Zoning Administrator, following review. The ~~deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the~~ deck or exterior staircase may encroach no more than four feet (4') into the required setback. ~~Decks~~ Uncovered decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback.

…

9-7-2: R-2 MEDIUM DENSITY RESIDENTIAL:

…

D. **Physical Restrictions:**

...

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:

   a. Driveway and walkways.
   b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
   c. Pop out windows, provided the bottom of the pop out structure is no less than four (4') feet above grade, measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop

out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3 ½') into the required setback; and,

d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the ~~Town Manager~~Zoning Administrator, or designee, following review. The ~~deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the~~ deck or exterior staircase may encroach no more than four feet (4') into the required setback. Uncovered ~~Decks~~ decks or walkways less than 30" above grade may stand within the innermost one-third (1/3) of the setback.

…

9-7-3: R-3 MULTI-FAMILY RESIDENTIAL:

…

D. **Physical Restrictions:**

...

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:

a. Driveways and walkways running parallel to a property line shall not occupy more than seventy five percent (75%) of the required setback area while retaining at least twenty five percent (25%) of the required area as a landscape buffer.
b. Roof eaves, provided they encroach no more than five feet (5') into the required setback.
c. Pop out windows, provided the bottom of the pop out structure is no less than four feet (4') above grade measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (31/2') into the required setback; and
d. Decks and exterior staircases attached to the residential structure on a case-by-case basis after written approval of the Zoning Administrator, following review. The ~~deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the~~ deck or exterior staircase may encroach no more than four feet (4') into the required setback. ~~Decks~~ Uncovered decks or walkways less

than 30’ above grade may stand within the innermost one-third (1/3) of the setback.

…

9-7-4: GC GENERAL COMMERCIAL:

…

D. **Physical Restrictions:**

...

4. Setback exception: The following shall be allowed to encroach within the required setback, subject to compliance with the provisions of this section:

a. Driveway and walkways.
b. Roof eaves provided they encroach no more than five feet (5') into the required setback.
c. Pop out windows, provided the bottom of the pop out structure is no less than four (4’) feet above grade, measured at the pop out structure, the total width of the pop out structure does not exceed twelve feet (12') measured at the point where the pop out structure attaches to the residential structure, the pop out structure is under and completely covered by a roof overhang or eaves, and the completely covered by a roof overhang or eaves, and the pop out structure encroaches no more than three and one-half feet (3 ½’) into the required setback; and,
d. Decks and exterior staircases attached to the residential structure may be permitted on a case-by-case basis after written approval of the Zoning Administrator, following review. The ~~deck or exterior staircase must be uncovered other than by a permitted roof overhang or eaves of the residential structure, and the~~ deck or exterior staircase may encroach no more than four feet (4') into the required setback. ~~Decks~~ Uncovered decks or walkways less than 30” above grade may stand within the innermost one-third (1/3) of the setback.
e. Portico or secondary egress stairways (when required on a second story above grade plan and higher by section 1006 in IBC) may extend into the innermost half of the setback when approved by the Planning Commission.

9-12-7: BUILDINGS:

…

D. **Height:**

1. Building heights are specified in each zone district.
2. Public and quasi-public utility buildings, when authorized in a district, may be erected to a height greater than the zone district height limit by obtaining a conditional use permit.
3. No dwellings shall be erected to a height less than one story above grade, unless specifically designed and approved as an earth sheltered structure.
~~3.~~4. Buildings that are two or more stories in height and more than 10,000 square feet in gross floor area shall be designed to include a variation in height of at least 30 percent.

D. **Mass, Scale And Composition:**

1. Building mass and scale should be sensitive to the site and surround ding structures in the neighborhood so as not to stand out or draw attention away from the natural environment.
2. Rooflines, foundations, and walls shall have steps, offsets and architectural features to follow existing slopes and reduce mass. Multi-unit structures should appear to be a cluster or collection of individual masses so as not to create the appearance of stacks or rows of identical "products".
3. Multifamily and townhome buildings shall be articulated as follows (for the purposes of this section, a "townhome building" includes all connected units):
   a. Horizontal articulation is the use of differentiating horizontal features to add interest and mark (or suggest) transitions between floors (or other vertical divisions) of buildings.
   b. Buildings that are three or more stories in height shall include elements that provide meaningful horizontal articulation, including any or any combination of the following:
      i. Belt courses, score lines, or other relief combined with a change in color;
      ii. Changes in materials (e.g., from stone to siding, or from horizontal sideing to board and batten);
      iii. Gables that are aligned on a horizontal plane;
      iv. Balconies; or
      ~~4.~~v. Stepbacks or cantilevered projections from the building wall.

…

F. **Exterior Walls**:

1. Exposed foundations under four feet (4') in height may be rubbed or finished in natural earth tone color. Walls over four feet (4') must be covered in stone, wood, or similar

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2. Building wall finish shall include full log or log faced siding, stone (cultured or natural), wood shingles, horizontal wood board and batten siding, or other synthetic material textured to simulate natural materials. Consistent with the rustic composition architectural style as identified in subsection B of this title. Stucco, milled wallboard, brick, non-reflective metal similar material may be used in limited quantities (25% or less of any face or plane of the building) provided they are broken up with contrasting materials, colors, and textures consistent with the architectural styles identified in subsection B of this title. Reflective metal is not permitted. (amd. ord. 16-007, 12-8-2016. amd ord. 17-004, 7-11, 2017).

…

G. **Colors:**

1. Exterior building colors should be subdued~~, complementary~~ colors found in the natural landscaping or complementary to the natural landscaping. Browns, greys, and greens are encouraged for large mass areas. Bright colors, including bright white, are not allowed for large mass areas. Trim colors of golds, reds, blues, and greens in darker shades found in or around the site are permissible as long as they blend with the overall building design and do not create a strong contrast. Buildings or building materials that stand out against the landscape because of color or light reflection are prohibited. (amd. Ord. 17-004, 7-11-2017)

   a. Structures in multi-family and commercial zones shall strictly adhere to muted colors found in or complementary to the natural environment. Large mass areas shall be subdued tones of browns, greys, and greens, expressly approved by the Land Use Authority, which do not distract from the mountain village character of the Town.

2. Roof colors should resemble natural earth tone hues that blend with the surrounding landscape. Reflective materials reflective light value (LRV) exceeding 30 shall not be used. Bright red, bright blue, bright green, bright white, bright cream, or similar colors that stand out from the surrounding landscape, or draw attention to the structure, shall not be used. (2010 Code amd. ord. 18-009, 9-10-2018)

9-12-10: Driveway:

B. Driveway Standards:

Standards	Residential Single-Family Dwelling (SFD)	Residential Multi-Family Dwelling	Commercial (all others)
Minimum width	16 Feet	20 Feet (4 or fewer units) (1) 24 Feet (5 or more units) (1)	20 Feet (one-way); 24 feet (two-way)
Maximum width at street line	24 feet	36 Feet	36 Feet
Maximum number of driveway accesses per lot	2 interior lot, 3 corners lot	2 interior lot , 3 corners lot	1 per each 200 feet of frontage (or fraction thereof)
Minimum Spacing Between Driveway (6)	Local NA	Local (2) 15 Feet	Local 75 Feet
	Private NA	Private (2,3) 10 Feet	NA
	Collector NA	Collector (4) 75 Feet	Collector 75 Feet
	Arterial (4) 150 Feet	Arterial (4) 150 Feet	Arterial 150 Feet
Minimum Spacing From Intersection	Local 25 Feet	Local 25 Feet	Local 75 Feet
	Collector (3) 50 Feet	Collector (4) 100 Feet	Collector 100 Feet
	Arterial (4) 150 Feet	Arterial (4) 150 Feet	Arterial 150 Feet
Minimum Spacing from Property Line (6)	NA	5 Feet (5)	10 Feet (5)
Driveway angle to street	45 degree – 90 degree	45 degree – 90 degree	70 degree – 90 degree
Snow Storage	20% additional area of driveway and walks (7) Maintain clear view at intersection	25% additional area of driveways and walks (7) Maintain clear view at intersection	25% additional aera of areas requiring snow removal (7) Maintain clear view at intersection

Drainage	May not drain to road surface	To approved storm drain collection system	To approved storm drain collection system
Retaining walls	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval	May extend into public right of way with town staff approval

1. Driveways for individual units connected to a local or private road can be reduced to 16 feet.
2. Driveway Spacing between 2 units in the same building that share a common wall or property line between garage and/or parking area is not required or can be reduced. Driveways for other units in the same building will need to meet minimum spacing.
3. An administrative exemption may be granted based on lot shape and slope.
4. Driveways or private roads need to be designed to allow vehicles to turn around to prevent vehicles backing into roadways.
5. Driveway spacing is not required or can be reduced if rear loading garage or parking is used.
6. Excerpt where it is possible to provide one access point that will serve both adjacent properties with recorded access and maintenance agreement.
7. Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping and be salt resistant. Area less than 5 feet to property line or less than 5 feet to imaginary line between units on the same property cannot be counted for snow storage.

9-12-15: Parking:

K. Snow Storage: All parking lots, sidewalks and other hard surface areas requiring snow removal shall provide twenty-five percent (25%) additional area to accommodate snow storage (15 percent for parking with snow melting equipment). Snow storage shall be provided on the subject property within the parking lot, adjacent landscaping or other area that allows for safe snow storage without damage to the structures or landscaping and be salt resistant.

1. Exception R-1 Single -Family Residential shall provide twenty percent (20%) additional area.

ITEM: WATER & WASTEWATER IMPACT FEE ORDINANCE ADOPTION

AUTHOR: Bret Howser, Town Manager
DEPARTMENT: Administration
DATE: August 27, 2024
TYPE OF ITEM: Legislative Action

SUMMARY:

The council will consider an ordinance amending the Water & Sewer Impact Fees. The draft ordinance is currently being reviewed by the attorney and will be sent out to the Council prior to the meeting, but the Water and Wastewater Impact Fee Analysis is attached for your review.

BACKGROUND:

Staff was tasked in the FY 2024 Strategic Planning Retreat to revisit our impact fees, which required going through the statutory process of a Capital Facilities Plan and subsequent Impact Fee Analysis. The staff has been working for several months with CapEx Planning to create this analysis and determine impact fees in the Water and Sewer funds.

The council reviewed the Impact Fee Analysis during their July 23rd council meeting, held a public hearing, and received input. The council made recommendations for changes and directed staff to return with an ordinance for adoption.

ANALYSIS:

An impact fee is essentially a one-time charge levied on new development projects. Its purpose is to offset the strain that growth places on a community's utility infrastructure—things like water supply, sewer systems, roads, and parks. In this case, we are specifically looking at the water and sewer impact fees.

Water Impact Fee:

- The current water impact fee was $5,250.88.
- After the analysis, it is calculated at $5,530.49.
- This fee accounts for the impact of new development on the town's water supply infrastructure.

Water Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Source	$ 7,953,184	20.24%	$ 1,609,623	$ 768	$ 2,097.12
Supply	8,566,139	7.11%	609,137	610	998.07
Storage	3,050,914	74.19%	2,263,385	4,084	554.21
Distribution	7,474,059	9.14%	683,048	371	1,841.10
Miscellaneous	6,000	100.00%	6,000	150	40.00
	$ 27,050,297		**$ 5,171,194**	**$ 5,983**	**$ 5,530.49**

Sewer Impact Fee:

- The current sewer impact fee stood at $1,096.91.
- Post-analysis, it would be revised to $1,804.23.

- This fee addresses the impact of new development on the town's sewer system.

Sewer Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Treatment	$ 3,995,438	7.62%	$ 304,322	$ 314	$ 969.18
Collection	3,109,398	4.64%	144,309	180	801.72
Miscellaneous	6,000	100.00%	6,000	180	33.33
Totals	**$ 7,110,835**		**$ 454,631**	**$ 674**	**$ 1,804.23**

Methodology Behind Impact Fees:

The Utah Impact Fees Act governs how these fees are calculated. Here is the general process:

Cost Estimation:

- The analysis determines the growth-related cost associated with existing and future utility facilities (like water treatment plants, sewer lines, etc.).
- This cost includes maintenance, expansion, and improvements needed to accommodate growth.

Capacity and Demand:

- The analysis considers the capacity of existing infrastructure (e.g., how much unused water or sewer capacity is available).
- It also looks at the expected demand from new development.

Equivalent Residential Connections (ERCs):

- ERCs represent the impact of a typical single-family dwelling on the utility system.
- The analysis divides the total growth-related cost by the number of new ERCs that will benefit from the unused capacity.

Fee Calculation:

- Finally, the impact fee is calculated by multiplying the cost per ERC by the number of ERCs associated with the development.

Snow Shoe & Toboggan Service Area

The Town is planning to construct lines within the Snowshoe Drive & Toboggan development and create its own sewer impact fee service area for the 68 ERCs that will receive benefits from the $1.6 M in improvements that the Town will construct. There are no existing collection lines within the proposed Snowshoe & Toboggan service area and the improvements will not be funded with debt.

The maximum legal impact fee per Equivalent Residential Connection (ERC) within the Snowshoe Drive & Toboggan service area is calculated at $23,010.74. This fee could be charged in addition to the town-wide sewer impact fee described above.

Sewer Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Collection	1,591,930	100.00%	1,591,930	68	23,410.74
Totals	**$ 1,591,930**		**$ 1,591,930**	**$ 68**	**$ 23,410.74**

Fee Adoption:

The Council can adopt an impact at or below the fee recommended from the Impact Fee Analysis. For example, there have been circumstances where a Council has adopted a fee at 80% of the analysis recommendation. However, currently, staff does not recommend this, as the newly calculated fee is within a reasonable amount of our current fees.

The impact fees may not take effect for 90 days following the enactment of the fee by ordinance, allowing for appeals and other comments from the community, so this analysis, discussion, and public hearing is the first step in preparing for adoption.

The council received input during the public hearing from property owners in the Snowshoe & Toboggan service area. Following discussion, the Council indicated a policy preference to adopt something less than the full calculated wastewater impact fee for those property owners, based on the public interest in creating a "spine" sewer line in that area that will encourage future private expansion/extension of the sewer lines, thus limiting development on septic and protecting the Town's culinary water supply. Staff recommends capping the wastewater impact fee at 20% of the calculated fee (or $4,963) for Snowshoe & Toboggan service water.

FINANCIAL IMPLICATIONS:

The budgetary impact falls on the Town's ability to collect funds from new developments that help offset the new costs of the respective utility systems that have been impacted by the new demand.

Again, the new fees will not be allowed to take effect for 90 days. Staff will return at the end of November or the beginning of December with an updated fee resolution.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends updating the fees based on the results from the Impact Fee Analysis.

PROPOSED MOTION:

I move to adopt ordinance No. 24-012 amending Title 10 Chapter 2 of the Town Code and establishing updated limits for Water and Wastewater Impact Fee levels.

ATTACHMENTS:

A – Impact Fee Analysis Draft (updated).

Brian Head Town, Utah

Water and Sewer Impact Fee Analysis

Noticing Draft

July 7, 2024

EXECUTIVE SUMMARY

Brian Head Town provides this Water and Sewer Impact Fee Analysis (IFA) to determine the maximum impact fee that may be assessed to new development for water and sewer facilities. The purpose of this analysis is to establish fair and equitable water and sewer impact fees, given the Town's current levels of service, future projects, existing facilities, and projected growth.

The proposed impact fee accounts for the Town's system demands, capital needs, and historic facility costs. Information for this analysis is based on the Impact Fee Facilities Plan (IFFP) prepared by the Town's engineering consultants, which defines the current and future level of service over a ten-year planning horizon. The impact fee calculations strictly adhere to the requirements of the Utah Impact Fees Act (Utah Code 11-36a).

BRIAN HEAD TOWN WATER OVERVIEW

The Town is a small, high-elevation resort community with a permanent population of around 100 that swells significantly during peak tourist seasons. Brian Head Town operates its water system within a single, Town-wide service area. Its sewer system is divided into two service areas, the primary service area is Town-wide and there is a second small Snowshoe/Toboggan service area for minor distribution pipes.

Brian Head Town manages various water-related responsibilities and assets. These include providing 320 acre-feet (AF) of water to Parowan Valley, supplying snowmaking water to Brian Head Resort, and funding water rights purchases and Bear Flat well development through USDA loans. The town also contracts with Parowan for 40% of its lagoon capacity for sewer treatment. Additionally, Brian Head Town controls 94.67 AF of Heil water rights for the Bear Flat well and allocates 305 AF to Parowan Valley farmers.

BRIAN HEAD TOWN SEWER OVERVIEW

The current sewer system includes 8.8 miles of collectors within Town limits, 6.9 miles along Highway 143, and rights to 40% (188,000 gpd) of the treatment capacity at the Parowan City lagoons. Only the proportional costs related to providing capacity to serve new growth are eligible for impact fee funding, as required by the Utah Impact Fees Act.

Alpha's Infrastructure Financing and Funding Plan (IFFP) outlines capital projects for Brian Head Town over the next decade. The present value of these improvements, based on the 2024 fiscal year, is $7,820,333, with a projected future value of $8,499,142 after applying a 3.0% construction inflation factor. However, only 11.4% of these projects, totaling $970,234, are included in the impact fee calculations.

The analysis determines Brian Head Town's maximum allowable sewer impact fee as $5,530.49 per equivalent residential connection (ERC). A separate, higher impact fee may be implemented for the annexed Snow Shoe and Toboggan area due to significant sewer line extensions required. This impact fee calculation methodology adheres to Utah Impact Fees Act requirements.

IMPACT FEE AND CALCULATION METHODOLOGY

An impact fee is a one-time charge imposed on new development to mitigate its impact on the Town's water and sewer infrastructure. As required by the Utah Impact Fees Act, the fee is calculated based on a detailed Impact Fee Facilities Plan, projecting future growth and facility needs. The methodology determines a growth-related cost for existing and future facilities, divided by new ERCs benefiting from unused capacity, then multiplied by a typical single-family dwelling's demand.

For non-residential users with unique impacts, a non-standard fee formula ensures proportionality. The recommended impact fee structure, prepared to satisfy the Act, represents the maximum sewer impact fee the

Town may assess within its service area. Other revenue sources must fund projects identified in the IFFP that address repair, replacement, existing deficiencies, or maintenance of current service levels.

WATER AND SEWER IMPACT FEES

Figure ES.1: Calculation of the Water Impact Fee per ERC

Water Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Source	$ 7,953,184	20.24%	$ 1,609,623	$ 768	$ 2,097.12
Supply	8,566,139	7.11%	609,137	610	998.07
Storage	3,050,914	74.19%	2,263,385	4,084	554.21
Distribution	7,474,059	9.14%	683,048	371	1,841.10
Miscellaneous	6,000	100.00%	6,000	150	40.00
	$ 27,050,297		**$ 5,171,194**	**$ 5,983**	**$ 5,530.49**

SEWER TREATMENT AND COLLECTION IMPACT FEES

Figure ES.2: Calculation of the Base Sewer Impact Fee per ERC

Sewer Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Treatment	$ 3,995,438	7.62%	$ 304,322	$ 314	$ 969.18
Collection	3,109,398	4.64%	144,309	180	801.72
Miscellaneous	6,000	100.00%	6,000	150	40.00
Totals	**$ 7,110,835**		**$ 454,631**	**$ 644**	**$ 1,810.89**

Figure ES.3: Calculation of the Snow Shoe Drive/Toboggan Sewer Impact Fee per ERC

Sewer Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Collection	1,591,930	100.00%	1,591,930	68	23,410.74
Totals	**$ 1,591,930**		**$ 1,591,930**	**$ 68**	**$ 23,410.74**

Chapter 1: Level of Service and Future Growth

Brian Head Town Overview

Brian Head Town is a high-elevation mountain resort community in southwestern Utah, known for outdoor recreation and tourism. Its economy is driven by Brian Head Resort, which attracts visitors for skiing, snowboarding, hiking, and other activities. The Town has a small permanent population that swells during peak seasons with visitors staying in vacation homes and rentals. Commercial areas along Highway 143 cater to residents and tourists. The mountainous terrain presents infrastructure challenges, but the Town continues growing with developments like the proposed Aspen Meadows annexation. Proactive planning aims to ensure infrastructure keeps pace with population increases while preserving the Town's mountain character and sustainable economy.

Water and Sewer Systems

Water System

Brian Head Town operates its own water system, consisting of a distribution network and water production and storage facilities, serving residents, commercial establishments, and recreational facilities within the Town. The Town has user rates based on consumption and impact fees set at $5,250.88 for water and $1,096.91 for sewer to support infrastructure maintenance and expansion in accordance with the Utah Impact Fees Act.

Sewer System

Brian Head Town's current sewer system includes 8.8 miles of collectors within Town limits, 6.9 miles along Highway 143, 352 manholes, and rights to 40% (188,000 gpd) of the treatment capacity at the Parowan City lagoons. Based on current usage, the treatment capacity is adequate for an additional 314 connections and is projected to be sufficient through 2065 based on estimated growth rates.

Brian Head Town maintains a collaborative relationship with Parowan City for landfill services and water rights. These agreements demonstrate a shared commitment to regional development and resource management.

Town's Service Area Growth

Service area growth results from new residences and non-residential users such as commercial, industrial, institutional, churches, schools, etc. In 2024 the Town is estimated to have 1,421 water ERCs and 1,335 sewer ERCs. It is anticipated that the Town will grow to over 1,500 ERCS for both systems by 2065. Growth is expected within the Town's boundaries resulting in increased demand upon the Town's treatment and collection facilities. Some new projects will be required to add sufficient water and sewer capacity but most capacity utilized by new growth already existing in current water and sewer facilities.

Brian Head Town has experienced steady growth due to its popularity as a tourist destination and the development of new residential and commercial properties. Historically, the Town has had an annual growth rate of about 0.08% to 0.68%. The Town's population is expected to continue growing, placing additional demands on the sewer system. Growth projections have been developed to estimate future demand on the sewer infrastructure.

Brian Head Resort and Parowan Valley Demands

Brian Head Resort is the cornerstone of Brian Head Town's tourism economy, offering premier skiing and snowboarding in winter and popular outdoor activities in summer. The resort's operations significantly impact the town's infrastructure, necessitating ongoing collaboration between the resort and town to balance growth with sustainability, particularly regarding water resources and snowmaking capabilities. Capacity required for the Resort is not included in the impact fee calculations.

LEVEL OF SERVICE DEFINITIONS PER ERC

Level of service is defined as demand standards considered in the design of the treatment plant and collection systems and in defining demand per ERC. The current water level of service is shown in Figure 1.1.

Figure 1.1: Water Levels of Service per ERC

Component	Total Service Area Capacity	Capacity per ERC
Water Rights (Ac-ft)	2,031.32	0.45
Source (Gpm)	2,188.54	0.56
Storage (Gal)	5,505.00	400.00
Transmission (Gpm)	1,792.00	351.00

Brian Head Town's wastewater treatment plant is designed to meet the specific needs of the Town, considering factors such as population, tourism, and wastewater characteristics. The treatment plant has a defined capacity expressed in terms of ERCs. The Town's level of service standards ensure that the treatment plant and collection system can effectively handle the wastewater generated by the community, in compliance with the Utah Impact Fees Act. The current sewer level of service is shown in Figure 1.2.

Figure 1.2: Sewer Levels of Service per ERC

Component	Total Service Area Capacity	Capacity per ERC
Treatment (Gal)	188,000.00	114.01
Collection (Gpm)	1,800.00	0.78

OUTSTANDING AND FUTURE BOND EXPENSE

Brian Head Town has utilized municipal bonds to finance various infrastructure projects and improvements. These bonds allow the Town to access capital for significant investments while spreading the cost over time. The Town's bond portfolio includes different series, each designated for specific purposes and issued in different years. Two notable bond series are:

- **Outstanding Series 2021 Bond**: This bond was issued to refinance the Series 2009 and Series 2019 USDA bonds at a lower interest rate, resulting in savings for the Town and improved the town's overall financial position.
- **Future Series 2024 Bond**: Planned for issuance to fund the Salt Pile well. This bond will support the town's growth and ensure adequate water source capacity for future development.

Each of these bonds plays a crucial role in Brian Head Town's financial strategy and infrastructure development plans.

CHAPTER 2: PROPORTIONATE SHARE ANALYSIS

The Impact Fees Act mandates that the analysis estimate both the proportionate share of costs for existing capacity to be recouped and the costs of system improvements reasonably related to new development. As Brian Head Town continues to grow, the capital improvement plan clearly delineates projects related to growth, repair and replacement, or pipe upsizing, with details provided in the Future Capital Projects section in Chapters 3 and 4.

The buy-in cost for existing treatment and collection infrastructure includes only assets funded through user rate or impact fee revenues, ensuring that all assets have been funded by existing users. To maintain fairness, impact fees are an appropriate means of funding future capital infrastructure, placing an equal burden on future users as that borne by existing users, in accordance with the Utah Impact Fees Act (11-36a-304(2)(c)(d)).

DEFINITION AND PURPOSE

An impact fee is a one-time charge imposed on new development to recover the Town's cost of constructing water and sewer treatment and collection facilities that have added or will add capacity to serve new growth. The fee is assessed at the time of building permit issuance and must strictly follow the Utah Impact Fees Act to ensure fairness and equity. The Act requires that impact fees only fund growth-related system improvements, not operation and maintenance costs or projects that cure existing deficiencies.

IMPACT FEE ELIGIBLE COSTS

The Impact Fees Act specifically allows and limits costs included in impact fees. The following is a list of the key inclusions and exclusions. The impact fees proposed in this analysis are calculated based upon:

- Costs of replacement facilities that are needed to perpetuate unused capacity in the system that growth will require;
- New capital infrastructure that provides new capacity for growth;
- Historical costs of existing improvements that maintain capacity that will serve new development; and
- Cost of professional services for engineering, planning services, and preparation of the impact fee facilities plan and impact fee analysis.

The costs, both direct capital and financing, that cannot be included in the impact fee are as follows:

- Projects that cure deficiencies for existing users;
- Projects that increase the level of service above that which is currently provided;
- Operations and maintenance costs;
- Costs of facilities funded by grants or other funds that the Town does not have to repay; and
- Costs of reconstruction of facilities that do not have capacity to serve new growth.

ESTIMATING PROPORTIONATE SHARE OF COSTS

The Utah Impact Fees Act requires the impact fee analysis to estimate the proportionate share of costs for existing capacity to be recouped and the costs of impacts on system improvements reasonably related to new development. As Brian Head Town continues to grow and expand, the capital improvement plan clearly defines growth-related projects, repair and replacement, or pipe upsizing (which may include some growth element). This ensures that new development pays only for its equitable share of the costs of facilities needed to serve growth.

The Proportionate share of costs to impact fees are described in Chapters 3 and 4.

HISTORICAL FUNDING SOURCES

Historically, Brian Head Town has funded its water and sewer infrastructure through various sources, including user fees, impact fees, grants, and bond proceeds. Assets included in the buy-in cost for existing treatment and collection infrastructure do not include those funded by sources other than user fees or impact fees. This approach complies with the Utah Impact Fees Act's requirement that impact fees not be used to cure existing deficiencies or replace other funding sources.

Brian Head Town has utilized low-interest, long-term USDA bonds through the Rural Development program as a key funding source for critical water infrastructure projects. A significant 2009 USDA bond of $8.6 million financed the Heil water rights acquisition, the Bear Flat well development, and the Mammoth water storage tank construction.

USDA bonds have provided affordable financing for the Town to invest in essential water and sewer infrastructure without overly burdening ratepayers or taxpayers. USDA offers long repayment terms, low interest rates, and supports well-planned, sustainable water and sewer infrastructure projects within the Town. As major future projects like new water sources, expanded storage/distribution, and potential new treatment plants are planned, USDA bonds will likely continue as a key funding mechanism given their proven support for rural communities like Brian Head.

FUNDING SOURCES FOR FUTURE CAPITAL PROJECTS

General Fund/User Rates: Using these revenues for future capital projects would burden existing users by making them pay for their infrastructure costs plus pay for the cost of new development. The Impact Fees Act prohibits using impact fees for operation and maintenance costs, typically funded through user rates. User rates are funded by existing users, so using them for future capital needs for new users is an additional burden and places stress on tight budgets. If rate revenues are required, the Town will reimburse the user rate fund with collected impact fees as a loan.

Property Taxes: While stable, property taxes are not based on system impact and would subsidize growth, which the Impact Fees Act prohibits. Property taxes are based on property valuation, not system impact.

Impact Fees: Impact fees are fair and equitable, ensuring new development pays its proportionate share of costs, as required by the Impact Fees Act. A detailed facilities plan and proportionate share analysis are needed. Impact fees provide a rational nexus between past and future costs, treating existing and future users equally.

Developer Credits: The Act allows developers constructing system improvements in the facilities plan to receive impact fee credits. Credits from impact fees are only provided for projects that are constructed by developers that are system improvements and are growth-related.

Time-Price Differential: The analysis includes an inflationary component for future projects, as allowed by the Act, to ensure fairness for amounts paid at different times. A 3.0% inflation rate is used for projects after 2024.

Grants: The Act requires crediting impact fee calculations for any grant funding received for system improvements, including the American Rescue Plan Act (ARPA) funding.

NON-STANDARD DEMAND ADJUSTMENT

The Town may adjust impact fees on a case-by-case basis for users with unique impacts on the system. Developers must demonstrate that their impact will be significantly less than the typical user, and the Town will work with them to determine a fair impact fee using a non-standard formula. This approach is consistent with the Utah Impact Fees Act's allowance for individualized assessments of impact fees based on unique characteristics of a particular development.

ENGINEERING PROFESSIONAL SERVICES

The Utah Impact Fees Act allows the Town to recover reasonable planning and impact fee calculation costs through impact fees. $12,000 is included as the qualifying impact fee expense split equally between water and sewer. The timing of future updates is not known although it should be updated at least every five years. A conservative estimate of 150 connections added between studies is assumed resulting in an impact fee calculation fee of $40 per ERC for water and $40 for sewer.

Figure 2.1: Impact Fee Calculation and Planning Services Expense

	Water	Sewer
Water IFA Update Expense	$ 6,000	$ 6,000
Units - Three year growth	150	150
Fee per unit	**$ 40**	**$ 40**

CHAPTER 3: WATER IMPACT FEE CALCULATIONS

WATER SYSTEM OVERVIEW

Brian Head Town has made significant investments in its water infrastructure over the years, using a variety of funding sources including bonds, grants, impact fees, and user rates. Some of the major water-related expenditures include:

Water Sources and Wells

Brian Head Town's water supply is derived from a combination of springs and wells. The springs, which include Salt Pile Spring, Decker Spring, Seeps Spring, and Mammoth Springs, provide a total minimum yield of 136 gpm. The Town's wells included in the impact fees consist of Bear Flat Well (420 gpm), Crystal Mountain Well (100 gpm), Town Hall Well (260 gpm), and the new Salt Pile Well (300 gpm) supplement the spring water. Together, these sources offer a total reliable water source capacity of 1,216 gpm or 2,189 ERCs, ensuring a stable and adequate water supply for the community. A small portion of the Bear Flat Well was funded with the Series 2021 USDA bond and the costs of the proposed Series 2024 DEQ bond will pay for the Salt Pile well. There are currently 1,421 existing ERCs in 2024 leaving water source capacity for 768 future ERCs.

Water Storage Tanks

Brian Head Town's water storage infrastructure comprises four storage tanks with a total capacity of 2,400,000 gallons. The 1/2 MG Tank, built in 1992, holds 500,000 gallons, while the 1 MG Tank, constructed in 1979, has a capacity of 1,000,000 gallons. The Mammoth Tank, added in 2010, contributes another 500,000 gallons, and the Salt Pile Tank, built in 2001, provides an additional 400,000 gallons of storage. This storage capacity is sufficient to meet the needs of over 5,500 ERCs based on state requirements, ensuring an adequate water supply for the Town's current and future needs. No existing or future bond financing is associated with the storage tanks. With 1,421 existing ERCs in 2024, water storage capacity remains in the existing tanks for 4,084 future ERCs.

Water Rights

Brian Head Town has secured a total of 910 acre-feet of water rights that benefit the Water Impact Fee Service Area. An additional 305 acre-feet leased from Parowan Reservoir & Irrigation Co. and 127.5 benefits the Brian Head Resort. Impact fees include only the costs of the 910 Af that benefit the Town Water Service Area. Prices for 815 Af of spring water and sources from the Parowan Reservoir Company are not available therefore the costs included for all 895 Af are the costs of the 94.67 Af of Heil Water rights purchased with the original 2009 USDA bonds. The total source capacity provides 2,031 ERCs of capacity. Roughly 97% of the Series 2021 bond related to the original 2009 bonds that purchased the Heil water rights.

Water Distribution Lines

Brian Head Town's water distribution system consists of approximately 24 miles of pipeline, ensuring efficient delivery of water to residents and businesses. The system is equipped with 200 fire hydrants, strategically placed to ensure adequate fire protection throughout the Town. Additionally, 350 water meters are installed to monitor and manage water consumption. The current distribution system has the capacity to meet the Town's current water demands and is projected to be sufficient for meeting future needs beyond 2035, accommodating the anticipated growth of the community. No existing or future bond funding relates to the distribution lines.

HISTORIC WATER CAPITAL PROJECT COSTS (BUY-IN COMPONENT)

The existing treatment and collection facilities' costs are divided between qualifying and non-qualifying expenses. There is $10.1M in total existing water asset expense with $375K representing non-impact fee equipment and vehicles. Only qualifying costs of system improvements are considered in the impact fee analysis, as per the Utah Impact Fees Act.

Figure 3.1: Existing Water Facility Costs

Facility	Function	Sum of End Cost	Percent of Total
Salt Pile Well	Source	$ 9,955	0.10%
Town Hall Well	Source	94,342	0.93%
Bear Flat Well	Source	3,288,839	32.46%
Crystal Mountain Well	Source	12,748	0.13%
0.5 MG Tank	Storage	134,399	1.33%
1 MG Tank	Storage	275,274	2.72%
Bear Flat Tank	Storage	364,830	3.60%
Mammoth Tank	Storage	2,276,412	22.47%
Transmission	Transmission	3,299,252	32.56%
Equipment	Non-Impact Fee	291,190	2.87%
Vehicle	Non-Impact Fee	84,410	0.83%
Totals		**$ 10,131,650**	**100.00%**

Row Labels	Sum of End Cost	Sum of End Cost
Source	$ 3,405,883	33.62%
Storage	3,050,914	30.11%
Transmission	3,299,252	32.56%
Equipment/Vehicle	375,601	3.71%
Grand Total	**$ 10,131,650**	**100.00%**

FUTURE CAPITAL PROJECT COSTS

The Impact Fee Facilities Plan lists future capital projects to be completed within the next ten years. Figure 3.2 defines the 2022 estimated cost, construction year, growth-related percentage, and estimated construction year cost with a 3.0% annual inflation factor. The only future water capital project is the Salt Pile well that will add $970K to impact fees for the Town's costs of water source facilities. These costs are based on realistic estimates and are limited to projects that expand system capacity to serve growth, as required by the Utah Impact Fees Act.

Figure 3.2: Future Water Facility Costs

Water Component	% Impact Fee Qualifying	Year to be Constructed	2024 Cost	Construction Cost	Total FV Project Cost	Impact Fee Qualifying Cost	Non Impact Fee Qualifying
Source	0%	2025	$ 4,111,071	$ 4,324,335	$ 4,324,335	$ 970,234	$ 3,354,101
Storage	0%	2025	-	-	-	-	-
Transmission	0%	2025	3,709,262	4,174,807	4,174,807	-	4,174,807
Water Rights	0%	2025	-	-	-	-	-
Totals			**$ 7,820,333**	**$ 8,499,142**	**$ 8,499,142**	**$ 970,234**	**$ 7,528,908**

MAXIMUM WATER IMPACT FEE CALCULATION

The combined impact fees per ERC for treatment, collection, and professional services total $2,453.54, which is the legal maximum amount that Brian Head Town may charge under the Utah Impact Fees Act. The Town's governing body may adopt a lower fee but cannot exceed this amount.

The impact fee per ERC is the fee that will be assessed to all residential single family and multi-family units. Analysis of the single family and multifamily bills resulted in a nearly identical impact from the average unit of each class. Non-residential users do have a different impact on the system and a specific category has been created for non-residential users. Residential users are charged a flat fee per unit while non-residential use is charged according to the historic monthly water usage.

Figure 3.3: Base Water Impact Fee per ERC

Water Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Source	$ 7,953,184	20.24%	$ 1,609,623	$ 768	$ 2,097.12
Supply	8,566,139	7.11%	609,137	610	998.07
Storage	3,050,914	74.19%	2,263,385	4,084	554.21
Distribution	7,474,059	9.14%	683,048	371	1,841.10
Miscellaneous	6,000	100.00%	6,000	150	40.00
	$ 27,050,297		**$ 5,171,194**	**$ 5,983**	**$ 5,530.49**

NON-STANDARD WATER IMPACT FEE FORMULA

For users with unique impacts on the system, a non-standard impact fee may be calculated using the formula in Figure 3.4, which accounts for the specific flow and loading characteristics of the user. This approach is allowed under the Utah Impact Fees Act to ensure that the impact fee is proportional to the actual impact of a particular development on the system.

Figure 3.4: Non-Standard Water Impact Fee Formula

Non-Standard Calculation	Daily Discharge per 100 gpd equals a water impact fee of $5,530.49

CHAPTER 4: SEWER IMPACT FEE CALCULATIONS

SEWER SYSTEM OVERVIEW

Wastewater Treatment

Brian Head Town does not have its own wastewater treatment facility. Instead, the Town's wastewater is treated at the Parowan City Wastewater Treatment Facility, also known as the Parowan Lagoons. Brian Head has a 40% ownership capacity in the lagoons, which equates to an average daily capacity of 188,000 gallons per day. The Parowan lagoons have adequate treatment capacity for Brian Head's needs decades into the future.

Sewer Collection System

Brian Head Town's sanitary sewer collection system comprises approximately 82,905 linear feet (15.7 miles) of sewer lines and 352 manholes, both within town limits and along Highway 143 to Second Left Hand Canyon. The system connects to the Parowan City sanitary sewer system, ultimately reaching the Parowan City Wastewater Treatment Facility. Critical sewer pipes in the canyon are nearing capacity and require upsizing to manage peak flows, which reached 354,309 gallons per day in May 2020, with an instantaneous peak of 1,016.95 GPM in April 2020. No existing or future bonds are included in the costs included in the sewer impact fees.

HISTORIC SEWER CAPITAL PROJECT COSTS (BUY-IN COMPONENT)

The existing treatment and collection facilities' costs are divided between qualifying and non-qualifying expenses. There is $86.1M in total existing asset expense, with $30.5M for the treatment plant and $55.6M for the collection system. Of the Town's $129,333,818 in total capital investments, only qualifying costs are considered in the impact fee analysis, as per the Utah Impact Fees Act.

Figure 4.1: Existing Sewer Facility Costs

Facility	Function	Facility Cost	Percent of Total
Treatment	Parowan Contract	-	0.00%
Collection	Collection	1,214,599	75.70%
Miscellaneous	Non-Impact Fee	389,996	24.30%
Totals		**$ 1,604,595**	**100.00%**

Row Labels	Function Cost	Percent of Total
Treatment	$ -	0.00%
Collection	1,214,599	75.70%
Miscellaneous	389,996	24.30%
Grand Total	**$ 1,604,595**	**100.00%**

FUTURE SEWER CAPITAL PROJECT COSTS

The Impact Fee Facilities Plan lists future capital projects to be completed within the next ten years however there are no future projects with growth-related costs. Figure 4.2 defines the 2024 estimated cost, construction year, growth-related percentage, and estimated construction year cost with a 3.0% annual inflation factor. The total construction year cost is $1,504,803. These costs are based on realistic estimates and are limited to projects that expand system capacity to serve growth, as required by the Utah Impact Fees Act.

Figure 4.2: Future Sewer Facility Costs

Sewer Component	% Impact Fee Qualifying	Year to be Constructed	2024 Cost	Construction Cost	Total FV Project Cost	Impact Fee Qualifying Cost	Non Impact Fee Qualifying
reatment	0%	-	-	-	-	-	-
ollection	0%	2024-29	1,377,108	1,504,803	1,504,803	-	1,504,803
otals		**-**	**$ 1,377,108**	**$ 1,504,803**	**$ 1,504,803**	**$ -**	**$ 1,504,803**

MAXIMUM LEGAL SEWER IMPACT FEES PER ERC

The maximum legal impact fee per Equivalent Residential Connection (ERC) for Brian Head Town is $2,453.54, covering treatment, collection, and professional services, as per the Utah Impact Fees Act. While the Town's governing body may adopt a lower fee, it cannot exceed this amount.

This fee applies equally to all residential units, both single-family and multi-family, due to their similar average impact on the system. Non-residential users, however, are charged differently based on their historic monthly water usage, reflecting their distinct impact on the system.

Figure 4.3: Base Sewer Impact Fee per ERC

Sewer Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Treatment	$ 3,995,438	7.62%	$ 304,322	$ 314	$ 969.18
Collection	3,109,398	4.64%	144,309	180	801.72
Miscellaneous	6,000	100.00%	6,000	150	40.00
Totals	**$ 7,110,835**		**$ 454,631**	**$ 644**	**$ 1,810.89**

NON-STANDARD SEWER IMPACT FEE FORMULA

For users with unique impacts on the system, a non-standard impact fee may be calculated using the formula in Figure 4.4, which accounts for the specific flow and loading characteristics of the user.

Figure 4.4: Non-Standard Sewer Impact Fee Formula

Non-Standard Calculation	Daily Discharge per 100 gpd equals $1,810.39 for a sewer impact fee

CHAPTER 5: SEWER IMPACT FEE SNOW SHOE DRIVE & TOBOGGAN SERVICE AREA

SNOW SHOE DRIVE & TOBOGGAN SERVICE AREA OVERVIEW

Sewer Collection System

The Town is planning to construct lines within the Snow Shoe Drive & Toboggan development and create its own sewer impact fee service area for the 68 ERCs that will receive benefit from the $1.591M in improvements that the Town will construct. There is no existing collection lines within the proposed Snow Shoe & Toboggan service area and the improvements will not be funded with debt.

MAXIMUM LEGAL SEWER IMPACT FEES PER ERC

The maximum legal impact fee per Equivalent Residential Connection (ERC) within the Snow Shoe Drive & Toboggan service area will be $23,410.74. This fee will be charged in addition to the town-wide sewer impact fee described in Chapter 4.

Figure 5.1: Snow Shoe Drive & Toboggan Service Area Sewer Impact Fee per ERC

Sewer Component	FV Component Cost	% of Project to Growth	Cost to Future Users	Additional ERC Capacity	Cost per ERC
Collection	1,591,930	100.00%	1,591,930	68	23,410.74
Totals	**$ 1,591,930**		**$ 1,591,930**	**$ 68**	**$ 23,410.74**

NON-STANDARD SEWER IMPACT FEE FORMULA

For users with unique impacts on the system, a non-standard impact fee may be calculated using the formula in Figure 5.2, which accounts for the specific flow and loading characteristics of the user.

Figure 5.2: Non-Standard Sewer Impact Fee Formula

Non-Standard Calculation	Daily Discharge per 100 gpd equals $23,410.74 for a sewer impact fee

CERTIFICATION AND APPENDICES

In accordance with Utah Code Annotated, 11-36a-306(2), Matthew Millis on behalf of CapEx Planning LLC makes the following certification:

I certify that the attached impact fee analysis:

1. Includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each

impact fee is paid;

2. Does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities,

through impact fees, above the level of service that is supported by existing residents;

3. Offsets costs with grants or other alternate sources of payment; and

4. Complies in each and every relevant respect with the Impact Fees Act.
Matthew Millis makes this certification with the following caveats:

1. All of the recommendations for implementations of the Impact Fee Facilities Plans ("IFFPs") made in the IFFP documents or in the impact fee analysis documents are followed in their entirety by Brian Head Town staff and elected officials.
2. If all or a portion of the IFFPs or impact fee analyses are modified or amended, this certification is no longer valid.
3. All information provided to CapEx Planning LLC, its contractors or suppliers is assumed to be correct, complete and accurate. This includes information provided by Brian Head Town and outside sources. Copies of letters requesting data are included as appendices to the IFFPs and the impact fee analysis.

Dated: August 22, 2024

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Matt Millis

CapEx Planning LLC