

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](http://www.Zoom.us) (Click Here)  
Via Zoom Meeting ID# 897 3022 7781  
TUESDAY, FEBRUARY 27, 2024 @ 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 Mitch Ricks.

**Staff Present:** Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Shane Williamson, Town Treasurer; Lester Ross, Building & Planning Official; Deputy Danny Abbott, Public Safety.

### A. CALL TO ORDER

Mayor Calloway called the regular meeting of the 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 Ricks stated that he may have a potential conflict of interest with Agenda Item F-5, Ranger Court Special Assessment Area in which he has a family member participating in the SAA.

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:

#### *February 13, 2024, Town Council Meeting*

**Motion:** Council Member Tidwell moved to approve the February 13, 2024, Town Council Meeting Minutes. Council Member Freeberg seconded the motion.

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

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

*Mayor Calloway* reported on a recurring power problem with the Christmas tree lights on the large pine trees at the Mall.

1 **Bret Howser, Town Manager**, reported that the annual Brian Head Business Breakfast is  
2 scheduled for February 29, 2024, at the Public Safety building beginning at 9:00 a.m. Speakers for  
3 the breakfast include Maria Twitchell from the Tourism Bureau, and Shane Williamson, Town  
4 Treasurer, who will present a financial report and a report update from Brian Head Resort.  
5

6 **Don Evans, 314 N. Forest Drive**, commented that during the construction from the Falcon Court  
7 Special Assessment Area, the contractor left the roads difficult to drive on and water pooling  
8 issues. Mr. Evans stressed the importance of holding contractors accountable for their quality of  
9 work. Mr. Evans reported that he spoke with Aldo Biasi, Public Works Director, this morning  
10 who reported there is a plan to mix a ground hardener into the road base this upcoming summer.  
11 Mr. Evans recommended the Council require road improvements in the bid process for the SAAs.  
12

13 Mr. Evans reported that the Public Works crew did an excellent job on improving the Town roads  
14 this year and he appreciated the Council's time.  
15

16 **Jeff Shumway, 318 Falcon Court**, commented that he agrees with what Don Evans shared with  
17 the Council and wanted to show his support for his neighbor on the condition of the roads that  
18 were affected by the SAA construction.  
19

20 **Shad Hunter, Brian Head Resort**, updated the Council on an emergency evacuation on the Giant  
21 Steps ski lift on Sunday, February 25, 2024. Shad reported that Ski Patrol crews worked to  
22 evacuate 106 people within two hours. The Council applauded the resort for their quick response  
23 and that the majority of stories that were shared on social media were positive.  
24  
25

26 **F. AGENDA ITEMS:**  
27

28 **1. AUDIT PRESENTATION FOR FISCAL YEAR 2023.** A presentation on the fiscal year 2023  
29 town audit.  
30

31 Shane Williamson, Town Treasurer, introduced Kevin Jones, Town Auditor. Shane reported  
32 that with the retirement of Wayne Everett, Kevin has taken over the audit for the Town.  
33 Kevin presented the audit via Zoom Meetings.  
34

35 An overview of the Fiscal Year 2023 audit was presented via Zoom by an external auditor. The  
36 financial statements represented a clean audit opinion, signifying that no material  
37 misstatements were found. The auditor covered various financial summaries, noting an  
38 increase in the Town's total net position.

39 Kevin reported on one note that was identified in the audit report in which there was one  
40 instance of the Town Council minutes not being posted on the Utah State's Public Meeting  
41 Website within three days. Last year's findings regarding the department being over budget  
42 were corrected in the FY2023 budget.

43 The Council discussed the following:

- 44 1. Council Member Tidwell commented that some of the numbers he presented today were  
45 different from what was in the Council's meeting packet. Kevin explained that Pelorus  
46 had put in the deferred outflows and the actual amount should have been \$367,805. There  
47 is a corrected audit report.
- 48 2. Council Member Tidwell commented that the Town has had issues with segregation of  
49 duties which is difficult with a small team, and it was noted that there were no issues this

1 year. Council Member Tidwell complimented the staff on maintaining the separation of  
2 duties.

3 3. Council Member Tidwell commented that the Town’s revenue increased by  
4 approximately \$500,000 and expenses increased by one million dollars and the Council  
5 adjusted the budget to address it. With the additional revenue and expenditures, the  
6 Town’s position increased significantly.

7 4. Council Member Tidwell inquired as to the funding for the projects that were budgeted  
8 for and were not completed. Shane Williamson, Town Treasurer, reported that they are  
9 rolled over to the Capital Project budget.

10 The Council thanked Kevin for his presentation and thanked the staff for their efforts on the  
11 budget.

12  
13  
14 **2. BRIAN HEAD UNIT 3 ANNEXATION PETITION.** An Annexation Petition for nine lots in  
15 the Brian Head Unit 3 Subdivision.

16  
17 Nancy Leigh, Town Clerk, presented the Brian Head Unit 3 Subdivision Annexation Petition  
18 (see attached). Nancy reported there are 9 lots identified in the annexation petition which will  
19 bring the entire Brian Head Unit 3 subdivision into the town boundaries. Nancy explained  
20 that when the Town was incorporated in 1975, there were several lots in the Brian Head Unit 3  
21 subdivision that were not included within the town boundaries. Georg Hartlmaier and Jim  
22 Ortler were present to answer any questions.

23  
24 The Council discussed the annexation petition for Brian Head Unit 3 subdivision which  
25 included questions of water rights, site improvement initiation, annexation fees, and service  
26 allocation policies in relation to sewer requirements. Nancy explained there are questions that  
27 the Council will need to address specifically to this annexation petition since it is already a  
28 subdivision that was established and the majority of the subdivision was incorporated into the  
29 Town:

30 **Question 1:** The Annexation Policy requires that water rights must come with the annexation.  
31 Nancy inquired if the Council would require water rights to be brought into the Town. The  
32 Council will need to decide if the 9 lot owners will be required to bring water rights into the  
33 Town.

34 **Answer:** The Council unanimously agreed that no water rights would need to be brought in  
35 with this annexation. This requirement is waived for this annexation.

36  
37 **Question 2:** Site Improvements such as streets, utilities, and parks are to be initiated by the  
38 petitioners. Nancy explained that the property owners want to begin the SAA process once  
39 the annexation is completed which would address the site improvements.

40 **Answer:** The Council agreed that improvements would need to be the responsibility of the  
41 property owners and agreed that an SAA would be the most reasonable answer to the  
42 improvements.

43  
44 **Question 3:** \$500 annexation application fee:

45 **Answer:** The Council agreed that the \$500 annexation fee should be paid due to the amount of  
46 staff time to handle the annexation.

47  
48 Jim Ortler, Sponsor, commented that he believed that the fee should be waived since there is a  
49 high danger of fire, and with the site improvements, fire hydrants would be installed which is  
50 a cost that the property owners would have to bear, but would be a benefit to the Town.

1 Georg Hartlmaier commented that he would pay the \$500 annexation application fee to the  
2 Town.  
3

4 **Question 4:** Environmental and Land Use Conditions identified in #7 of the Annexation  
5 Policy should apply.

6 **Answer:** The Council agreed that item #7 of the Brian Head Annexation Policy addressing  
7 Environmental and Land Use Conditions does not apply to the Brian Head Unit 3 Annexation  
8 Petition and agreed to waive this requirement.  
9

10 **Motion:** Council Member Marshall moved to accept the Annexation Petition for Brian  
11 Head Unit 3 for the nine lots as presented with the following conditions:

- 12 1. Water rights will not be required. This requirement is waived.
- 13 2. The property owners will address Public Improvements whether it is  
14 through a Special Assessment Area or other means.
- 15 3. Petitioners are required to pay the \$500 Annexation Petition application  
16 fee.
- 17 4. Item #7 in the Brian Head Annexation Policy does not apply to this  
18 proposed annexation. This requirement is waived.

19 Council Member Freeberg seconded the motion.

20 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg,  
21 Council Member Marshall, Council Member Ricks, Council Member Tidwell,  
22 Mayor Calloway).  
23  
24

25 **3. ASPEN MEADOWS ANNEXATION PETITION.** An Annexation Petition for Aspen  
26 Meadows.  
27

28 Bret Howser, Town Manager, presented the annexation petition for Aspen Meadows (see  
29 attached). Bret gave a brief explanation of the annexation process in which Aspen Meadows  
30 signed the Annexation/Development Agreement which identifies the conditions in which  
31 Aspen Meadows will annex into the Town and build their development. Bret reported that if  
32 the Annexation Petition is accepted by the Town Council then the Town has 30 days to verify  
33 if they meet the state requirements and the Town will then notify the property owners.  
34

35 The Council discussed the following:

- 36 1. With the annexation of Aspen Meadows, the Town boundaries will almost double in  
37 size.
- 38 2. Bret reported he has contacted the other property owners who would be included in  
39 the annexation regarding some of their concerns and questions.
- 40 3. Bret explained that one of the property owners would like to retain their existing use  
41 for their land that was zoned by the County as A20. One 20-acre parcel owned by  
42 Capdevilla has contacted the Town regarding his zoning and the Planning  
43 Commission will address this matter during their next regular meeting.
- 44 4. Council Member Tidwell commented that in reviewing the financial implications  
45 identified in the staff report for this item, it showed that short-term rentals are  
46 identified at 40% of the units with a revenue of \$2,066. Council Member Tidwell  
47 commented that he believes this percentage is high and in his experience, the level of  
48 demographics do not want to rent out their homes.
- 49 5. Council Member Tidwell commented that if the percentage of short-term rentals were  
50 reduced, it would significantly lower the anticipated revenue. If the financial model  
51 shows 4.8 million dollars in revenue and 2.1 million dollars in projected expenses if it  
52 would materially change the functions? Bret responded that staff would need to verify

1 it and if the short-term rentals were changed from 40% to 10% it would put the  
2 revenue at 4.16 million dollars and the operating surplus would become 1.4 million  
3 dollars.

4 6. Mayor Calloway commented that the transient room tax calculation included the  
5 hotels as well as the short-term rentals.

6 7. Council Member Tidwell commented that one of the main objectives of the annexation  
7 was not to put a financial burden on the existing taxpayers.

8 8. Bret reported that as part of the Development Agreement, the Town will create the  
9 zoning for Aspen Meadows, and Aspen Meadows has agreed to make certain  
10 payments to the Town.

11 **Motion:** Mayor Calloway moved to accept the Aspen Meadows Annexation Petition in  
12 conjunction with the Aspen Meadows Annexation/Development Agreement.  
13 Council Member Tidwell seconded the motion.

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

17 Mayor Calloway commented that the Council received a letter on the Aspen Meadows  
18 annexation and access through the Timbercrest subdivision (see attached letter).

19  
20 Dave Mason, a Timbercrest subdivision property owner, commented that the only other  
21 access is along Blue Jay Way and the Town has a parcel of property that would allow for  
22 easier access. Mr. Mason commented that originally it was identified that the roads would go  
23 through Steam Engine Meadows Subdivision, but Aspen Meadows gave the Timbercrest  
24 subdivision area a 20' fire access, but he did not want to cut down the trees on his property  
25 for that access. Mr. Mason commented that he would like to vacate his road and have the  
26 road rerouted. Mr. Mason requested the Council identify this matter on a future agenda for  
27 access to their properties.

28  
29  
30 **4. ORDINANCE VACATING 105' OF THE NORTH END OF HIGHLAND DRIVE**  
31 **AND A 50' TURNAROUND EASEMENT.** An ordinance vacating 105' of the north end of  
32 Highland Drive to create a cul-de-sac in the Steam Engine Meadows Phase 1 Amended Subdivision on  
33 lot 55 and adjacent properties.

34  
35 Lester Ross, Building and Planning Official, presented a draft ordinance vacating 105' of  
36 Highland Drive and a 50' turnaround easement (see attached). Lester reported that during the  
37 last Council meeting on February 13, 2024, the Council requested information as to the square  
38 footage of property that each property owner would receive in turn for giving up property for  
39 the cul-de-sac and if the Final Plat would need to be adjusted to reflect the Town's ownership.

40  
41 The Council discussed the following:

- 42 1. Lester reported that the property was split equally between the three lot owners with  
43 each receiving approximately 1,684 square feet.  
44 2. Two of the affected lots will give up 1,541 square feet for the road vacation.  
45 3. On the Steam Engine Meadows Amended 1 Final Plat, the surveyors commented that  
46 no adjustment needed to be made on the plat since it was identified in the "notes" on  
47 the Final Plat.  
48 4. Bret explained that some of the Council's concerns during the February 13, 2024  
49 Council meeting came from the idea that the project was completed over a year ago  
50 but it was not brought to the Council for approval until now. Bret explained that

1 staff had a verbal agreement with the property owners at the time the project was  
2 beginning, and the payment took place in 2023. The staff member that was assigned  
3 this project no longer worked for the town so this project fell to the wayside for  
4 completing it with a final plat amendment and ordinance.

- 5 5. Mayor Calloway commented that he would like the amended plat to accurately  
6 reflect the cul-de-sac instead of identifying it in the notes on the amended plat before  
7 it is recorded with the County.  
8 6. Lester explained that it would cost the Town an additional \$500 to have the plat  
9 redrawn.

10  
11 **Motion:** Council Member Marshall moved to adopt ordinance No. 24-001 vacating 105' of  
12 the North end of Highland Drive and the 50-foot temporary turnaround  
13 easement contingent on the redrafting of the Steam Engine Meadows Amended  
14 Final Plat. Council Member Freeberg seconded the motion.

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

18  
19  
20 **5. RANGER COURT SPECIAL ASSESSMENT AREA DISCUSSION.** A discussion on the  
21 pending Ranger Court Special Assessment Area.

22  
23 Bret Howser, Town Manager, explained that in December 2022 the Council put a pause on  
24 Special Assessment Areas (SAA) until the Town completed its Septic Density Study. The  
25 study was completed and presented to the Council in January 2024 in which the Council  
26 determined that a certain number of septic tank permits would be allowed (150 septic tank  
27 permits).

28  
29 At the time the Council paused SAA requests, there were two pending SAAs that had begun  
30 the process: 1) The Ranger Court SAA Notice of Intent to create the SAA was adopted in  
31 September 2022 and a public hearing was held, but no further action has been taken on the  
32 Ranger Court SAA. 2) The Elk Drive SAA submitted a petition and the Council tabled the  
33 petition until the completion of the Septic Density Study.

34  
35 Bret explained that one of the major concerns with the Ranger Court SAA was that the  
36 properties were located within the vicinity of the Town's Spring Protection Zone and that it  
37 could affect the groundwater if the sewer was not included in the SAA. If the Council  
38 determines that sewer is required then the Ranger Court SAA would need to begin the entire  
39 process over since only water system improvements were identified in the SAA. The Elk  
40 Drive SAA does not have the same challenges as Ranger Court since it is not located near any  
41 of the Town's water sources.

42  
43 The Council discussed the following:

- 44 1. Ranger Court SAA is close to the Town's Spring Protection Area and if the town were  
45 to allow someone to install water and decided not to build within fifteen years, the  
46 Town could have already hit the 150 maximum septic tank permits. This could create  
47 an issue for the Town.  
48 2. The staff recommends that sewer be required for the Ranger Court SAA due to the  
49 vicinity of the Town's springs.  
50 3. Mayor Calloway expressed his concerns regarding developing the areas with  
51 potential septic tanks and its association with the Town's water source protection,  
52 environmental considerations, and the financial feasibility for property owners.

- 1 4. Bret explained that any homes located within 300' of a sewer line would automatically
- 2 be required to connect to the sewer line as per the Town Code and state law.
- 3 5. Ranger Court has a total of 18 lots included in the SAA.
- 4 6. Council Member Marshall inquired if the Ranger Court SAA included sewer if the
- 5 properties would meet the 3:1 value required by state law.
- 6 7. The Snowshoe/Toboggan SAA includes sewer improvements, but the Town is
- 7 contributing towards the sewer portion for this SAA and a majority of the funds are
- 8 allocated for the Toboggan sewer lines.
- 9 8. Bret explained that the full cost of water and sewer would exceed the 3:1 value in
- 10 which the property needs to be three times the value of the improvements. The
- 11 Council can decide whether to require sewer and assist in the funding, or the Council
- 12 can continue with the existing request for water improvements only or deny the
- 13 Ranger Court.
- 14 9. Council Member Freeberg commented that he was under the impression that the
- 15 purpose of the SAAs was for fire protection and not sewer infrastructure.
- 16 10. Council Member Marshall commented that property owners would become frustrated
- 17 with the Town if the Town were to deny the Ranger Court SAA because the sewer
- 18 was not included. There are less than 20 lots and the possibility of five lots
- 19 developing in the next five years is more likely to happen than all 20 lots at once.
- 20 11. Council Member Marshall commented that she does not believe that the Ranger Court
- 21 SAA would have a major influence on the water since the lots are located below the
- 22 Spring Protection Zone.
- 23 12. Council Member Tidwell commented that the Town wanted water in the area for fire
- 24 protection and if the Town were to require sewer, he believes it would be moving the
- 25 goalpost for the property owners who would not be able to meet the 3:1 value.
- 26 13. Council Member Tidwell commented that the topography slopes away from the
- 27 Spring Protection Zone and the County did not give their concerns about the water
- 28 protection area and he believes the Town should continue moving forward with water
- 29 system improvements.
- 30 14. Council Member Freeberg commented that sewer will happen over time and the
- 31 Town can address sewer at a later time.
- 32 15. Mayor Calloway commented that he believes the Town should protect the water
- 33 source as well.
- 34 16. Michael Hyte, Elk Drive property owner, commented that he appreciates the Town
- 35 has completed the Septic Density Study and inquired if the Council will consider
- 36 moving ahead with the Elk Drive SAA petition and inquired as to the timeline for the
- 37 Elk Drive SAA process.
- 38 17. Mr. Hyte commented that he will contact the Sponsors of the Elk Drive SAA to
- 39 continue the process.
- 40

41 Mayor Calloway explained that the Council will need to give direction to staff on the policy for  
42 SAAs and inquired as to what the Council would like to see:

- 44 1. Council Member Freeberg commented that if an SAA is located near a Spring Protection
- 45 Zone, then sewer should be a requirement.
- 46 2. Council Member Marshall commented that several items need to be considered: a)
- 47 springs, b) topography; c) the border of the SAA, and how many subdivided lots are
- 48 adjacent to the SAA. The Ranger Court properties border Brian Head Resort's property
- 49 and what is in Brian Head's best interest.
- 50 3. Mayor Calloway commented that he would err on the side of caution and does not want
- 51 to be known for contaminating Brian Head.
- 52

1       **Consensus of the Council:** Proceeding with the Ranger Court SAA for water system  
2 improvements based on fire protection and sewer is not required for the Ranger Court SAA. For  
3 future SAAs that are located near a spring protection zone then sewer would be required.  
4

5       Staff will review the Ranger Court and Elk Drive SAA petitions and bring them to the Council to  
6 determine if they meet the Council's intention. The deadline for submitting an SAA application  
7 petition is June 30<sup>th</sup> and if the SAA is successful, the construction will begin in the summer of  
8 2025.  
9

10  
11       **6. FUTURE AGENDA ITEMS.** The Council will discuss potential items for future agendas.  
12

13               **March 5, 2024, Planning Commission Tentative Agenda:** The Planning Commission will be  
14 discussing the zoning for Aspen Meadows.

15               **March 12, 2024, Town Council Tentative Agenda:** Engine Brake Ordinance and review of the  
16 FY 2025 Strategic Plan.  
17  
18  
19

20       **G. ADJOURNMENT**  
21

22       **Motion:** Council Member Ricks moved to adjourn the regular meeting of the Brian Head  
23 Town Council. Council Member Marshall seconded the motion.  
24

25       **Action:**     **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg,  
26 Council Member Marshall, Council Member Ricks, Council Member Tidwell, Mayor  
27 Calloway).  
28

29       The regular meeting of the Brian Head Town Council was adjourned at 3:10 p.m. on February 27, 2024.  
30

31       March 12, 2024  
32       Date Approved  
33  
34  
35

36       \_\_\_\_\_  
37       Nancy Leigh, Town Clerk