

The Regular Meeting of the  
 Brian Head Town Council  
 Brian Head Town Hall - 56 North Highway 143  
 Brian Head, UT 84719  
**MONDAY, APRIL 22, 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; Aldo Biasi, Public Works Director; Cecilia Johnson, Town Treasurer; Wendy Dowland, Public Works Assistant

**A. CALL TO ORDER**

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 pm for April 22, 2019.

**B. PLEDGE OF ALLEGIANCE**

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

**C. TAP AWARD PRESENTATION:** Utah Local Governments Trust will present the annual TAP award to the Council.

Brent Oakerson, Utah Local Government Trust, presented the 2018 TAP award to the Council. Mr. Oakerson explained this award is for the staff's participation in the Trust's TAP program in which the Town has received the award for the last four years. The program is to help prevent losses and claims and the Town saves five percent (5%) of the town's insurance premiums and received a check in the amount of \$1,364 for 2018.

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

**Council Member Hunter** reported the resort received 383.5" of snow for the 2018-19 winter season. Council Member Hunter stated this was the best season on record with over 200,000 skier days.

**F. APPROVAL OF THE MINUTES:**

**1. March 25, 2019 Town Council Meeting**

**Motion:** Council Member Freeberg moved to approve the March 25, 2019 Town Council minutes. Council Member Marshall seconded the motion.





2. Council Member Marshall inquired as to the total budgeted amount for the 2019 Streets Project. Aldo responded the total amount budgeted was \$280,000 which included funds for engineering for the 2020 Streets Project next year.

**Motion:** Council Member Hunter moved to award the 2019 Streets Project to Western Rock for an amount not to exceed \$250,599 as presented. Council Member Mulder seconded the motion.

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

**2. NIGHTLY RENTAL MANAGEMENT COMPANY PRESENTATION AND DISCUSSION.** Lisa Holton, Family Time Vacation Rentals, gave a presentation to the Council on possible solutions to the proposed Nightly Rental Ordinance amendment.

Mayor Calloway explained the Council's quest to receive public input on the nightly rental ordinance amendment, Council requested the nightly rental management companies coordinate a meeting with the rental companies and give a presentation on their self-imposed regulations for nightly rentals. Mayor Calloway explained a proposed ordinance amendment was first presented to Council during the February 26, 2019 meeting and the Council has held numerous meetings discussing and receiving input on the nightly rentals. Mayor Calloway then introduced Lisa Holton, Family Time Vacation Rentals, as the speaker for the rental management companies.

Lisa Holton, Family Time Vacation Rentals, explained that in talking to the rental management companies about the proposed changes to the nightly rental code, the operators agreed with the following proposed recommendations to the Council:

1. Cabins and condos should be regulated separately since the Homeowners Associations (HOA) govern the buildings and parking for their condo complexes.
2. Each property should provide a parking diagram for their guests based on the allowed number of vehicles and where they should park.
3. Trying to limit the occupancy hurts the small and large properties.
4. Each vacation rental should have a nearby contact with a two to four-hour response time to address any complaints.
5. Most rental management companies have internal guidelines already in place to handle a majority of issues such as quiet times.
6. In regard to a business license, a sales tax license ID# should be provided for each outlet. If there is an issue with a particular property, the town could pull the license for that location rather than affect all of the properties listed under the rental management.
7. Vacation rental homes should list their transient room tax (TRT) ID# on their advertising so the town and public will know if they are collecting and remitting taxes.
8. Lisa submitted a Good Neighbor Policy to the Council for their review (see attached).

The Council thanked Lisa for her presentation and held discussion on the following:

1. Mayor Calloway inquired as to the Good Neighbor Guidelines that were presented to Council and if it is something that was picked up somewhere and how the rest of the rental management companies feel about working on something that is uniform for all rental units in Brian Head. Lisa explained it is a common knowledge and the bullet point identifying the garbage would need to be modified to fit Brian Head's



- 1 specific needs, but it could be posted within the unit or in the guest books to inform  
2 the guests.
- 3 2. Council Member Freeberg explained if one business license is issued to a Rental  
4 Management Company and they divide it out by outlets then how would the town  
5 pull a license if only one license was issued? Lisa explained she would need to  
6 consult with Matt Tesdall who is the owner of Family Time Vacation Rentals since  
7 she is unsure.
- 8 3. Council Member Marshall explained that when a business is set up with the State  
9 Tax Commission, that business can identify an outlet at a different location with the  
10 same tax id#.
- 11 4. Mayor Calloway inquired if the town should create a sub-license at a minimal fee  
12 instead. Lisa explained there are a lot of owners that depend on the rental  
13 management companies to do the work for them.
- 14 5. Council Member Freeberg inquired that if a parking plan is required for each  
15 location, would the rental management company take on the responsibility of  
16 completing and submitting the plan to the town? Lisa explained that is something  
17 the rental management companies would do along with informing the guests and  
18 providing the parking diagram.
- 19 6. Council Member Freeberg inquired as whether a fire inspection is required annually.  
20 Nancy Leigh, Town Clerk, explained the fire inspection is done one time when the  
21 license application is submitted or when a rental management company brings on a  
22 new rental.
- 23 7. Mayor Calloway inquired if there should be a maximum occupancy limit that would  
24 be reasonable for a single-family (R-1) residential zone. Lisa responded they ran  
25 several numbers and there is no formula that fits, and it could negatively affect the  
26 smaller or larger properties. There is no guarantee of how many cars the guests are  
27 bringing, and that parking should be further addressed. If a property is allowed four  
28 standard parking spaces according to their building plans, then that number should  
29 be identified for their parking requirements.
- 30 8. Council Member Freeberg commented that condos/cabins with loft areas and  
31 bunkbeds make it difficult to set the occupancy limits. Lisa explained when they  
32 receive a new rental property, they try to set the occupancy to fit the condo and  
33 parking.
- 34 9. Arnold Needham, Cedar Break Lodge, explained Cedar Breaks Lodge identifies  
35 their occupancy by the number of beds as a hotel. Arnold explained there are 28  
36 individuals who rent out their condos at Cedar Breaks Lodge and explained they are  
37 required be individually registered and he believes it should apply to everyone.
- 38 10. Mayor Calloway explained that people have a right to rent and enjoy their properties  
39 and this is a sensitive issue.
- 40 11. Arnold explained the hotel industry standard for occupancy is two people per bed,  
41 which would include a pull-out couch. Arnold inquired if the town were to issue sub-  
42 licenses and a violation happened, who would the town fine, the license holder or  
43 sub holder? Council Member Freeberg commented it could be either way, the town  
44 could fine the management company and they, in turn, could fine the sub holder of  
45 the license.
- 46 12. Jose Martinez, Best Western Premier, explained the hotel standard for occupancy  
47 would not work for cabins and the town would need to figure out a way to work for  
48 them.
- 49 13. Nancy Leigh, Town Clerk, reported the town currently has 79 cabins and 426  
50 condos that are currently licensed for nightly rentals.
- 51 14. Phyllis Semick, Diamond Peak Property Management, inquired if the Fire  
52 Department could assist in determining the occupancy for a cabin. Phyllis explained  
53 the condos are self-explanatory. Mayor Calloway explained if the town provides  
54 guidelines to the Fire Department such as a means of egress it could help set



1 occupancy limits but to understand that enforcing the occupancy limit is very  
2 difficult.

- 3 15. Phyllis explained they could work together coming up with the occupancy limits.  
4 Phyllis went on to report there are a lot of owners that are not licensed and renting  
5 and state they are not renting when they actually are. Nancy explained the town  
6 now has a new software program that identifies nightly rentals within the town and  
7 will be used as an enforcement tool in licensing unlicensed businesses.
- 8 16. Vicki Hicks, nightly rental business owner, explained she came to the meeting today  
9 because she is on Parowan's City Council and they are working on their short-term  
10 rental ordinance. Vicki explained that every time they proposed an amendment,  
11 their attorney had an issue with it. Vicki explained she would like Parowan City and  
12 Brian Head to work together on a short-term rental ordinance and requested staff to  
13 send her the other cities' short-term ordinances that Brian Head has gathered.  
14 Vicki explained that, according to her attorney the state will no longer allow a city to  
15 license a short-term rental, but there is some controversy on it. Arnold responded  
16 he has done research on 58 cities for their short-term rental ordinances and was  
17 part of Cedar City's committee that made the recommendation to the City Council  
18 on their short-term rental ordinances. He is unaware of the state passing a law that  
19 would prohibit a municipality from licensing a short-term rental. Vicki stated she  
20 would like to see support for both Parowan's and Brian Head's ordinances.
- 21 17. Council Member Marshall inquired if the town could require something like the Good  
22 Neighbor Policy be identified on the homeowner's advertising website. Nancy  
23 reported the state passed a law that prohibits municipalities from regulating  
24 advertisement for a short-term rental. Nancy explained she could research it further  
25 and determine whether the town could require a good neighbor policy to be part of  
26 the packet for a guest who is renting.
- 27 18. Shaun Kelly, Planning Commission Member, reported he has monitored and  
28 watched the short-term rental conversation over the past months and explained the  
29 town already has ordinances against issues such as on-street parking, dogs at  
30 large, garbage, etc. and it just needs to be enforced. He questioned what would  
31 happen if the town were to pass another code and the town didn't enforce that  
32 either. Shaun went on to explain if there was a nightly rental in a single-family  
33 residential zone, then it shouldn't violate that zone. Once they receive a citation, the  
34 word would get out fast enough and could solve some of the issues.
- 35 19. Mayor Calloway commented this is not a public hearing, but the Council is looking to  
36 gather information.
- 37 20. Dan Phelan, resident, explained the insurance is not being emphasized enough and  
38 if the rental home burns down and has 30 people inside, their insurance wouldn't  
39 cover it. Dan explained the town should look at an insurance requirement as part of  
40 the licensing since the town is made up of 99% secondary homeowners and he  
41 believes the insurance should protect the neighbors.
- 42 21. Betty Phelan, resident, explained the liability goes up when there are short term  
43 rentals without insurance and the town could be sued if the insurance is not a  
44 requirement for licensing. Betty explained there shouldn't be any grey areas and no  
45 favoritism given for any business.
- 46 22. Larry Edgerton, resident, reported he Googled that if a person dies and was sued,  
47 the average person was worth eight million dollars. Bret responded the town's  
48 insurance coverage is for two million and the Utah Local Governments Trust has a  
49 maximum allowable amount of 2.75 million dollars for which a town can be sued.  
50 Bret explained he has contacted Utah Local Governments Trust and if the Council  
51 was interested in purchasing a higher limit on the insurance, then it would be  
52 approximately a 15% to 20% increase in the town's premium payment.

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54 Bret reported the Council will be addressing the nightly rental ordinance amendment again  
55 during the May 26, 2019 Town Council meeting.



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3 **3. SNOW REMOVAL POLICY DISCUSSION.** A discussion on the town's snow removal  
4 policy.

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6 Aldo Biasi, Public Works Director, explained there have been some questions on the  
7 town's snow removal policy and how the town operates. Aldo explained there is  
8 conflicting information between the snow removal guide and the snow removal policy in  
9 which staff will be merging these two documents together. Some of the questions asked  
10 are as follows:

- 11 1. Does the town clear the right-of-way and easements that the Town does not  
12 own?  
13 2. Enforcement of no-parking on streets during snow removal season and if there  
14 is a snow removal season?  
15 3. Can independent operators dump snow on other lots?  
16 4. Mitigating blind corners on high build up of snow.

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18 Aldo explained he has addressed these questions in a draft policy (see attached) and  
19 requested the Council's input. The Council discussed the following:  
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21 **Town right-of-way and easements the Town doesn't own.**

- 22 1. Aldo explained there are currently three areas: Bobcat Road, Gurr Well Road and  
23 Adam Circle which are not owned by the town. Aldo explained he is proposing the  
24 Town maintain and plow these roads if they are dedicated to the Town by the  
25 owners. Aldo explained the Town currently plows Gurr Well Road and Adam Circle,  
26 but does not plow Bobcat Road since it is a sewer easement.  
27 2. Council Member Marshall inquired as to what the cost would be for an owner to  
28 deed over the roadway to the Town. Aldo explained it would require some survey  
29 work for which the property owner would be responsible for and a possible plat  
30 amendment.  
31 3. Bret explained that a property owner can modify a title to a property to include a  
32 transportation easement and the Town would automatically have that as a dedicated  
33 easement. Bret explained if the town is going to maintain the road, then the road  
34 should be brought up to the Town's road standards first. The Town doesn't have  
35 any control over a transportation easement.  
36 4. Council Member Freeberg inquired if the staff is going to notify the owners on three  
37 roadways that the Town will be not be plowing or maintaining their roads this next  
38 winter season. Aldo reported staff will send the property owners a notification on  
39 the proposed process.  
40 5. There are six cabins on Gurr Well Road; one cabin on Adams Circle; and two cabins  
41 at the top of Bobcat Road. The Town will notify them on the process for establishing  
42 a roadway.  
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44 **Enforcement of No Parking on Town Streets During Snow Removal Season:**

- 45 1. Aldo recommended to set a snow removal season from November 1<sup>st</sup> through April  
46 30<sup>th</sup> regardless of whether there is snow on the ground.  
47 2. Council Member Marshall inquired if signage will be posted to educate the public.  
48 Aldo responded he would like to see signage established at both entrances of town  
49 and work with the Utah Department of Transportation (UDOT) to install the signs  
50 which would identify "No Parking between November 1 thru April 30". Staff will  
51 provide the information in the town's newsletter and emails that go out to the town's  
52 residents, businesses and property owners.  
53 3. Council Member Freeberg inquired if there is still public parking at Chair #1 and the  
54 north end of Village Way. Aldo explained that particular section was removed from



1 that area of the policy since it is identified as part the first priority for snow removal  
2 in the plan.  
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4 **Hauling Snow Off-Site and Snow Removal Operator Dumping Snow on other lots:**

- 5 1. Aldo presented an example of possible sites on the proposed map (see attached).  
6 The North side of Gurr Well Road into the meadow area adjacent to Gurr Well Road  
7 is one option. This would need to have the owner's permission first since it is  
8 private property.  
9 2. The town meadow adjacent to Highway 143 is another proposed site if the public  
10 can no longer store snow on their property.  
11 3. Aldo explained the staff is looking to identify four to five locations that could be used  
12 to haul the extra snow.  
13 4. Aldo explained the operator would need to have written permission from the  
14 property owner and that permission would be uploaded onto the map which could  
15 be tracked.  
16 5. The town is working on fines/penalties. Aldo explained the current resolution does  
17 not identify any penalties. The penalties will be identified in the Consolidated Fee  
18 Schedule.  
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20 **Mitigating Blind Corners with Snow Build Up:**

- 21 1. Aldo explained UDOT will assist the Town in cutting down some of the high snow  
22 piles that accumulate on corners. Public Works crews will also be using the wing on  
23 the grader to help knock down the tall piles of snow.  
24 2. Council Member Freeberg inquired as to clearing fire hydrants and when this task  
25 would be completed. Aldo responded the hydrants would be cleared only after the  
26 roads are opened up and push back has been completed.  
27 3. Council Member Freeberg inquired if staff would allow verbal permission instead of  
28 written permission for storing snow on another person's lot. Aldo explained he  
29 would prefer to have it in writing and the written permission would be identified on  
30 the map which could be accessed electronically. Aldo explained they are willing to  
31 work with everyone.  
32 4. Council Member Marshall inquired if staff has consulted with the private contractors.  
33 Aldo explained a meeting was held with the private contractors, which was  
34 informational and productive, and he plans to hold another meeting to work on any  
35 issues.  
36 5. Mayor Calloway commented he believes the town may be crossing the line on  
37 identifying areas to dump snow and that it should be up to the private contractors to  
38 identify where they can dump snow and it shouldn't be a town problem. Bret  
39 explained the snow cannot be dumped into the town's right-of-way or on public  
40 property and if a private contractor wants to use the town's property, then the town  
41 would possibly allow it. This policy would be codifying it in making it a blanket  
42 statement for the private contractor. If the contractor wants to use some other  
43 property and they negotiate a deal with the private property owner, then the town is  
44 requesting some type of evidence to keep on record in case of a conflict.  
45 6. Mayor Calloway commented he believes the private contractor should negotiate with  
46 the landowner and leave the town out of it. If the town allows a private contractor to  
47 dump snow in a town designated site and the snow isn't pushed back, then the town  
48 would have to take the time and expense to push the snow back and could  
49 encounter obstacles in the snow and damage the town's equipment and wouldn't  
50 like to see the town's landscape possibly damaged.  
51 7. Shaun Kelly, resident, commented he has reviewed the Town Code and there is  
52 nothing in the code that mentions the preservation of the town trails in relation to  
53 snow removal operations. Shaun inquired as to how the trails will be maintained  
54 during snow removal operations and believes it should also be part of the snow  
55 removal plan.



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8. Mike Piscreta, Specialized Mountain Services, commented he would like to see the town be exempt from taking the snow and putting it on private property in order to keep the roads open. The other item he would suggest is that the town define who is responsible for clearing the hydrants that are located in common areas and private driveways. Aldo explained the town would need to look at who owns the hydrants and that would identify who is responsible for keeping the hydrants cleared. Aldo commented staff will research the hydrants and color code them.
  9. Betty Phelan, resident, congratulated Aldo and the Public Works Department on their efforts in keeping the town roads cleared this winter season.
  10. Mayor Calloway commented on the parking issue, in which he would not like to see the town be so rigid on enforcement that it becomes unbearable. Bret explained that this will bring the town up to the standard to be codified. Mayor Calloway cautioned the staff on the potential for over regulation.
  11. Council Member Freeberg commented the officers wouldn't automatically cite the vehicle but would go and knock on doors and request the vehicle be moved if they were parked on the town road during snow removal operations.
  12. Dan Phelan, resident, suggested the town identify no overnight parking as a middle ground.
  13. Mayor Calloway stated there are several locations where public parking is allowed; Chair #1 parking lot, north end of Village Way, the area at the south entrance Brian Head sign and the Town Hall.
  14. Mayor Calloway inquired as to what is defined for the town's easement on the roads. Bret explained it is approximately ten-feet (10') and is based on the width of the road. The typical right-of-way is sixty-feet (60') and staff would need to map those areas out.
  15. Mayor Calloway inquired if staff has spoken to the snow removal contractors on the town's easements. Aldo explained they have not yet but will address it in their next meeting. Aldo explained the snow removal guide states that the town is not responsible for plowing private driveways and the easement is five-feet to ten-feet from the curb/asphalt. This will be clarified in the policy.
  16. Larry Edgerton, resident, explained the last ten feet off the asphalt is in someone's driveway and they may be using for their snow storage.
  17. Discussion was held regarding whether to change bullet point #2 to "No overnight parking on streets" from November 1 thru April 30".  
**No consensus was reached with this item.**
  18. Justin Morgan, Mor Mountain Fun, suggested the town heavily enforce no parking on the streets during a snowfall in order to keep the roads clear.

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

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1. Bret presented the tentative Council agenda for May 13<sup>th</sup>:
    - Review of the fire suppression sprinkler code
    - Fiscal Year 2020 Budget Presentation
    - Sewer Agreement Amendment with Parowan City
    - Sewer line presentation

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The May 28<sup>th</sup> Council tentative agenda:

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- Public Hearing for the fiscal year budget
  - General Plan review
  - Nightly Rental Ordinance amendment.



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- 2. Mayor Calloway requested staff identify an agenda item for the public works travel distance in town vehicles in a future agenda. Staff reported this item will be scheduled for the May 13<sup>th</sup> Council agenda.
- 3. Mayor Calloway suggested the pit area and possibilities of designing it for a useful piece of property and generate materials for projects. The town has as an open discussion for the Council. Staff will identify on the May 13<sup>th</sup> agenda.
- 4. Council held discussion on the nightly rental ordinance issue in which the following was discussed:
  - Mayor Calloway asked the Council to think about what the Council is trying to fix before throwing out a solution.
  - Whether to separate the condos from the cabins on requirements.
  - Insurance requirements.
  - Individual licenses vs. one business license and sub-licenses.
  - Staff will research insurance requirements for nightly rentals.
 Bret requested the Council send their thoughts on the nightly rentals and staff will come back with a revised draft for Council's review during the May 26, 2019 meeting.

**G. ADJOURNMENT**

- Motion:** Council Member Freeberg moved to adjourn the regular meeting of the Town Council meeting for April 22, 2019. Council Member Marshall seconded the motion.
- Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg, Council Member Marshall, Council Member Hunter, Council Member Mulder, Mayor Calloway).

The regular meeting of the Town Council was adjourned at 3:20 pm for April 22, 2019.

May 13, 2019  
Date Approved

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Nancy Leigh, Town Clerk