

Approved January 14, 2020

The Regular Meeting of the
 Brian Head Town Council
 Brian Head Town Hall - 56 North Highway 143
 Brian Head, UT 84719
MONDAY, DECEMBER 09, 2019 @ 1:00 PM

Roll Call.**Members Present:**

Mayor Clayton Calloway, Council Member Larry Freeberg, Council Member Shad Hunter, Council Member Lynn Mulder, Council Member Kelly Marshall.

Staff Present:

Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Cecilia Johnson, Town Treasurer; Dan Benson, Public Safety Director; Shane Williamson.

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00pm for December 9, 2019.

B. PLEDGE OF ALLEGIANCE

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

C. PRESENTATION TO COUNCIL MEMBER HUNTER FOR YEARS OF SERVICE

Mayor Calloway presented Council Member Hunter with a plaque of appreciation for Council Member Hunter's years of service as a Council Member. Mayor Calloway thanked Council Member Hunter for his dedication to the Town serving as a Council Member for the past two years.

D. 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.

E. APPROVAL OF THE MINUTES:**1. November 12, 2019 Town Council Meeting**

Motion: Council Member Hunter moved to approve the November 12, 2019 Town Council minutes. Council Member Marshall seconded the motion.

Action: **Motion carried 4-0-1 (summary: Yes = 4, No = 0, Abstain = 1 Vote: Yes:** Council Member Hunter, Council Member Marshall, Council Member Mulder, Mayor Calloway. **Abstain:** Council Member Freeberg).

2. November 14, 2019 Town Council Special Meeting

Motion: Council Member Hunter moved to approve the November 14, 2019 Town Council Special meeting minutes. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-2 (summary: Yes = 3, No = 0, Abstain = 2).**
Yes: Council Member Hunter, Council Member Marshall, Mayor Calloway.
Abstain: Council Member Freeberg, Council Member Mulder).

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

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1 **Nancy Leigh, Town Clerk**, invited the Council and public to Cecilia Johnson's, Town Treasurer,
2 retirement open house, scheduled for Wednesday, December 18, 2019 from 4:00 to 6:00 pm.
3 Everyone is invited to attend and wish Cecilia a happy retirement.
4

5 **Council Member Hunter** commended the public works crew on their snow removal efforts during
6 the recent heavy winter storms and for also keeping the Town walking trail open to the public.
7

8 **Council Member Mulder**

- 9 1. Thanked the public works crew for installing Christmas wreaths on the Town's directional
10 kiosks which are located throughout the Town.
11 2. Commended the public safety department on their efforts in which one incident was
12 quickly resolved by Officer Abbott. The public safety department is doing a great job.
13 3. Congratulated Officer Abbott on receiving first place for the ugly sweater contest.
14

15 **Mayor Calloway** reported he has received several compliments from the community on the
16 staff's effort in keeping the roads open during the recent winter storms and the public safety
17 officers assisting the guests during the storms. Mayor Calloway thanked the town staff for their
18 efforts.
19

20 **Council Member Freeberg** thanked the staff on ensuring the town snowmobile trail was
21 groomed for the holidays. Mayor Calloway inquired if the newly installed zig-zag fence was an
22 issue with the snowmobile trail. Council Member Freeberg commented it was not an issue, but
23 the Town may want to mark a large rock that is near the trail.
24

25 **Bret Howser, Town Manager**, presented the budget monitoring report to the Council (see
26 attached). Bret reported the sales taxes are trending about ten percent ahead of last year's.
27 Bret explained the Town receives the sales tax distribution approximately two months after the
28 quarter ends. Bret gave a brief explanation of the financial status of the Town and projects.
29

30 **Chief Dan Benson, Public Safety Director,**

- 31 1. Updated the Council about a vehicle incident on Highway 143, in which the driver
32 abandoned the vehicle. Someone called into dispatch and the vehicle was towed off the
33 mountain.
34 2. Received a call for assistance when a van full of people was stuck on Highway 143 near
35 Sydney Valley, they able to make the call since they had some cell service. The
36 department and UDOT were able to help the people get out.
37 3. Council Member Freeberg inquired about an incident that happened with a nightly rental
38 home. Chief Benson explained it was a college party that was broken up and the rental
39 management company and homeowners were notified of the event. Council Member
40 Freeberg commented he would like to have the Council discuss the issues with the
41 nightly rentals. Chief Benson explained there have always been nightly rentals in Brian
42 Head in which the department addresses any issues that may arise. Bret reported staff
43 has been discussing the enforcement of the new nightly rental code and on educating the
44 businesses. Bret reported staff will be holding a meeting with administration, public
45 safety and public works staff to discuss the process and issues.
46

47 **Cecilia Johnson, Town Treasurer**

- 48 1. The Town received an insurance premium relief credit from Utah Local Governments
49 Trust. The Town received a check in the amount of \$2,438.
50 2. This will be Cecilia Johnson's last Council meeting since she will be retiring December
51 31, 2019.
52

53 **Justin Morgan**, Business Owner, updated the Council on his recent purchase of 2.5 acres of
54 property adjacent to Timberbrook Condominiums. Mr. Morgan reported he plans to construct tiny
55 homes on the property and would like the Council's input on some of the proposed designs. Mr.
56 Morgan presented some pictures of the proposed tiny homes (see attached). Mr. Morgan
57 explained he plans to be on the Council's next agenda for the January meeting in order to get

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1 feedback from the Council on his proposed project. Mr. Morgan explained he will present his
 2 project to the Planning Commission first and he is still working on an issue in which the property
 3 is land locked and he needs to get access to Highway 143. The proposed project is
 4 approximately 25 tiny homes located in the 2.5 acres of land.

5
 6 **G. AGENDA ITEMS:**
 7

8 **1. FISCAL YEAR 2019 AUDIT PRESENTATION.** Presentation of the FY2019 Audit ending
 9 June 30, 2019.

10 Mr. Wayne Everett, Town Auditor, presented the annual fiscal year 2019 Town audit (see
 11 attached). Mr. Everett gave a brief explanation of the audit with the following highlights:

- 12 1. Mayor Calloway inquired if he found any other issues in the audit other than the
 13 minutes not being posted to the Public Meeting Notice Website within three days.
 14 Mr. Everett explained that it was one meeting that wasn't posted in the required three
 15 days.
- 16 2. Mr. Everett gave a brief explanation of the Special Service District (SSD) fund in
 17 which the SSD purchased water rights on behalf of the Town, but the water rights
 18 don't show as an asset because they were prepaid and they are unearned revenue
 19 and amortized over a 50 year period. It is identified as a negative equity which the
 20 state has questions on every year. There is an explanation in the notes so that the
 21 Council is aware that it has to do with the acquiring of water rights through the SSD.
- 22 3. Income and expenses for the General Fund has a net income of \$115,000 and a fund
 23 balance of 1.4 million. The SSD has \$30,000 of the prepaid revenue.
- 24 4. The Snowmaking Lease is now complete, and the Town will be transferring the
 25 snowmaking equipment identified in the snowmaking lease over to the resort.
- 26 5. Mr. Everett reported there were no concerns to him on the audit.

27
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 29 The Council thanked Mr. Everett for his presentation. Council Member Freeberg thanked
 30 Bret and Cecilia for their efforts in maintaining the budget.

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 33 **2. PLANNING COMMISSION APPOINTMENTS.** Appointment of Jeff Morgan as Planning
 34 Commission Member and Arnold Needham as the Alternate Planning Commission Member.

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 36 Bret Howser, Town Manager, explained the Planning Commission had a vacant seat due to
 37 Shaun Kelly winning the Town Council seat in the 2019 election.

38
 39 Bret explained Jeff Morgan is currently the alternate Planning Commission Member and, with
 40 the vacant seat, he would recommend Jeff Morgan be appointed as a Planning Commission
 41 Member and Arnold Needham as Alternate Planning Commission Member.

42
 43 Bret explained the vacancy was noticed and Mr. Needham submitted a letter of interest for
 44 the alternate seat member for the Planning Commission. Bret explained Mr. Needham has
 45 been expressing his desire to serve on the Planning Commission, but there have been
 46 concerns with Mr. Needham traveling a great deal and his ability to attend the meetings, but
 47 the alternate member only votes if a Planning Commission Member is not present at the
 48 meeting to vote. Bret explained both seats are a five-year term and requested the Council's
 49 advice and consent to appoint Jeff Morgan as Planning Commission Member and Arnold
 50 Needham as Alternate Member.

51
 52 **Motion:** Council Member Freeberg moved to appoint Jeff Morgan as Planning
 53 Commission Member and Arnold Needham as the Alternate Planning
 54 Commission Member. Council Member Mulder seconded the motion.

55 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg,
 56 Council Member Mulder, Council Member Hunter, Council Member Marshall,
 57 Mayor Calloway).
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3. PUBLIC HEARINGS:

a. PREMINLARY PLAT APPROVAL FOR CROOKED RIVER.

Bret Howser, Town Manager, gave a brief introduction for the preliminary plat approval for Crooked River. Bret explained the public hearing was held at the Planning Commission level, but the Planning Commission did not forward a recommendation to Council during their meeting. Since the public hearing notice included both the Planning Commission and Town Council meeting dates, the Council will need to hold a public hearing, but will not take any action at this time until the Planning Commission has forwarded their recommendation. The preliminary plat requires approval from both the Planning Commission and the Town Council. Bret recommended the Council proceed with the public hearing at this time.

Bret gave a brief explanation of the changes to the final plat for Crooked River:

1. The developers will be platting out the rest of the property to the north of the existing buildings in which there will be an additional 20+ units.
2. The idea is to bring the street in more towards the west. The Planning Commission is waiting for more information since there was a concern with tree removal.
3. The developer is asking for flexible approach which is identified in the Residential Planned Development (RPD) of the Land Management Code in exchange for preserving trees. Bret explained they are asking for the setbacks to go back 2' to 4'.
4. They will be incorporating trails and preserving the trees.
5. Presented a presentation of the Crooked River plat amendment (see attached).

Zone District Map Amendment

Bret Howser, Town Manager, explained the Town adopted some amendments to the Zone District Map in 2015 and as part of the amendment there were a few areas in which the zone was changed. One area was the property located east of the Timbernest Condominiums which were previously zoned as multi-family residential and was changed to single-family residential. There are three properties that were changed and are located on the corner of Steam Engine Drive and Forest Drive. The change in zone did not receive a lot of discussion at that time and was in compliance with the General Plan map which allowed the properties to be zoned either multi-family or single-family residential and staff identified the more restrictive zone which was single-family residential.

Another change is the Summit subdivision which is located on the south end of Town was also identified as single-family and should have been multi-family residential since it was plated for condominiums and the property has been recently sold and the owners are planning to develop the subdivision in the near future.

The Planning Commission has recommended to change the Summit subdivision back to the multi-family residential.

Mayor Calloway recessed the regular meeting and opened the public hearing to receive comment on the preliminary plat for Crooked River and for the Zone District Map at 1:57 pm. Mayor Calloway explained the Council will not respond to questions raised during the public hearing portion, but will address any questions after the public hearing is closed.

1. Crooked River Preliminary Plat Approval:

No comments were made, and no written comments were submitted for this item.

2. Zone District Map Amendment:

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1 Shaun Kelly, Planning Commission Member, commented he believes the property that is
2 located on Spruce Street is zoned as light industrial, but the current map shows the property
3 zoned as single-family residential. Mr. Kelly stated he believes that this could be an oversight
4 since he is aware the owners are planning on constructing storage units on the property and
5 the project has been reviewed by the Planning Commission. Bret reported he will verify the
6 zone.

7
8 Nancy Leigh, Town Clerk, stated she has received a comment from Mr. Mike Hyte, property
9 owner on Forest Drive. Nancy then read Mr. Hyte's comments. Mr. Hyte stated he objects to
10 the proposed zone change for the three properties that are located on the corner of Steam
11 Engine Drive and Forest Drive which are currently zoned as single-family residential and are
12 proposed to change to multi-family residential. Mr. Hyte stated that the properties are the
13 gateway to the Cedar Breaks Mountain Estates subdivision and the proposed zone changes
14 are out of character with the neighborhood and surrounding area. Mr. Hyte further
15 commented that the Council should not spot zone one parcel since it would be inconsistent
16 with the established use.

17
18 There were no other comments and no written comments were received.

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20 Mayor Calloway closed the public hearing for the Crooked River Preliminary Plat Approval
21 and Zone District Map Amendments at 1:55 pm and reconvened the regular meeting of the
22 Town Council.

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25 **4. ZONE DISTRICT MAP AMENDMENT ORDINANCE.** An ordinance amending the Zone District
26 Map.

27
28 Bret Howser, Town Manager, presented a draft ordinance amending the Zone District Map
29 (see attached).

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31 The Council discussed the following:

- 32 1. Mayor Calloway commented he does not believe the Council would be spot zoning
33 since the properties are connected to multi-family residential zones and in the
34 General Plan Map; this would be an extension of the zone.
- 35 2. Council Member Freeberg commented Mr. Hyte brought up a good point in which the
36 properties are at the entrance to the Cedar Breaks Mountain Estates subdivision
37 which is one of two entrances and traffic would have to go through the multi-family
38 residential zone area first. Mayor Calloway responded traffic is already driving
39 through on Steam Engine Drive which has multi-family residential buildings located
40 adjacent to the road and he would like to know the impact. Council Member
41 Freeberg commented the properties are located on the corner of Forest Drive which
42 is the entrance to the subdivision, and he believes he has a good point.
- 43 3. Shaun Kelly commented the majority of traffic has to travel past the condominiums in
44 order to get to the single-family residential areas such as Ridge View Street where
45 Copper Chase and White Bear are located before the single-family area.
- 46 4. Council Member Freeberg commented the roads in the area of the Cedar Breaks
47 Mountain Estates subdivision are narrow roads with the exception of Steam Engine
48 Drive. Those that live north of those properties will be looking at condominiums.
- 49 5. Bret explained that the General Plan Map and the Zone District Map (which was
50 amended in 2015). The guidelines staff used were so that multi-family residential
51 didn't unload into single-family residential neighbors since that could create traffic
52 issues. The idea was to have multi-family residential and commercial zones off of the
53 highway and to also have nodes of multi-family residential zones which would then
54 lead into the single-family residential zones. Bret inquired if the Council is satisfied
55 with the proposed changes since the decision was already made with the General
56 Plan Map.
- 57 6. Council Member Marshall commented the owner of the three properties that are
58 located on the corner of Forest Drive and Steam Engine Drive was unaware his

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1 properties were rezoned as single-family residential. Bret explained the Town did the
 2 proper notification for the zone changes.

- 3 7. Bret explained that in reviewing changes for the Zone District Map, staff did not refer
 4 to the existing zone map, but used the General Plan Map for the proposed changes.
 5 Staff did attempt to discuss the properties that would be changing as a result of the
 6 work staff was doing but did not have any specific discussion with the Planning
 7 Commission about impact on any changes. Bret explained his thinking was to keep
 8 the multi-family residential nodes outside the neighborhoods.
- 9 8. Mayor Calloway inquired if multi-family residential is a conditional use in single-family
 10 zones. Bret responded it is not.
- 11 9. Council Member Marshall commented the owner of the three properties is requesting
 12 his properties to be changed back to multi-family residential zone.
- 13 10. Bret explained staff reviewed the Zone District Map and noticed there were other
 14 areas that needed to be changed due to inconsistencies.
- 15 11. Council Member Freeberg commented there are two entrances to Cedar Breaks
 16 Mountain Estates subdivision in which one entrance is used extensively, Forest
 17 Drive, to access the single-family residential neighborhood and if it is zoned as multi-
 18 family residential, then it will be a negative impact on the neighborhood.
 19 Council Member Freeberg commented if the properties could be accessed off of
 20 Steam Engine Drive instead of Forest Drive, then it could help the negative impact on
 21 the neighborhood, Bret explained the Council could state it as a condition of
 22 approval for the multi-family residential use to be off of Steam Engine Drive. Bret
 23 explained he would need to do further research on it.
- 24 12. Council Member Freeberg commented the adjacent properties are twenty feet (20')
 25 lower than the proposed properties that are requesting to be rezoned.
- 26 13. Bret explained he will verify that the lot on Spruce Street is zoned as light industrial.
- 27 14. Mayor Calloway requested staff conduct more research on a condition that would
 28 require multi-family residential building to access from a main connector road along
 29 with the history on the properties.

30
 31 **Motion:** Mayor Calloway moved to table Agenda Item F-4, Zone District Map Amendment
 32 for further research from staff on the conditions of approval for the properties
 33 located on the corner of Forest Drive and Steam Engine Drive to be accessed
 34 from Steam Engine Drive if it zoned as multi-family residential and verify the zone
 35 for the lot located on Spruce Street. All other proposed changes are satisfactory.
 36 Council Member Hunter seconded the motion.

37 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Mayor Calloway, Council
 38 Member Hunter , Council Member Freeberg, Council Member Mulder, Council
 39 Member Marshall).
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42 **5. TOWN COUNCIL MEETING SCHEDULE FOR 2020.** An ordinance approving the 2020-year
 43 meeting schedule.
 44

45 Nancy Leigh, Town Clerk, presented a draft ordinance amending the Town Council meeting
 46 schedule (see attached). Nancy explained staff received direction from Council during the
 47 December 2019 meeting to identify Council meetings for Tuesdays instead of Mondays. With
 48 this change, the Council will need to adopt an ordinance identifying Council meetings on the
 49 second and fourth Tuesday of each month beginning at 1:00 pm and it would allow the
 50 Council to approve their annual meeting schedule by motion.
 51

52 Nancy presented the 2020 Town Council meeting schedule and requested the Council first
 53 adopt the ordinance and then approve the 2020 meeting schedule.
 54

55 **Motion:** Council Member Mulder moved to adopt ordinance No. 19-014, an ordinance
 56 amending the Town Council meeting schedule as presented. Council Member
 57 Freeberg seconded the motion.

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Bret explained that he has learned some things on lighting and will add the Christmas Tree decorating to the list and Council will be addressing it during the Strategic Retreat.

- 5. Mayor Calloway commented that some of action steps have generated a check list for staff to minimize and nothing comes of it. He believes there is a disconnect between the intent of the Council and the actual result and if the Council needs to be more specific on some of the action steps, then staff should let the Council know. Bret explained that one concept he has considered is a theme that would get everyone on the same page for an expectation level on the action steps which would be part of the Strategic Retreat.

Council Member Marshall commented that if Council wants to see a certain expectation level and staff is unclear on a certain item, then staff could bring it up during a Council meeting. Bret explained there are some quality things and it depends on the person’s perspective. It is an organizational culture which needs to be worked on and it could also be an exercise for the retreat.

Mayor Calloway commented on the Christmas lights that Cedar City has over their main street which was extraordinary this year along with Frank Davis who exceeds expectations with his Christmas light display at his home in Parowan. He would like to see something like these two examples at the pond for the Christmas theme.

H. ADJOURNMENT

Motion: Council Member Freeberg moved to adjourn the regular meeting of the Brian Head Town Council for December 9, 2019. Council Member Hunter seconded the motion.

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

The regular meeting of the Brian Head Town Council was adjourned at 2:40 pm for December 9, 2019.

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Date Approved

Nancy Leigh, Town Clerk