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# 849 9835 2929

TUESDAY, OCTOBER 24, 2023 @ 1:00 PM

Roll Call

Members Present: Mayor Clayton Calloway, Council Member Larry Freeberg, Council Member Kelly Marshall, Council Member Martin Tidwell, Council Member Shaun Kelly.

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Lester Ross, Building and Planning Official; Shane Williamson, Town Treasurer; Amanda Hunter, Code Enforcement; Chief Dan Benson; Tom Gurr, Public Works.

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:14 pm on October 26, 2023.

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:

1. September 26, 2023, Town Council Meeting

Motion: Council Member Tidwell moved to approve the September 26, 2023, Town Council minutes. Council Member Marshall seconded the motion.

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

2. September 26, 2023, Town Council Closed Session Meeting

Motion: Council Member Marshall moved to approve the September 26, 2023, Town Council Closed Session minutes. Council Member Tidwell seconded the motion.

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

3. October 10, 2023, Town Council Meeting

Motion: Council Member Marshall moved to approve the October 10, 2023, Town Council minutes. Council Member Tidwell seconded the motion.

Action: **Motion carried 4-0-1 (summary: Yes = 4 No = 0 Abstain = 1 Vote: Yes:** Council Member Tidwell, Council Member Marshall, Council Member Kelly, Mayor

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Calloway. **Abstain**: Council Member Freeberg, who was not present for the meeting).

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

Mayor Calloway

1. Spoke with David Burton, UDOT, who will begin a new construction project in Parowan Canyon to replace four main culverts and is scheduled to be a two-year project. They will start with flaggers and then install stoplights. They will be installing gabion baskets to reinforce the creek banks.
2. The Parowan Canyon Sewer Trunk Line Project is now complete and there was minimal impact on the traffic during the construction period.

Council Member Tidwell reported that he and his wife walked the new section of the Town's walking trail and the section in front of the Mall where people park he noticed there was a lot of garbage lying around. Mayor Calloway commented that during the Town Cleanup day, he cleaned that area and noticed a large amount of garbage as well and even though he cleaned the area, people are still throwing their garbage on the ground.

Bret Howser, Town Manager

1. He and Aldo Biasi, Public Works Director, attended the UDOT pre-construction meeting for the construction in Parowan Canyon to ask they be aware of the tourists that will be coming up the canyon and to schedule their lunch breaks accordingly. They plan to work through the winter season. Staff will be monitoring the project and will keep in contact with UDOT.
2. The Grand Opening Ceremony for the new section of the Town Walking Trail is scheduled for this coming Saturday,
3. Introduced Tom Pedigree is the interim Manager for Brian Head Resort. Tom gave a brief background of his experience. He has worked for Mountain Capital Partners and will be working as the interim General Manager until they find a General Manager to replace Marilyn Butler who recently resigned. Bret explained that Tom has a solid history of working in the ski industry and construction in the ski industry. Tom reported the Resort is scheduled to open on November 10th and is currently making snow to meet that timeline.

F. AGENDA ITEMS:

1. E-BIKE POLICY DISCUSSION. A discussion on eBikes.

Bret Howser, Town Manager, reported that the Council will consider legislative policy for electric bicycles (eBikes) within the Town. Bret reported there are three classifications of eBikes:

a. Class 1: pedal assist only with no throttle with a maximum assisted speed of 20 mph.
b. Class 2: pedal assist with a throttle and a maximum speed of 20 mph.
c. Class 3: pedal assist only with no throttle and a maximum assisted speed of 28 mph.

Bret reported that The Bureau of Land Management (BLM) allows the Class 1 eBikes with no more than 20 mph on their trail systems, but Cedar Breaks National Monument does not allow any class of eBikes within the monument itself. Bret commented that this is a policy question

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to the Council and whether eBikes are a motorized or non-motorized classification for the Town's trail systems and if the Council wants to allow eBikes on the pedestrian trails in Town.

The Council discussed the following:

1. Council Member Marshall commented that she would be in favor of allowing the eBikes on the Town trails. In conversations with people, it has been brought up that signage that is needed to be installed. Council Member Marshall suggested signage such as "share the road" for pedestrians and bikes.
2. Council Member Marshall commented that the purpose of the walking trail was to keep people off of the Highway.
3. Council Member Freeberg agreed with Council Member Marshall as to the signage on the trails and suggested the Town also identify a painted line down the middle of the trail to separate the trail from pedestrians and bikes.
4. Discussion was held regarding eBikes allowed on the trail around Bristlecone Pond. Council Member Freeberg commented that he would prohibit eBikes from the trail around the pond area.
5. Council Member Tidwell reported that in his conversations with people who use the Town trail, the users who walk the trail do not want eBikes on the trail.
6. Council Member Tidwell commented that in his research on eBikes, he noted that some municipalities only allow class 1 on their trails and also identify signage. Council Member Tidwell commented that the Town would need to take some steps to ensure public safety and enjoyment of the trails. Posting speed limits, prohibiting throttle assist, speed limits of 10 mph, and prohibiting electric motorcycles and scooters were some of the suggestions.
7. Council Member Tidwell commented that Park City has a proposed ordinance that anyone over the age of 65 or mobility restricted was allowed to use eBikes on any trail, but the ordinance did not pass.
8. A suggestion of identifying signage for pedestrians having the right of way.
9. Council Member Kelly commented that there needs to be a place for bikes and eBikes and ebikes are very helpful with going uphill, especially for older people, but the challenge is enforcement. Council Member Kelly commented that there are already too many signs and without enforcement, it won't mean anything to those who violate the law.
10. Chief Benson reported that the ordinances are challenging to enforce since the officers are not professionals to know what classification each e-bike is but would enforce when it becomes a danger to the public. In speaking with St. George officers, they enforce their trails by if it doesn't have a pedal, they are removed from the trails.
11. Council Member Kelly commented that whatever policy the Council decides on, it should be a broader range than eBikes and include more than just the Town Trail.
12. Council Member Kelly suggested that the Planning Commission should be brought into the conversation for a future planning solution.
13. Chief Benson reported that cycles should be riding on the road as required by state law and should not be on the walking trails.
14. Council Member Tidwell commented that eBikes on the town trails should be limited to a Class 1, no throttle, and a speed limit of 10 mph, and all other electric vehicles such as electric scooters and motorcycles are prohibited on the Town walking trail.
15. Council Member Marshall commented that Class 3 has a pedal assist and goes up to 26 mph and believes those should also be included.
16. Council Member Kelly commented that bikes may belong on the road, but he does not believe the road is safe and does not believe it is a good solution. He believes there needs to be a plan for a place for bikes to ride and should have the Planning Commission review possible options and separate the uses.

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17. Council Member Tidwell commented that signage would need to be installed and if the public chooses to ignore the signage, the Town has done its due diligence.
18. Mayor Calloway commented that he would be opposed to eBikes being allowed on the trail around Bristlecone Pond due to the safety of the pedestrians and the narrowness of the trail itself and those who are fishing. Council Member Freeberg agreed with Mayor Calloway.
19. Council Member Marshall commented that there are very few places where small children can ride their bikes with training wheels that aren't on a steep incline, and the pond area is one of those areas. The kids are not able to use the town walking trail due to the hills.
20. Shane Williamson, Town Treasurer, commented that if the throttle is shut off any e-bike, it becomes a regular bike.
21. Mayor Calloway commented that only the state of Utah requires a classification of eBikes.
22. Chief Benson commented that if there is a Class 3 e-bike and they are going under 10 mph, they won't be bothered by an officer, only if they become a danger or nuisance to the public.
23. Shad Hunter, Brian Head Resort, commented that he appreciates the speed limits, but reminded the Council that eBikes don't have speedometers, so they may not know how fast they are going. Shad reported they are working with the Forest Service on eBikes and the Forest Service trail systems as well.

Consensus of the Council: EBikes will be allowed on the town walking trail and the Bristlecone Pond walking trail. Speed limit signs of 10 mph on the town walking trail and 5 mph on the Bristlecone Pond trail will be installed. Signage will be installed at the trailheads and key spots where the public gets on and off the trails.

2. NOISE ORDINANCE / ENGINE BREAKS DISCUSSION. A discussion on a proposed amendment to the Noise Ordinance for engine breaks.

Mayor Calloway explained that with the increased construction, there has been an increase in engine break noise with one or two trucks that have straight stacks that are louder than normal. Council Member Tidwell commented that different cities have engine breaks prohibited and other cities have them prohibited altogether.

The Council discussed the following:

1. Council Member Marshall commented that she is neutral on this matter and hasn't noticed it.
2. Council Member Kelly commented that the Town already has a Nuisance Ordinance in place and three people can sign a complaint that the Town can then enforce.
3. Tom Gurr, Public Works, commented that engine breaks are a safety issue, and the Council needs to recognize the fact that Brian Head is an environment that has steep grades and engine breaks are needed especially if the truck is loaded.
4. Council Member Tidwell commented that several trucks were coming down Steam Engine Drive from the Aspen Meadow Southeast Neighborhood using their engine breaks and they were asked not to use them if it were not a safety issue to reduce the noise from them.
5. Council Member Tidwell suggested having signage installed in certain locations such as near the Public Works building on the south side of Brian Head through the Town itself and another sign at Hunter Ridge and Apple Annies area. Some of the complaints have come from the logging trucks coming through town.

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6. Council Member Freeberg commented that the noise can be addressed through the Town's existing nuisance ordinance, but doesn't believe that the Town can restrict straight stacks themselves.
7. Council Member Tidwell commented that Steam Engine Drive is the maximum grade level of 11% and to get a 10-wheeler dump truck to slow down without engine breaks is a challenge.
8. Bret explained that he would need to research to determine if the Town had any authority over Highway 143.
9. Tom Gurr explained that it is a safety issue when a loaded truck is unable to gear down, and he has seen breaks overheat and trucks that have flipped at the bottom of the grade because they were unable to gear down, and engine breaks are the only way they have to safely slow down.
10. Chief Benson reported that they have handled some of the complaints by contacting the company directly and letting them know.
11. Council Member Tidwell suggested installing signage from Georg's Ski shop and Apple Annie's restricting engine breaks two miles through town, along with working directly with contractors who are working in Steam Engine and Ridge View areas.
12. Tom Gurr explained that the construction season is short in Brian Head, and he believes that it is only fair to contractors, public works, and fire trucks to allow them to use their engine breaks especially when there is a loaded truck since it is a part of growing.
13. Council Member Tidwell suggested staff draft an ordinance that identifies restrictive engine breaks that are not straight stack, and something that exceeds a certain number of decimals for enforcement. Bret explained that the Town's current ordinance for noise already has a decimal number that triggers enforcement, but he could draft something specific for engine breaks.
14. Bret reported he would need to work with UDOT for signage located at the south and north end of town (2-mile stretch) that restricts engine breaks and if it exceeds 99-decibel limits, which already exists in the OHV ordinance, they can use the annoyance to three citizens which is identified in the Nuisance Ordinance as well.

Consensus of the Council: Two signs that restrict engine breaks located on the south and north end of town will be installed on Highway 143 (both sides of the highway). Staff will work with the Utah Department of Transportation (UDOT) for the installation of the sign. Staff will draft an ordinance for engine breaks and the enforcement will be based on the existing Nuisance/Noise Ordinances of 99 decibels and/or three written complaints filed by citizens.

3. IRON COUNTY PRESENTATION FOR JAIL BOND ELECTION. A presentation for the Iron County Jail Bond that will be on the 2023 Election Ballot.

Sherrif Ken Carpenter gave a presentation for the General Obligation Bond for the Iron County Jail. Sheriff Carpenter explained this will be on the 2023 election ballot for a new sheriff's facility/ jail. Sheriff Carpenter explained that the Iron County jail is the oldest in the state and is 37 years old and houses 254 inmates but because of their requirements for classifications, they can only effectively use 184 bed spaces which are continuously full. They are to a point in managing their bed space to where they now have to go back to the courts and ask for early release of inmates that are a lower class of crime, which is something they don't want to do, but due to the lack of room, they are forced to do so.

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Sheriff Carpenter explained that the handler units have now rusted out and every time it rains, it floods out along with a whole host of problems with the current facility. As a result, the County has been working towards saving up for a new facility for the past nine years and has saved 20 million dollars. The County is proposing a bond election for 89 million dollars which comes out to $154/year for an average home value of $450,000 (see attached PowerPoint presentation). Sheriff Carpenter explained this is a necessity that is not going away, and the Sheriff is mandated by the state for all of the law enforcement agencies to provide a jail and they are not allowed to charge any fees to help with the cost and is borne by the county. If the jail had started four years ago when it was first proposed, it would have been 20 million dollars less and the county could have gotten it at a two percent interest rate, but it did not have the public support at that time. Sherrif Carpenter welcomed any questions from the Council and the public.

Mayor Calloway inquired as to what is the biggest pushback from the public. Sheriff Carpenter commented that it was the bond itself and the timing. There have been a lot of people who have come in and asked questions about the bond, they are beginning to understand the need.

The property has been purchased by the County and is 33 acres and located by Horse Alley which is west of Industrial Road. The primary access will need to be completed but is a road that comes from the airport road and will go into the property. The facility will house up to 672 inmates, which would fill one pod, but the county is planning to build two pods to reduce the burden on the taxpayers instead of waiting on building the second pod. The second pod would also house state inmates which would bring in state funding and with additional programming would increase to $93 per inmate per day.

Sheriff Carpenter explained that Beaver County houses more state inmates than any other jail in the state and receives over eight million dollars (see attached PowerPoint). By building a two-pod facility, the County could receive state and federal inmates and it could incrementally grow to 13 million dollars in revenue to the County and provide additional staffing and could also go towards paying down the bond. Sheriff Carpenter explained that Representative Ship is proposing a bill that would allow the county to increase the sales tax up to 1% and if it was passed, that ¼%, which would bring in about three million dollars a year would be used to pay on the bond and would reduce the taxpayer's portion of the bond.

Sheriff Carpenter reported that Beaver County jail can house 400 inmates. Mayor Calloway inquired if there is a policy of a percentage of state and federal inmates and if it is a cite and release due to the capacity of the jail. Sheriff Carpenter explained that there is not a contract, and don't have a set obligation to them, but they can transfer the inmates. Federal inmates are not released in Iron County but are held for 60-90 days until they know where they will be serving their sentence.

Council Member Kelly inquired if there are agreements with other facilities if Iron County is at capacity. Sheriff Carpenter explained that there is not an agreement, but it is a challenge due to the transportation time and having to go through their process as well. Sheriff Carpenter commented that the Iron County Prosecutor's Office is prosecuting 17% more cases now.

Sheriff Carpenter explained that this is a needed facility and will not go away and if it is voted down, then it will come back next year but will have an increased price tag with it. The cost will be born to the taxpayers and the public needs to recognize it. It is a need for the safety and protection of the citizens of Iron County.

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Chief Benson explained that the pod design of the jail can change and grow as the county grows. The jail can continue to expand in a great design is a wave of the future and could include the courts at some point.

Council Member Freeberg inquired what they could do to help them get the word out. Sheriff Carpenter responded to get out the facts to the public and to recognize that it is a necessity that needs to be done. Anything to help the voters understand the need for the facility. A website is available on the County's website that has the background information, and a flyer will be distributed soon that will have the facts and information on the jail. Council Member Freeberg asked that brochures be brought up to the Town for distribution.

The Council thanked Sheriff Carpenter for his presentation.

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

Bret reviewed the November 14th Council meeting agenda.

- Core Beautification GO Bond Argument for meeting needs to be at 6:00 pm, but the meeting may begin at 4:00 pm.
- Shuttle Contract
- Engine Breaks ordinance

Bret reported the annual Christmas party is scheduled for December 1st and will be held at Big Golf in St. George. The Council, Planning Commission, and staff are invited. The party is from 6:00 – 8:00 p.m.

G. ADJOURNMENT

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

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

The regular meeting of the Brian Head Town Council was adjourned at 3:01 p.m. on October 24, 2023.

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Date Approved

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Nancy Leigh, Town Clerk

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