

The Regular Meeting of the  
 Brian Head Town Council  
 Brian Head Town Hall - 56 North Highway 143  
 Brian Head, UT 84719  
**TUESDAY, NOVEMBER 12, 2019 @ 1:00 PM**

**Roll Call.**

**Members Present:** Council Member Hunter, Council Member Mulder, Council Member Marshall, Mayor Calloway.

**Members Absent:** Council Member Freeberg.

**Staff Present:** Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Chief Dan Benson, Public Safety Director.

**A. CALL TO ORDER**

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 pm for November 12, 2019.

**B. PLEDGE OF 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 at the Town Clerk's office and are available for public inspection during normal business hours.

**D. APPROVAL OF THE MINUTES:**

**October 28, 2019 Town Council Meeting**

**Motion:** Council Member Hunter moved to approve the October 28, 2019 Town Council minutes. Council Member Mulder seconded the motion.

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

**E. REPORTS / PUBLIC INPUT (Limited to three (3) minutes) Non-Agenda Items**

**Council Member Hunter** thanked the public safety department on behalf of the ski patrol for allowing them to use the public safety building last week for their meetings and thanked Officer Brad Benson who assisted Mercy Air Med in landing in Brian Head.

**Mayor Calloway**

1. The Resort will have free lift rides on the new high-speed quad located at Navajo Lodge, the invitation is for the local community to come and experience the new high-speed quad prior to the grand opening. Council Member Hunter reported there will also be a chair lift evacuation training for those who would like to participate.
2. Thanked everyone who voted in the 2019 Brian Head Election.



**Bret Howser, Town Manager**

1. Interviews were held last week for the Treasurer's position and an offer was made. Staff is in negotiations with the candidate at this time.
2. The Council identified two action steps in the FY2020 Strategic Plan for a public process to receive public input for an iconic piece of art and to identify a request for proposals for the art piece. **Consensus of the Council:** proceed with the action step.

**Chief Benson, Public Safety Director,** reported the Fire Department received two federal grants; one grant was for SCBA's and was a collaboration with Cedar City Fire Department and other local fire departments. The total amount of this grant was \$80,000 which has a match of ten percent (10%). The second grant was for \$30,000 for new personal protection equipment (PPE), this grant has a five percent (5%) match. Bret explained the Town will be able to identify the matching funds from the Asset Replacement Fund which will assist in expediting the larger equipment items that have been identified for purchase. Bret commented he appreciates the time and effort it takes to obtain these grants.

**G. AGENDA ITEMS:**

1. **SNOWSHOE / TOBOGGAN ROAD IMPROVEMENTS.** A discussion on potential road improvements for Snowshoe and Toboggan Roads.

Bret Howser, Town Manager, explained that property owner, Jim Vincent, is requesting the Town improve Snowshoe and Toboggan Roads. Bret explained these two roads are identified as gravel roads in the Street Master Plan and are scheduled for improvements in 2033. Bret explained the Town budgets \$20,000 annually to maintain existing roads. During the development of the Street Master Plan, the Council prioritized the types of roads giving the highest priority to fully developed roads and gravel roads which have utilities to them and would be more desirable for building. Roads that have no or partially developed utilities are the lower priority. The concept was to maintain the developed roads the Town already has.

Bret explained when the Town annexed the subdivisions between Forest Drive and Steam Engine Meadows, the Town acquired roads that were not up to the Town's standards. Jim Vincent and several other property owners are requesting the Town improve Snowshoe and Toboggan Roads by installing drainage and dirt work. Bret explained that Snowshoe Road is a steep, narrow and rough road and is very difficult to maintain due to the steepness of the road and sharp curve. The Town currently has Snowshoe and Toboggan Roads scheduled to be improved in 2033 and the property owners are requesting the Town expedite the schedule.

The Council discussed the following:

1. Bret explained that due to the steepness of the road, the staff does not feel that road base or millings would help with holding the road together. Staff has proposed a new product called "Earth Bind" which binds the dirt and will hold the road together and would be used on the steeper portion of the road along with the sharp curves. The Town has used this product on the upper portion of Hunter Ridge Road and has seen results.
2. If the Council is looking to reduce the cost, one option would be to use road base on the road which would give the Town a \$8,000 savings, bringing the total to \$16,000 for the improvements.
3. Preliminary discussions with the property owners were about cost sharing and reprioritizing the road improvement schedule. Staff has estimated the cost to improve Snowshoe and Toboggan would be \$24,000, which is higher than the annual budget for street improvements. This is due to the product "Earth Bind".
4. Bret explained the property owners have collected \$9,000 as a cost sharing with the Town to improve these roads. The property owners have given a verbal commitment



1 at this time since none of the property owners have signed a contract. The Town  
2 could make the agreement contingent upon the funds from the property owners first  
3 being submitted before the project begins.

- 4 5. Jim Vincent explained there are eleven (11) property owners and nine (9) cabins  
5 located on Snowshoe and Toboggan, and there are more people willing to build  
6 cabins if the roads were improved. Mr. Vincent then gave a brief history of when he  
7 first came to Brian Head and developed a small subdivision in the Woodbridge  
8 subdivision in the 1970's. Mr. Vincent explained he acquired eight (8) lots along  
9 Toboggan and has seen a lot of development in the area.
- 10 6. Mr. Vincent explained he brought power, natural gas and improved Snowshoe and  
11 Toboggan the best he could at a cost to him of \$150,000.
- 12 7. Mr. Vincent explained he and the majority of property owners petitioned the Town for  
13 a Special Assessment Area (SAA) for road improvements, water and sewer and the  
14 Council had approved the SAA, but then the recession hit, and the SAA did not  
15 proceed.
- 16 8. Mr. Vincent explained he has contacted eleven people and received nine property  
17 owners who are willing to contribute towards the improvement of the roads and are  
18 requesting the Town reprioritize the improvement schedule to identify these roads  
19 sooner.
- 20 9. Mr. Vincent explained there is an assessed value of \$4,500,000 of the nine cabins  
21 and they are also seeing heavier ATV traffic through the area.
- 22 10. Three new cabins are slated to be built in 2020 which will also benefit the Town.
- 23 11. Steve Singer, property owner, commented there were three to four properties sold  
24 this year and the property owners are waiting to build since the area is difficult to  
25 access.
- 26 12. Mayor Calloway inquired if the improvements would make the access easier on the  
27 road. Jim explained one of the main problems is a one lane, blind corner with a  
28 sharp curve at the bottom of the steep area making it a dangerous road for the public  
29 to use.
- 30 13. Mr. Vincent explained the road is platted as a 50' wide road and he and Aldo Biasi,  
31 Public Works Director, have walked the area and believe the road can be repaired.
- 32 14. Mayor Calloway commented if the Town was to improve the road and then water and  
33 sewer are installed at a later time, the improvements would go to waste.
- 34 15. Bret explained the project would include Toboggan, Snowshoe and Lookout Circle  
35 and staff would recommend using the product Earth Bind on the slopes and corners  
36 of the roads only.
- 37 16. The Town has reviewed the area for installing water and has determined there are  
38 different routes that could be used without tearing up the road. One suggestion was  
39 to identify the Mountain View waterline and obtain an easement from Brian Head  
40 Resort to loop the waterline into Ponderosa. The Town could apply for grant funding  
41 for this project. Bret reported he will ask the Town engineers to review it.
- 42 17. Chief Benson explained the Town identified these roads for fuel mitigation and has  
43 widened the roads as part of their project.
- 44 18. Bret explained the Town approached the owner located on Lookout Circle to trade  
45 property so the Town could install a waterline, but the property owner is not  
46 interested in selling or trading property, so the Town does not access through the  
47 area. Chief Benson commented that it would allow access to all the lots if the Town  
48 can obtain access through Lookout Circle to install a waterline.
- 49 19. Mayor Calloway commented that he appreciates the property owner's willingness to  
50 contribute, but feels that Mountain View is important to repair after the waterline  
51 project is completed since this area serve more cabins. Bret reported the road repair  
52 for Mountain View will be asphalt millings and the Town will have excess road base  
53 after the Mountain View waterline project is completed.
- 54 20. Bret explained the Council has the option to delay Adams Circle road improvements  
55 and would need to review some of the road projects again.



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- 21. Jim Vincent report he has received verbal agreements for \$9,000 from the property owners at \$1,000 per property but has not yet heard from two property owners. Bret suggested the Council consider identifying \$1,000 for each developed property which would be paid to the Town prior to the project.
- 22. Consensus of Council: Direct staff to acquire actual costs for the project and identify a level of commitment from the property owners. The Council is in favor of moving forward with the project.

**Motion:** Council Member Marshall moved to reprioritize the gravel road improvement schedule for Snowshoe and Toboggan for the fiscal year 2020. Council Member Mulder seconded the motion.

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

**2. 2019 MUNICIPAL ELECTION CANVASS.** Canvass of the November 5, 2019 Brian Head Town Municipal Election.

Nancy Leigh, Town Clerk, presented the results for the 2019 Brian Head Municipal Election held on November 5, 2019 (see attached). Nancy reported there were three Council seats available in which two seats were for a four-year term and one seat was for a two-year term. Larry Freeberg and Kelly Marshall filed for the four-year term seats and went unopposed in the election, so their names were not on the ballot. Shaun Kelly and Cecile Wallis filed for the two-year seat and each received 23 votes, making it a tie. Nancy reported the Council must first canvass the election results in order to make them official. In order to address the tie, the Council will need to hold a coin toss to determine the winner. This must be done in a public meeting and within 30 days after the canvass of the election.

Mayor Calloway read the official election results (see attached).

**Motion:** Council Member Marshall moved to approve the 2019 Brian Head Town election results as presented. Council Member Hunter seconded the motion.

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

Council Member Mulder commented that each candidate is well valued in the community and she appreciates each one for their dedication in running for office.

Nancy explained state law requires that a tie be broken in an open meeting and requested the Council hold a special meeting for the coin toss. The Council directed staff to hold a special meeting on Thursday, November 14, 2019 at 10:00 am at the Brian Head Town Hall for the purpose of breaking the tie for the two-year Council seat.

**3. ORDINANCE AMENDING THE LAND MANAGEMENT CODE, CHAPTER 12.6 (LIGHTING), 12.7 (BUILDINGS) AND 12.7(E) ROOFS.** An ordinance amending the Land Management Code, Chapter 12. 6, 12.7 and 12.7(E) for lighting, building designs and roofs.

Bret Howser, Town Manager, presented a draft ordinance amending the Land Management Code, chapter 12.6, 12.7(B) and 12.7(E) (see attached) identifying the changes Council requested. Bret reported the changes are identified in red font on the draft ordinance.

The Council discussed the following:



- 1 1. The draft identifies the Town's support of Cedar Breaks National Monument and their  
2 designation in the purpose section of 12.6 (Lighting) and would eliminate the last  
3 exemption in 12.6.F.6.
- 4 2. Lighting, shielding: Consensus of the Council: Delete the following in 12.6.A.2:  
5 *Shielding shall be employed to prevent light sources within light fixtures from being*  
6 *directly visible from adjacent properties. The fixture shield shall provide a sharp cutoff*  
7 *to prevent spillover lighting of the surrounding area and/or the sky. In order to qualify*  
8 *as a "shielded" fixture it must have the top and sides made of completely opaque*  
9 *material such that light only escapes through the bottom of the fixture. Merely placing*  
10 *a light fixture under an eave, canopy, patio cover or other similar cover does not*  
11 *qualify as full shielding unless the light source is sufficiently recessed into the building*  
12 *or the building itself provides full shielding.*
- 13 3. Bret reported #3 has also been deleted and shows as a strikethrough in red font on  
14 the proposed ordinance: *Light fixtures shall be located to prevent or avoid damage*  
15 *from roof snowshed or snow removal equipment.*
- 16 4. Bret reported that 9.12.6.D addressing the curfew will be identified in the Nuisance  
17 ordinance.
- 18 5. Council Member Marshall inquired as to what the Public Works Standards addresses.  
19 Bret explained that when work is done within the Town's rights-of-way, there are  
20 standards of how the work is to be done in order to meet the Town's standards.  
21 These standards are identified in the Public Works Standards Manual. Bret reported  
22 he will need to review the Public Works Standards Manual regarding streetlights.  
23 Bret explained the Council will review the Public Works Standards at a later time.
- 24 6. Mayor Calloway inquired if staff was able to research what Utah Department of  
25 Transportation (UDOT) has for the spacing between streetlights. Bret responded that  
26 UDOT doesn't have anything addressing streetlights, and staff is researching what  
27 other communities are doing for their streetlights, but that information is not available  
28 at this time.
- 29 7. Bret recommended the Council identify someone to make the decision in the policy  
30 and identify general guidelines for the distance between streetlights, such as the  
31 Public Works Director, or a committee.
- 32 8. Mayor Calloway commented that he believes streetlights are to create a sense of  
33 place and should be identified at intersections in order to let the public know they are  
34 going somewhere. Mayor Calloway commented the current streetlights are offensive.
- 35 9. Council Member Marshall commented she took a field trip at night to look at the  
36 Town's streetlights and agrees that are offensive, but she believes there is a need for  
37 the streetlights for safety issues such as snow removal on certain roads such as  
38 Pinehurst (which has a steep cliff off the side of the road) and she would like to see a  
39 light at the end of a cul-de-sac.
- 40 10. Consensus of the Council: identify night sky friendly lighting language added to  
41 9.12.6.E.iii. Bret explained it could also be identified in the Public Works Standards.
- 42 11. Mayor Calloway commented he believes something is missing and the streetlighting  
43 should create a sense of place which should be identified in the ordinance. Bret  
44 responded that staff could add language such as "additional streetlights may be  
45 placed by a designated person, in order to establish a better sense of place".
- 46 12. Bret explained the Council could establish a small committee of three people who  
47 would determine where to locate the "sense of place" streetlights and review the  
48 plans for a private subdivider to ensure where they are locating the streetlights in  
49 order to meet the Town's criteria. Bret recommended the Council identify the Public  
50 Safety Director on the committee for public safety purposes. Bret explained the  
51 Planning Commission or the Town Council, or possibly both, could also be the body  
52 that reviews it since they review subdivisions.
- 53 13. Bret commented the Town will need to create a master plan for streetlights.
- 54 14. Consensus of the Council: identify #5 to 9.12.6.E in order to create a sense of place.  
55 Bret – streetlights will be according to the adopted master plan, suggested.



- 1 15. Bret suggested the Council identify additional language to 9.12.6.E.3 “may be  
2 required by the Planning Commission for purposes of public safety or for creating a  
3 sense of place”.
- 4 16. The subdivision code addresses water and sewer and does not address lighting.  
5 Shaun Kelly commented there is a reference to Utah Code, but is unsure what that  
6 code references.
- 7 17. Consensus of the Council; 9.12.6.E.1 add: “iv. additional streetlights may be used to  
8 establish a sense of place in accordance with the Streetlight Master Plan approved  
9 by the Town Council.
- 10 18. Under 9.12.6.E.3 add the following language: “Additional streetlights may be placed  
11 along the right-of-way as required by the planning commission to establish a sense of  
12 place”.
- 13 19. Mayor Calloway commented that under 9.12.6.F.5, Recreational Uses identifies the  
14 plan as exempt. Consensus of the Council: Delete the word “plans” under  
15 9.12.6.F.5.
- 16 20. Mayor Calloway commented the word “spirit” is confusing and suggested the Council  
17 identify a different word that would identify the intent. Consensus of the Council:  
18 delete the word “spirit” and replace with “intent”.
- 19 21. Mayor Calloway inquired if the proposed language presents a roadblock for other  
20 night skiing developments on the mountain. Council Member Marshall commented  
21 she believes the language gives the Planning Commission the deciding vote on  
22 whether the applicant is meeting the intent.
- 23 22. Council Member Mulder inquired if there is a future Planning Commission and they  
24 don’t feel it meets the spirit, could the code be challenged or changed? Bret  
25 responded that as long as the Town has the right to say “No”, the Council has the  
26 ability to change the code afterwards.
- 27 23. Consensus of the Council: Under 9.12.6.E.1.iii: change to read as follows: “*The*  
28 *specifications of street lighting fixtures will be in accordance with the Town’s Public*  
29 *Works Standards and shall utilize lamp types that are energy efficient and are dark*  
30 *sky compliant and mitigate for other negative impacts of artificial lighting*”.

- 31  
32 **Motion:** Council Member Marshall moved to adopt ordinance #19-014, an ordinance  
33 amending Title 9, Land Management Code, 9.12.6 (lighting), 9.12.6 (B) Architectural  
34 Design, and 9.12.6 (E) Roofs as presented and with the following changes:
- 35 1. Delete the following in 12.6.A.2: *Shielding shall be employed to prevent light*  
36 *sources within light fixtures from being directly visible from adjacent properties.*  
37 *The fixture shield shall provide a sharp cutoff to prevent spillover lighting of the*  
38 *surrounding area and/or the sky. In order to qualify as a “shielded” fixture it must*  
39 *have the top and sides made of completely opaque material such that light only*  
40 *escapes through the bottom of the fixture. Merely placing a light fixture under an*  
41 *eave, canopy, patio cover or other similar cover does not qualify as full shielding*  
42 *unless the light source is sufficiently recessed into the building or the building*  
43 *itself provides full shielding.*
  - 44 2. 9.12.6.E.iii: add the following language: “Additional streetlights may be placed  
45 along the right-of-way as required by the planning commission to establish a  
46 sense of place”.
  - 47 3. 9.12.6.E. Add “iv: Additional streetlights may be used to establish a sense of  
48 place in accordance with the Streetlight Master Plan approved by the Town  
49 Council: “This is In order to create a sense of place”.
  - 50 4. 9.12.6.F.5, Recreational Uses: Delete the word “plans”.
  - 51 5. 9.12.6.F.5 Recreational Uses: Delete the word “spirit” and replace with the word  
52 “intent”.
  - 53 6. 9.12.6.E.1.iii: change to read as follows: “*The specifications of street lighting*  
54 *fixtures will be in accordance with the Town’s Public Works Standards and shall*  
55 *utilize lamp types that are energy efficient and are dark sky compliant and*  
56 *mitigate for other negative impacts of artificial lighting*”.



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Council Member Hunter seconded the motion.  
**Action:** **Motion carried 4-0-0 (summary: Yes = 4 Vote:** Council Member Marshall, Council Member Hunter, Council Member Mulder, Mayor Calloway. **Absent:** Council Member Freeberg).

**4. POTENTIAL FUTURE AGENDA ITEMS.** The Council will discuss potential items for future agenda items.

1. Mayor Calloway commented he would like to have the Planning Commission review and forward a recommendation to the Council on the Land Management Code, Chapter 7, for OHV rentals in the Village Commercial zone. Mayor Calloway commented the Town recently approved a conditional use permit for an OHV business in the Village Commercial zone which has brought up a lot of concerns. He would like to see if the Planning Commission believes this is properly zoned and forward their recommendation onto the Town Council for consideration. Bret explained the Planning Commission has also requested to review the conditional uses in the Village Commercial zone.
2. Mayor Calloway suggested the Council review the Public Works Standards Manual for lighting. Bret responded he was intending to include it in the FY2021 Strategic Planning Retreat scheduled for January 2020.
3. Mayor Calloway recommended the Council identify their 2020 meeting schedule to change from Monday back to Tuesday and directed staff to identify the meeting calendar for the second and fourth Tuesday of each month for Council's approval at the next Council meeting on December 9, 2019.
4. Council Member Hunter inquired as to the date for the Town's annual holiday dinner. Bret responded he will verify with Cecilia on the date and details. Nancy reported the holiday dinner is scheduled for November 22, 2019 at Brian Head Resort.

**H. ADJOURNMENT**

**Motion:** Council Member Mulder moved to adjourn the regular meeting of the Brian Head Town Council for November 12, 2019. Council Member Hunter seconded the motion.

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

The regular meeting of the Brian Head Town Council was adjourned at 3:00 pm for November 12, 2019.

December 9, 2019

Date Approved

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Nancy Leigh, Town Clerk

