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# 870 7692 4113
TUESDAY, JULY 23, 2024 @ 1:00 PM

MINUTES OF THE TOWN COUNCIL

Roll Call

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

Members Absent: Council Member Kelly Marshall

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Shane Williamson, Town Treasurer; Chief Dan Benson, Public Safety Director; Jon Ficken, Public Works Director; Greg Sant, Planning and Building Administrator.

A. CALL TO ORDER

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

B. PLEDGE ALLEGIANCE

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

C. DISCLOSURES

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

D. APPROVAL OF THE MINUTES:

June 25, 2024, Town Council Meeting Minutes

Motion: Council Member Tidwell moved to table the June 25, 2024, Town Council minutes since there are two Council Members present today who were present for the June 25th meeting. Council Member Freeberg seconded the motion.

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

July 9, 2024, Town Council Meeting Minutes

Motion: Council Member Freeberg moved to approve the July 9, 2024, Town Council minutes. Council Member Ricks seconded the motion.

Action: **Motion carried 3-0-1 (summary: Yes = 3 No = 0 Abstained = 1 Vote**: Yes: Council Member Freeberg, Council Member Ricks, Mayor Calloway. **Abstained:** Council Member Tidwell. **Absent:** Council Member Marshall).

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

Council Member Freeberg commented that in reading an article in the Utah news Rocky Mountain Power has sold to someone else and is now requesting a 30% increase in rates. Bret explained that Dominion Energy has been sold to another company, not Rocky Mountain Power.

Bret Howser, Town Manager

1. Introduced Greg Sant the new Planning and Building Administrator for the Town. Bret reported that Greg will help the public out with building permits, and work with the Planning Commission. Bret gave a brief background of Greg's experience which he comes from the private sector and has experience working with developers go through the building and planning process. Bret reported that Greg's office is on the main floor of the Town Hall where the Chamber offices are located and Ciera, Deputy Clerk, is now located in the office where the Building Official used to be but is closer to Nancy and Shane to work with them.
2. The Town held an After Action 4th of July meeting with the businesses. This was a good opportunity for the businesses to collaborate and let us know what went well for the 4th of July event. The take-home point was they needed to participate in the Chamber of Commerce, which will soon be the Parowan/Brian Head Chamber of Commerce.

F. AGENDA ITEMS:

1. HIDDEN SPRINGS PREMILARY PLAT APPROVAL. The Preliminary Plat for the Hidden Springs Subdivision.

Bret Howser, Town Manager, gave a brief introduction for the Hidden Spring Subdivision Preliminary Plat. Bret reported the Hidden Springs Subdivision is a 45-unit subdivision that has been reviewed by the Planning Commission and the Town Council during several meetings. Bret reported some of the conversation centered on the idea of drafting a Development Agreement that would trade some of the Town's right-of-way in exchange for enhanced parking requirements for the development. (see attached)

Bret reported during the July 11, 2024 Town Council meeting, that the Council tabled the Preliminary Plat until the staff report was corrected and the Preliminary Plat had the correct maps attached. The staff report has been updated to reflect the Findings of Fact and Conclusions of Law.

Council Member Tidwell expressed his appreciation for staff's the efforts in updating the documents as to what the Council and Planning Commission discussed and agreed with what is presented.

Motion: Council Member Tidwell moved to approve the Hidden Springs Subdivision Preliminary Plat based on the Findings of Fact and Conclusions of Law presented by staff with the following conditions:

1. The applicant will enter into a Development Agreement for parking for units 38-45 on the east side of Pine Tree Way in exchange for a portion of Pine Tree Way right-of-way sufficient to meet the setback required for units 41 through 45 consistent with the site plan and parking exhibit.
2. The Development Agreement also addresses an exchange of water rights for inclusionary housing with the Town Land Management Code.

Council Member Freeberg seconded the motion.

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

2. PUBLIC HEARING & DISCUSSION FOR THE IMPACT FEE FACILITIES PLAN AND IMPACT FEES ENACTMENT. A public hearing on the Impact Fee Facilities Plan and Impact Fee Enactment and discussion.

Shane Williamson, Town Treasurer, gave a brief introduction to the public hearing on the Impact Fees Facilities Plan and Enactment. Shane explained the Town hired a firm to draft the impact fee analysis and as part of the requirements, a public hearing is required. The analysis has developed a new calculation of impact fees for water and sewer. Currently, the Town charges $5,250.88, the analysis is proposing an impact fee of $5,530.49 for the sewer.

Shane reported that during the process some of the Town's projects, specifically, the Snowshoe/Toboggan SAA were directed to look at a potential impact fee for that area which Matt put together for the Town. The Snowshoe/Toboggan service area for sewer would have an additional impact of $29,022.34 and would be related to the $1,900,000 bonds that the Town has for the SAA. Shane stated that it is important to note on his end that this fee may not be the right thing to do and that this is very new information being proposed and something that was not discussed previously.

Shane reported that following the public hearing, there will be a 90-day contest period that will allow for comments and appeals on the process before the Council can take action.

Mayor Calloway recessed the regular meeting and opened the public hearing at 1:23 p.m. Mayor Calloway stated that the Council would not engage with the public until after the public hearing was closed.

John Stark, Ski Haven Chalets lot owner, stated that this came to them for the first time in the agenda packet he knows that they talked about water and improved roads and talked about density studies but nowhere did they talk about a $29,000 impact fee on top of the project. He's not certain where and how this derived and how it came about without any knowledge to the owners of 69 lots, but all of a sudden it showed up in a staff report yesterday and they were flat-footed at this point.

Mr. Stark stated that only two of them saw the packet and then a third person was on the call today. Mr. Stark stated they he is trying to get his hands around how they can go from a density study to all of a sudden paying $29,000 in impact fees against something they never had a voice in.

No other comments were made and no written comments were submitted. Mayor Calloway closed the public hearing at 1:25 p.m. and reconvened the regular meeting.

Bret Howser, Town Manager, commented that he was assuming that most of the fees that are calculated are relatively similar to what the Town was already charging for impact fees. The notable exception is the Snowshoe/Toboggan service area sewer impact fees. As we were deciding to move forward with the projects, the question came up from the Council if the property owners were going to pay an impact fee we're moving through a process of calculating the impact fee and we're moving through the process, but the Council does not have to charge what is calculated and a policy decision can be made, but the staff was tasked with presenting on what the fee might be.

Bret apologized for possibly overlooking this portion of the impact fee when they were going through this with the consultant. With the $1,900,000 bond for the sewer projects, it included Snowshoe/Toboggan and may have included Ponderosa as well. Bret explained that the Town will wait to see if there are sufficient funds left over from the DEQ bond to do Ponderosa as well.
Shane explained that the Town is currently charging 50% of the adopted impact fee from 2009 and the proposed impact fee is $5,530. Bret reported that the Town should review the impact fee every six to ten years.

Bret reported that this study is up to the Council on how they apply the fees.

John Stark commented that because of the sewer density study due to their well source and high nitrate levels, he asked if it is fair to charge a receptive area when there are seven or eight other receptive areas of town that have cabins on septic right now and have the ability to build on septic now. To saddle the impact fees in a sector because they were the largest SAA to be formed at the coinciding time of the density study.

The Council thanked Mr. Stark for his comments.

Council Member Ricks lost connection with the Zoom Meeting at 1:48 p.m. and was excused from the meeting.

3. **NIGHT SKY LIGHTING PROJECT DISCUSSION.** A discussion on the night sky lighting projects for a Town-wide lighting retrofit project to bring non-conforming businesses and condo complexes into compliance with the Town's dark sky preservation lighting ordinance.

Bret Howser, Town Manager, explained that he has been working with Doug from DiVi Energy, a partner with Rocky Mountain Power on a potential project to deal with the night sky issues. Bret explained that the Town is going towards a dark sky-friendly code and several structures are non-conforming under the Town's Land Management Code.

Bret reported there are incentives from Rocky Mountain Power that are not necessarily geared towards dark sky-compliant lighting, but there are some crossovers in the sense they are saving energy through a grant program. The Town currently has a Business Beautification Program in which the Town would assist a business upgrade its exterior with up to $2,500 in grant money out of the Redevelopment Agency Fund. The program also includes condominium complexes for night sky lighting projects.

Bret reported he put together some numbers and put together some exhibits for the Council that are in the staff report of what the lighting would look like. Bret reported he also went around after dark and visited the condo complexes and businesses that were non-compliant and determined eleven structures were non-compliant.

Staff will send out a letter to the businesses letting them know of the project for the dark skies and the opportunity the Town is offering to them and if they are interested, they can sign up.

Bret recommended the Council allow staff to work with the businesses and condo complexes and start running plans by them so they know what lights are being installed and will make sure they are comfortable with the individual plans for their buildings before the numbers are finalized and if needed, a budget adjustment may be brought in front of the Council.

4. **PIONEERING AGREEMENT (UTILITY REIMBURSEMENT) DISCUSSION.** A discussion on the administrative use of reimbursement agreements for extension of utilities.

Bret Howser, Town Manager, explained that the Town previously used pioneering agreements in the past known as reimbursement agreements. Bret explained that the Town went away from the reimbursement agreement because the staff did not want to handle the challenges it presented and now they are being presented again.

Bret reported that the circumstances have changed enough that pioneering agreements could be beneficial to the Town and believes that staff can handle it administratively without it being identified in the Town Code. Bret reported that Eric Johnson, Town Attorney will draft a template agreement and inquired if the Council is comfortable with the idea of having pioneering agreements and having them administered administratively.

The agreement would allow an individual to extend utilities down their road and any properties they cross, those property owners would reimburse the original property owner who extended the utilities their proportionate share within a certain number of years when they connect to the Town's utilities. The sunset provision previously identified was ten years and they may or may not get any money back out which is the risk they run but if someone connects, they will pay their share.

Bret reported that it would be the responsibility of the original property owner who extended the utility to keep their contact information current with the Town if they want reimbursement, it will not be the Town's responsibility to track down the owner. If the check is returned in the mail, it could go back to the property owner who was trying to connect.

Council Member Tidwell inquired if utilities are installed by an existing cabin, would that cabin owner be required to connect? Bret responded they would be required to connect within three years if they were within 300 feet of the sewer or if the water ran to the furthest point of their property.

Consensus of the Council: Staff will move forward with pioneering agreements as presented.

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

Board of Equalization Meetings for Snowshoe/Toboggan SAA
July 31st, August 1st, and August 2nd from 1:00 – 2:00 p.m. three council members are needed. Mayor Calloway, Council Member Tidwell, and Council Member Freeberg will be on the Board of Equalization.

August 2, 2024, Planning Commission Tentative Agenda

1. Lot line vacation / minor plat amendments. Cedar Breaks Mountain Estates.
2. Minor subdivision in Ridge View where the owner has two lots and wants to make it four lots.

August 13, 2024, Town Council Tentative Agenda

1. 275 E. SAA Petition
2. Spring Circle SAA Notice of Intent
3. Land Management Code Amendments Chapter. 7 & 12

G. ADJOURNMENT

Motion: Council Member Tidwell moved to adjourn the regular meeting of the Brian Head Town Council. Council Member Freeberg seconded the motion.

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

The regular meeting of the Brian Head Town Council was adjourned at 2:43 p.m. on July 23, 2024

August 27, 2024
Date Approved

Nancy Leigh
Nancy Leigh, Town Clerk

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