

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# 880 8002 8494
TUESDAY, DECEMBER 12, 2023 @ 1:00 PM

MINUTES OF THE TOWN COUNCIL

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; Chief Dan Benson, Public Safety Director; Shane Williamson Town Treasurer; Lester Ross, Building and Planning Official.

A. CALL TO ORDER

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

B. PLEDGE ALLEGIANCE

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

C. DISCLOSURES

- Council Member Kelly stated that he may have a potential conflict of interest with Agenda Item F-3, Zone Amendment for 165 Ridge View which he lives across from the proposed property.

There were no other 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:

November 14, 2023, Town Council meeting

Motion: Council Member Freeberg moved to approve the November 14, 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 Kelly, Council Member Marshall, Council Member Tidwell, Mayor Calloway.

December 6, 2023, Town Council Special Meeting

Motion: Council Member Kelly moved to approve the December 6, 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 Kelly, Council Member Marshall, Council Member Tidwell, Mayor Calloway.**

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

Mayor Calloway thanked the Christmas Tree Lighting Committee for their efforts in installing the Christmas lights throughout the Town. Mayor Calloway commented that he has received numerous positive comments on the lighting.

Bret Howser, Town Manager, reminded the Council that the annual Community Input Forum will be held tonight at 6:00 p.m. at the Town Hall and encouraged the public to attend.

Lester Ross, Building and Planning Official, distributed the Building Permit report to the Town Council (see attached). Lester reported that the total of the Plan Reviews and Tree permit fees that the Town is currently collecting is not included in the report and does not include the impact fees on fire or water. Lester reported the County/Town issued 114 permits and he has completed 61 inspections in the 2024 calendar year and 491 inspections in the fiscal year. Lester reported that once January 1st comes around, the 2024 report will again begin at zero for the new year.

Council Member Tidwell inquired if the building permits issued were for single-family residential (R1) homes and if any of the permits were pulled over from 2022. Lester reported that the Town currently has a building/construction season of 3-4 months and those projects that began in 2021 typically take one to two building seasons to complete a home in Brian Head. Lester reported that the most permits that Brian Head Town has received in the last ten years has been 10 permits and this is significantly higher than previous years.

F. AGENDA ITEMS:

1. COMMUNITY DEVELOPMENT BLOCK GRANT 1ST PUBLIC HEARING. A public hearing for the first public hearing for the Community Development Block Grant (CDBG) on proposed projects.

The Brian Head Town's first CDBG public hearing was held on Tuesday, December 12, 2023, in the Brian Head Town Hall, the meeting commenced at 1:11 p.m.

Members Present: Mayor Calloway and Council Member Freeberg, Council Member Tidwell, Council Member Marshall, Council Member Kelly,

Others Present: Amber Burton, Chief Dan Benson, Lester Ross, Shane Williamson, Rochelle Lee, Tyler Turley, and Dean Cavaletto.

Town Clerk: Nancy Leigh

Town Manager: Bret Howser

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC HEARING:

Mayor Calloway opened the public hearing for the CDBG program. Amber Burton stated that the purpose of the public hearing is to provide citizens with pertinent information about the Community Development Block Grant program and to allow for discussion of possible applications for the 2024 funding cycle. It was explained that the grant money must be spent on projects benefiting primarily low and moderate-income persons. The Five County Association of Government, in which Brian Head Town is a member, is expecting to receive approximately \$978,712 in this new program year. All eligible activities that can be accomplished under this program are identified in the CDBG Application Policies and Procedures Manual and interested persons can review it at any time. Amber Burton read several of the eligible activities listed including examples, such as the Construction of public works and facilities, e.g., water and sewer lines, fire stations, acquisition of real property, and provision of public services such as food banks or homeless shelters. Chief Benson indicated that in the past Brian Head Town has received two CDBG grants, one in 2017 to purchase a Type IV Fire Truck and one in 2022 to purchase a Water Tender Fire Truck. The Town has handed out its capital investment plan as part of the regional "Consolidated Plan". This list shows which projects the town has identified as being needed in the community. It was asked that anyone with questions, comments, or suggestions during the hearing please identify themselves by name before they speak. The clerk will include your names in the minutes, and we would like to specifically respond to your questions and suggestions during the hearing. Rochelle Lee asked if any projects were being proposed. Mayor Calloway responded to the suggestion by stating that the purpose of this public hearing is to receive suggestions on projects.

Mayor Calloway then opened the meeting up to further suggestions from the audience. Chief Benson commented that they plan to review their capital budget for potential projects for funding. Mayor Calloway then asked if there were any other suggestions. No other suggestions were made.

The hearing was adjourned at 1:13 p.m.

2. PUBLIC HEARING: ZONE CHANGE FOR RIDGELINE ESTATES, LOTS 1-6 FROM SINGLE-FAMILY RESIDENTIAL (R1) TO MULTI-FAMILY RESIDENTIAL (R3). A public hearing to receive comments on a proposed zone change for lots 1-6 in the Ridgeline Estates located at 164 W. Ridge View Street.

Lester Ross, Building and Planning Official, gave a brief introduction to the public hearing for the Zone Change Request for the Ridgeview Estates, lots 1 through 6. Lester explained that this parcel of property was previously zoned as single-family residential in 2022 and was re-zoned at the request of the previous owner. Lester explained that the new owner, Tmonor, LLC has applied to change the zone back to multi-family residential (R3).

Lester reported that notices were sent to the property owners within 300' of the proposed zone change and the Planning Commission held a public hearing for the zone change during their meeting on December 5, 2023, and forwarded a favorable recommendation of changing the zone from R1 to R3. Lester reported that written comments have been submitted and two additional comments were submitted after the Council packets were distributed.

Mayor Calloway recessed the regular meeting and opened the public hearing at 1:15 p.m. to receive comments on the proposed zone amendment. Mayor Calloway stated that the Council and staff will not engage with the public during the public hearing portion but will answer any questions after the public hearing is closed.

1
2 **Dean Cavaletto, 232 Ridge View Street**, commented that his property is adjacent to the
3 proposed zone change property and he submitted a written comment to the Council, which he
4 then read to the Council (see attached). Mr. Cavaletto stated that he is opposed to the zone
5 change to multi-family residential due to the negative impact on the surrounding single-
6 family residential properties and he is a believer in private property rights and the benefits of
7 responsible development and would recommend a compromise to mitigate the referenced
8 impacts and allow the applicant to effectively achieve the implied objectives of effective
9 rezoning his lots and request the Council to defer the decision on the zone change and
10 encourage the applicant to amend their application to include a conceptual plan that both
11 clarifies their uses and proposed densities and to request a stipulation to mitigate negative
12 impacts to provide sufficient transition and buffer between the R1 and R3 lots. The proposed
13 conditions are outlined in the written letter that was submitted to the Council.
14

15 **Condition 1:** Ingress and egress to Lots 1-5 Ridgeline Estates shall be limited to a single point
16 at the northeast corner of the combined parcel via a shared drive. The shared drive shall enter
17 from the northeast corner of the combined parcel from W. Ridge View Street immediately
18 adjacent to the adjoining R3 parcel (to the east). This condition will place the point of ingress
19 and egress nearest to the adjoining R3 parcels; will shield the adjacent R1 lots from driveways
20 entering high-density residences; will facilitate snow storage on W. Ridge View Street to the
21 north and west of the subject lots; will improve drainage within the subject parcel; and enable
22 garages to be built beneath the residences on the subject parcel.

23 **Condition 2:** With the exception of the single point of ingress and egress on the northeast
24 corner of the subject parcel outlined in item 1 above, the trees paralleling W. Ridge View
25 Street along the entire north and west side of the combined Lots 1-6 Ridgeline Estates shall
26 remain untouched at least 25 feet deep along W. Ridge View Street (i.e., minimum front-side
27 setback per city code). This condition will provide a visual break and buffer between the
28 adjacent R1 properties and the subject parcel.

29 **Condition 3:** The maximum height of all structures on the subject parcel shall be limited to 40
30 feet. This will limit any impingement of views upon the adjacent R1 properties to that of the
31 existing R1 designation applying to the subject lots. This condition serves the principles of
32 transition and buffering between zones.

33 **Condition 4:** The requested zone change shall be reduced from R3 to R2 with the proviso that
34 the residences will be limited to medium-density single-family residences and/or multi-
35 family residences of no more than 2 dwellings per structure, including conditions 1 through 3
36 above. This condition serves the principles of transition and buffering between zones.
37

38 Mr. Cavaletto thanked the Council for their time and consideration and also for working with
39 all of the parties cooperatively on an effective solution.
40

41 Tyler Turley, Tmonor, the applicant of Zone Change, commented that this parcel of property
42 was previously zoned as R3, and when he originally purchased the property, he planned to
43 build his residence on all six lots and he is still considering doing that, but in reviewing the
44 plan with his family it was discussed that it is such a large piece of property that he would
45 like to amend the zone to change it to R3 to build his private residence but also another duplex
46 on the lower portion of the property. Mr. Turley commented that he appreciates the
47 comments about not cutting down the trees and he would only want the least number of trees
48 to be removed for the cabin and duplex or whatever number of cabins he decides to put on
49 the property. Mr. Turley went on to state that he originally thought about six individual
50 cabins, but found it was impossible to get any structure with the narrowness of the lots unless
51 they were tiny cabins, and for \$300,000 it did not make sense. He would like to preserve the

land and have it rezoned for a beautiful development and would like to put something on the property that would uplift the value of Brian Head and having the new construction would increase the value of the land including the surrounding R1 properties. Mr. Turley explained that he does not want to build the dense multi-family residential units, but something that would beautify the Town and would be an effective use of the land.

There were no other comments. Mayor Calloway closed the public hearing and reconvened the regular meeting at 1:24 p.m.

3. ORDINANCE AMENDING THE LAND MANAGEMENT CODE, CHAPTER 6, ZONE DISTRICT MAP FOR LOTS 1-6 OF THE RIDGELINE ESTATES FROM R1 TO R3. An ordinance amending the LMC amending the Zone District Map for Ridgeline Estates, lots 1-6 changing the zone from R1 to R3.

Mayor Calloway inquired as to the history of previous zone changes for this particular parcel of property. Lester reported that the parcels have been rezoned several times. The last rezone for the property was in August 2021 when the Council changed it from R3 to R1 and it was mentioned in the Planning Commission meeting that it happened previously in 2001 it was rezoned to R1 from an applicant who wanted to subdivide it into R1 lots.

Lester reported that the Council can determine what is in the best interest of the Town if R1, R2, or R3 is the best zone. The General Plan shows that the property can go either R1 or R3 and would not require a General Plan amendment.

The Council discussed the following:

1. Mayor Calloway inquired if a traffic study would be required. Bret Howser, Town Manager, responded that if another R3 subdivision were to be built, then a traffic study for Highway 143 would need to be completed. Bret reported that an R3 subdivision is planned on Pinetree Way and they will need to complete a traffic study.
2. Mayor Calloway commented that in a previous rezone change request on Alpine Way, the Council required the applicant to submit a Schematic Plan to indicate what their plan was for the property and to see how it would blend in with the R1 area surrounding it. Mayor Calloway stated that he feels the Council should also ask this of the applicant for a conceptual plan.
3. Council Member Kelly commented that in reading the Findings of Fact 5, 6, and 7 he has concerns with all three, but his main concern is number 5, the facilities and services impact which there have been discussion in the past year regarding the water rights and ensuring there is sufficient water rights for the Town and he does not feel that a R3 zone would not be in the best interest of the Town.
4. Council Member Marshall commented that her concerns are with the traffic since there are already the existing R3 buildings and the current project, Elevate, and their construction along with the blind curve she agrees with the Mayor and would not be comfortable with a rezone to R3 in which the applicant could sell the property and the next owner could build something completely different. Council Member Marshall suggested that the applicant consider an R2 zone instead which would be more in line with the R1 zone and would allow for a better buffer between the R1 and R3 zones she would also prefer to see a conceptual plan submitted by the applicant before the Council approves any zone change.
5. Council Member Kelly commented that any accommodations made should run with the land.

6. Council Member Marshall commented that whatever development is proposed, they would have to pull from the Town's water rights, and this could also be a solution as well.
7. Council Member Tidwell inquired as to the original applicant. Bret reported that Ed Boyd was the previous owner who also sold the property that is now owned by MLV Properties and is building the townhomes adjacent to the Chalet Village/Ridges area. Mr. Boyd requested the parcel of land be split between R1 and R3.
8. Council Member Tidwell expressed his concerns that not much time has passed since the last rezone on this parcel of property and the neighbors expected it to be R1 and that R3 has a maximum height of 60' which would impact the R1 lots. Council Member Tidwell commented that he would also like the applicant to submit a conceptual plan and would recommend an R2 zone to protect the residents who have purchased the R1 lots.
9. Council Member Freeberg concurred with the other Council Members and would entertain an R2 zone instead of an R3 zone.
10. Council Member Tidwell commented that if the applicant plans to submit a conceptual drawing, he recommends the applicant talk to Public Safety so they understand what the ingress/egress requirements are. Lester explained that this would be identified at the subdivision level and whatever the zone destination is, the Town Code identifies the uses for that zone.
11. Council Member Tidwell commented that if the applicant submits a conceptual plan for public safety to review, it could determine if it would be a waste of time for the applicant or not if there is an issue.
12. Bret summarized that the Council would be open to a concept of lower density use of the land and granting a zone change without locking in a subdivision plan, the Council is less comfortable with an R3 zone since it would affect the character of the neighborhood. The Council would like to see a Schematic Plan and potentially entertain a zone change with a subdivision process. Bret reported that the State is making the subdivision process a process that would only be reviewed and approved by the Planning Commission and would no longer be reviewed or approved by the Town Council. Bret explained that staff will review and see if the Town can run the applications at the same time; a zone change before the applicant puts money towards a Schematic Plan if the applicant chooses to do so. The Council would entertain a zone change to R2, but not to R3 due to traffic concerns with the blind curve, the buffering between the R1 and R3, and, height restrictions.
13. Tyler Turney responded that he is satisfied with the Council's direction and appreciates that the R2 zone is within the realm of what he is looking to build on the property and believes that it would be sufficient.
14. Dean Cavaletto thanked the Council for their time and appreciated what the applicant was trying to accomplish. He would like to establish a condition of trying to stay with the land so that if the land is sold, someone cannot come in and not maximize the R2 zone.
15. Lester explained that the Council has the option to tie conditions for a zone change to a Development Agreement. Bret responded that there have been some recent changes to the State law that spell out the rights the developers would be forgoing and in return would receive something like more density, since the Development Agreement is a "give and take".
16. Bret suggested another option in which the applicant can begin the subdivision process and the zone change is delayed until the subdivision is approved and the Final Plat identifies that the zoning is tied to the plat.

Motion: Council Member Tidwell moved to table Zone Amendment and directed the applicant to work with staff on an R2 Zone project that will address the blending into the R1 zone. Council Member Marshall 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).**

4. PLANNING COMMISSION MEMBER APPOINTMENTS. The Council will give their advice and consent for two Planning Commission Member appointments.

Bret Howser, Town Manager, reported that Planning Commissioner Mitch Ricks was elected to the Town Council in the 2023 November election which leaves a vacancy in the Planning Commission as of December 31, 2023. Bret explained that Planning Commissioner Carrie Dever's term also expires on December 31, 2023.

Bret reported that he is asking for the Council's consent and advice to appoint the following individuals to the Planning Commission:

1. Re-appoint Commissioner Carrie Dever for a term of five years ending December 31, 2028.
2. Alternate Commissioner Sheri Brown be appointed as a full member of the Planning Commission to replace Commissioner Ricks for the term ending December 31, 2027
3. Appoint Rachelle Lee as the Alternate Planning Commissioner to replace Alternate Commission Member Sheri Brown with a term ending December 31, 2025.

Bret reported several individuals submitted a letter of interest for the Planning Commission vacancy and staff will work with those individuals to get them involved in the community.

Motion: Council Member Kelly moved to appoint the following individuals to the Planning Commission:

- Sheri Brown to replace Mitch Ricks as a full Planning Commission Member with a term ending December 31, 2027;
- Re-appoint Carrie Dever with a term ending December 31, 2028.
- Rachelle Lee to replace Sheri Brown as Alternate Commission Member with a term ending December 31, 2025.

Council Member Marshall 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).**

5. 2024 TOWN COUNCIL MEETING SCHEDULE APPROVAL The Council will approve its 2024 meeting schedule.

Nancy Leigh, Town Clerk, presented a 2024 Town Council Meeting Schedule (see attached). Nancy requested the Council approve their annual meeting schedule. Nancy reported the proposed 2024 meeting schedule identifies the following:

1. The anchor location is the Brian Head Town Hall located at 56 N. Hwy. 143, Brian Head, UT 84719.
2. Meetings are scheduled for the 2nd and 4th Tuesday of each month except for November and December where there is one meeting on the 2nd Tuesday unless otherwise noticed.

3. The meeting time is 1:00 p.m. unless otherwise noticed.
4. The Redevelopment Agency, Special Service District, and the Municipal Building Authority will be held when needed and noticed accordingly.

Nancy reported the meeting schedule is what the Council previously adopted by ordinance as it relates to the above three items; meeting location, time, and days and if the Council were to change the meeting dates or times, then an ordinance would need to be brought in front of the Council, otherwise, the Council can approve their meeting schedule with a majority vote.

Bret Howser, Town Manager, inquired about the annual Strategic Planning Retreat that is scheduled for January 23rd and 24th and if the meeting schedule should reflect that change. Nancy reported that the Council can make the change or she can identify it on the agenda since the meeting schedule allows for changes to be noticed accordingly.

Motion: Council Member Kelly moved to approve the 2024 Town Council Meeting Schedule as presented with the change of adding the annual Strategic Planning Retreat on January 23 and January 24, 2024. Council Member Marshall 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).**

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

January 2024 Town Council Agenda:

1. Engine Brake Ordinance. Bret reported that he will need to circle back with UDOT regarding some details for this agenda item before it can be on the Council agenda.
2. Annual Strategic Planning Retreat: Bre reported he will be sending out the agenda for the Strategic Retreat for the Council's review.

G. ADJOURNMENT

Motion: Council Member Kelly moved to adjourn the regular meeting of the Brian Head Town Council. Council Member Marshall 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 1:55 p.m. on December 12, 2023.

February 13, 2024

Date Approved


Nancy Leigh, Town Clerk

