

The Regular Meeting of the
Brian Head Town Council
Town Hall - 56 North Highway 143,
Brian Head, UT 84719
TUESDAY, OCTOBER 14, 2014 @ 1:00 PM

ROLL CALL.

Members Present: Mayor H.C. Deutschlander, Council Member Jim Ortler, Council Member Larry Freeberg, Council Member Clayton Calloway.

Members Absent: Council Member Reece Wilson.

Staff Present: Bret Howser, Nancy Leigh, Tom Stratton, Dan Benson, Tom Stratton

A. CALL TO ORDER

Mayor Deutschlander called the regular meeting of the Brian Head Town Council to order at 1:00 pm.

B. PLEDGE OF ALLEGIANCE

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

C. DISCLOSURES

There were no conflicts with today’s agenda items. Mayor Deutschlander stated that the disclosure statements are on file at the Town Clerk’s office and are available for public inspection during normal business hours.

D. APPROVAL OF THE MINUTES:

September 23, 2014 Town Council Meeting.

Motion: Council Member Ortler moved to approve the September 23, 2014 Town Council minutes. Council Member Calloway seconded the motion.

Action: **Motion carried 3-0-1 (summary: Yes = 3, No = 0, Abstain = 1 Vote: Yes:** Council Member Calloway, Council Member Freeberg, Council Member Ortler. **Abstain:** Mayor Deutschlander).

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

Council Member Ortler

1. Announced there is a new restaurant coming to Brian Head; Corner Café will be open for breakfast and lunch and will be located at the Mall. They are anticipating an opening date of mid-November.
2. Received an email from the Utah League of Cities and Town regarding the Community Impact Board (CIB) funding and their decision of allocating all of their funding into a railway project. The League is fighting that decision by the CIB. The town was denied grant funding for the ice water rescue equipment and a streets master plan. The League’s position is that CIB is using public funding for transportation for the five energy companies and there could be possible litigation in the future.

Mayor Deutschlander

1. Updated the Council and public on the Utah Tourism Conference he attended. Mayor Deutschlander gave some highlights of the conference one of which a tour of Snowbasin ski resort.
2. As part of the tourism conference, informational signs were a topic of discussion. There were representatives from Utah Department of Transportation (UDOT) and Scenic Byway. Mayor Deutschlander reported he will be bringing more information to the Council in future meetings regarding informational signs.
3. The Community Impact Board (CIB) approved eleven projects with the majority of the projects being fire stations.
4. Iron County Coordinating Committee will be meeting tomorrow to discuss the ambulance services. Mayor Deutschlander stated his position is that the service belongs in the general fund instead of an enterprise fund that it is currently in.

Bret Howser, Town Manager

1. Updated the Council on a Parowan City Council meeting regarding the potential capacity of the sewer treatment ponds. Staff has been working with Parowan City on a discussion of buying out the town’s portion of the sewer bond and the 40% of the system. This would free the town to pursue a sewer treatment plant the town has been considering. Staff will continue to



1 hold discussions with Parowan City on possible options regarding the sewer treatment ponds. Bret explained he made it
2 clear that the town may or may not want to keep the 40% capacity at this time.

- 3 2. Working with Rocky Mountain Power on their substation to make it more aesthetically pleasing. Staff has been working with
4 the representative who reported they will be in contact their supervisors on options for improving the substation.
- 5 3. Staff has received the health insurance proposals for the upcoming 2015 year. Bret reported he will be sending the
6 information to the Council in advance and the item will be on the next Council agenda for approval.

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8 **Council Member Freeberg** inquired as to when the Questar Gas fee will expire. Mayor Deutschlander reported that in a fax dated
9 December 7, 2007 the \$30.00 per month fee will expire November 1, 2014. Customers should be seeing the difference on their
10 December's billing cycle. Bret reported in a conversation with resident, Dave Hefner, who spoke directly with Questar Gas, that the
11 fee will be coming off in the next couple of months.

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13 **Dan Benson, Public Safety Director**

- 14 1. Updated the Council on the status of the fire mitigation taking place on Circle Drive. Chief Benson explained there are fire
15 crews currently reducing the fuel on the northeast side of Brian Head adjacent to Circle Drive. This fire mitigation project is
16 funded by the CAT grant in which the town received \$200,000 out of a two million dollar request.
- 17 2. Rosenberg Engineering is scheduled to complete a survey of the land on Toboggan and Snowshoe Roads. Once completed
18 the fire crews will continue their fire mitigation on those roads.
- 19 3. Council Member Freeberg inquired if there will be available firewood for the public to take on Circle Drive. Chief Benson
20 reported there is firewood available, but due to the terrain, it would be difficult to access.
- 21 4. Updated the Council on a meeting with the County regarding the ambulance service. The Fire Chiefs will be drafting a letter
22 regarding their concerns with the service.
- 23 5. The department has received the ice water rescue equipment. Training will begin once the pond freezes over.
- 24 6. Council Member Calloway inquired as to fire mitigation projects involving the 1,600 acres owned by the resort near the Boy
25 Scout camp area. Chief Benson explained the State Forester is working with the resort since it is a major concern for
26 wildland fires. The state would like to start reducing some of the fuel and create dozer lines with hopes of logging some of
27 the area to identify a fire break. Chief Benson explained a healthy forest has approximately 20 trees per acre and this area has
28 approximately 200 trees per acre which is an unhealthy forest.
- 29 7. Mayor Deutschlander encouraged Council Member Ortler to commend Cameron Diehl from Utah League of Cities and
30 Towns for his support on the fire mitigation meeting which took place in Cedar City.

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32 **Tom Stratton, Public Works Director**

- 33 1. Updated the Council on the status of the Bearflat well repair. Tom explained the pitless adapter has been sent back to the
34 factory. The company completing the repair on the well will be installing a 12" casing which should move the damaged
35 screen located approximately 520' down and then a drill bit will bring it back out of the pipe. The project is scheduled to be
36 completed by October 20th.
- 37 2. Council Member Calloway requested a copy of the well production report. Staff will follow up.
- 38 3. The Mammoth tank pump is being rebuilt. Low Energy use motors are replacing the existing ones which will be more
39 energy efficient. Once the Bearflat well is online, it will pump to the Mammoth tank for the use of snowmaking.
- 40 4. The public works department will be bringing RJ Harting back to work. RJ was injured earlier in the year and has recouped.
41 Aaron Gurr will be leaving public works for another job.
- 42 5. The town pit has firewood available to the public. The firewood is located in a separate area from the materials that are
43 stored at the pit.

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45 **Julie Saemisch, Visitor Center Coordinator**

- 46 1. The visitor center is currently open on Saturdays to all visitors. The visitor center volunteers track the visitors who come
47 into the visitor center. Since January 2014 thru August 2014 there have been 360 groups of visitors who have visited Brian
48 Head. Julie presented a report to the Council on the Visitor Center (see attached). The most often used words were
49 "awesome", "beautiful" and "thank you".
- 50 2. Julie thanked Alice Matteson for her customer service skills in working with the public.
- 51 3. Iron County's program "unplugged" was a success. There were several businesses who participated in the program along
52 with several positive comments referring to Brian Head as "the best town".
- 53 4. The visitor center volunteers are having a positive impact on the guests who visit Brian Head.
- 54 5. Attended the Utah Tourism Conference with Maria Twitchell, Director of Cedar City/Brian Head Tourism Bureau and was
55 the only volunteer who attended the conference. Julie reported on the amount of tourism dollars the state receives (see
56 attached). The National Park Conservation Agency presented a session at the conference and it was noted that Cedar Breaks
57 National Monument and Brian Head should be working together more to create a seamless experience for the visitor.
- 58 6. Recommend the town look once again at the interpretative plan for the trail system. Julie encouraged the Council to review
59 and adopt the plan so that the trails can be mapped out and available to the public. This would benefit the town and Cedar
60 Breaks National Monument.

- 7. Updated the Council on the status of the radio show the town currently promotes. Julie explained she has been hosting the radio show for the past four years and reported she will no longer be hosting the radio show and encouraged the Council to consider what the best use of town funds is and whether the radio show should continue when the contract with the radio station expires. Council Member Ortler commented there is no way to measure the benefits of the show, but he has had numerous conversations with the public regarding the show and has received several positive comments regarding Julie as the hostess. Council Member Ortler complemented Julie on her professionalism towards the show and for her dedication. Council Member Freeberg also complemented Julie on her dedication to the town and what she has accomplished in bringing in tourism to the town through her efforts in the town’s visitor center.
- 8. Mayor Deutschlander complemented the Resort on their mascot they had at the Parowan High School football game and their efforts in promoting season passes.

F. AGENDA ITEMS:

1. 2014-2015 TOWN SHUTTLE BID AWARD. The 2014-2015 shuttle services bid award.

Nancy Leigh, Town Clerk, presented the proposal the town received for the 2014-2015 shuttle service (see attached report). Nancy explained the town received one proposal from Arrow Stage Lines, formally Mesquite Bus Company, in the amount of \$119,985.00. Nancy explained the proposal is the same amount as to what the town paid for the shuttle service last year.

The Council held discussion on the following:

- 1. Council Member Ortler inquired as to the times the resort will be shuttling people up the hill. Julie Saemisch reported she will contact the resort and will report back.
- 2. Mayor Deutschlander commented it could be to the benefit to the town that the contract be awarded for multiple years. Nancy explained that the contract allows for an extension for two one year periods, but would need to have approval if the cost were to change.
- 3. Council Member Calloway requested staff confirm the hourly rate identified in the proposal where there is a conflict of either \$70.00 or \$62.50 per hour. Staff will verify and report back to Council.

Motion: Council Member Ortler moved to award the 2014-2015 shuttle contract to Arrow Stage Lines in an amount not to exceed \$120,000. Council Member Calloway seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Yes: Council Member Calloway, Council Member Freeberg, Council Member Ortler, Mayor Deutschlander. Absent: Council Member Wilson).**

4. MAYOR PRO TEM RESOLUTION. A Resolution naming a Mayor pro-tem.

Nancy Leigh, Town Clerk, presented a draft resolution for Mayor Pro Tem (see attached). Nancy explained the Council will need to identify a Mayor Pro Tem in the absence of Mayor Deutschlander.

Mayor Deutschlander nominated Council Member Ortler as Mayor Pro Tem for the remainder of his term on the Town Council.

Motion: Council Member Calloway moved to adopt Resolution No. 443, a resolution appointing Council Member Jim Ortler as Mayor Pro Tem for the remainder of his term. Council Member Freeberg seconded the motion.

Action: **Motion carried 3-0-1 (summary: Yes = 3, No = 0, Abstain = 1 Yes: Council Member Calloway, Council Member Freeberg, Mayor Deutschlander. Abstain: Council Member Ortler. Absent: Council Member Wilson).**

5. ADMINISTRATIVE CODE DISCUSSION. A review of the Administration Code.

Nancy Leigh, Town Clerk, presented the fourth draft of the Administrative Code (see attached). Nancy explained this draft has the changes Council identified during their last meeting along with some minor changes that Council Member Ortler identified.

The Council reviewed the Administrative Code with the following discussion/changes:

- 1. 1-7-10-B: Council Member Calloway requested clarification on the meaning of “malfeasance in office” and whether the Town Manger has the ability to receive six months compensation whether malfeasance was proven or not. Council Member Ortler stated that proven malfeasance would probably end in criminal charges and would not allow the Town Manager to receive six month compensation.



- 2. 1-7-12: Town Organization. Council Member Ortler explained some of his concerns with the elimination of the departments and identifying only Administration, Public Safety and Public Works. Council Member Ortler suggested he would agree to the change but encouraged Council to consider identifying a provision that would require the Town Manager to have the advice and consent of the Council before any of the town officers are appointed or terminated. Staff will identify the change.
- 3. Town Engineer and Town Legal department: Council Member Ortler commented that with the elimination of the majority of departments including the engineering and legal, he would recommend a provision that the town engineer and town legal are approved by contract and a resolution adopted by Council. Staff will identify the change.
- 4. The town organizational chart will be identified in the code. This will identify the Council/Mayor, Town Manager, Department Heads, statutory positions (Town Clerk & Town Treasurer), Town Engineer and Town Attorney, which are positions the Town Manager will need the advice and consent to appoint or terminate. Staff will identify the change in the code.
- 5. Council Member Ortler suggested staff review Chapter 8, Title 1 of the Town Code for future revisions to that chapter.
- 6. 1-7-17-B. Council Member Calloway requested the Council delete the following “These board members shall originally serve terms of one, two (2) and three (3) years, and shall thereafter serve terms of two (2) years; provided, however”.
Consensus of the Council: delete the sentence.
- 7. Council Member Calloway inquired as to the duties of the town employees and where would they be identified. Nancy reported the duties of each employee are identified in their job description which is kept on file in the human resource department.
- 8. 1-7-12-B: Liaisons. In a previous meeting, the Council wanted to further discussions on whether to keep this provision in the Code. Council Member Ortler reported that according to the town’s form of government, the Council doesn’t have the authority to direct a department because it is the Town Manager’s responsibility and is not identified in state law.
Consensus of the Council: Leave the provision in the code.

Staff will bring a final draft of the administrative code with the noted changes back to Council for adoption at the next Council meeting.

9. PRESERVATION OF THE TOWN MEADOW. A discussion on the preservation of the town meadow.

Bret Howser, Town Manager, explained there has been some conversation in town regarding the preservation of the town meadow, adjacent to the town hall. Bret explained the majority of land located in the meadow is owned by the town, but there are some privately owned portions of the meadow.

Bret reported he has researched some possible policy options for the Council to consider on preserving the meadow:

- a) Town owns all the properties within the meadow and does not sell the property.
- b) Zone the entire property as Conservation Open Space (COS) and add a process for development.
- c) Vail, CO has identified an overlay zone over certain zones in which it would require voter approval for any type of change to that zone. This would take the decision out of the hands of Council and put it into the hands of the voters.
- d) The town can sell or donate the land to an organization that has interest in preserving land with deed restrictions.
- e) The town can sell or donate a conservation easement to a conservation organization. A conservation organization is a third party who is in the business of preserving open space. The conservation easement would be dictated by the third party.

Bret explained there are two items that he would like the Council to discuss: 1) the broad discussion in whether the town wants to preserve the meadow in a permanent fashion, and if so, what particular avenue would the town want to preserve the land. Bret reported that Paul Maynard, Trust for Utah Public Lands, is here to give the Council some information on the conservation organization.

Paul Maynard gave a presentation to the Council and public on the options the town may have if the town were to decide use a conservation easement with a third party. Mr. Maynard explained the details of a conservation easement which is a real estate transaction in which the rights to the property would be deeded to a third party for a cost. Deed restrictions could be identified in the title work and could vary depending on what the Council decides should be an approved used within the meadow area.

The Council held discussion on the following:

- a) If the town were to identify a conservation easement, what would the endowment fees could be along with the ongoing cost to maintain the easement.
- b) Not all of the property located in the meadow area is owned by the town and how a conservation easement would handle that kind of situation.
- c) The Trust for Utah Public Lands would monitor the property to ensure the property conforms to the terms of the easement.



- d) Julie Saemisch, resident, inquired that if the town was to decide to go with a conservation easement and a citizen group maintained the property for compliance with the deed restrictions and if sometime in the future, there was a request to seed the meadow, would it require permission from the third party? Mr. Maynard responded it would depend on what the deed restrictions would allow.
- e) Mr. Maynard explained that there are possible tax benefits for using a conservation easement; it is more to the advantage of the private sector than the government since government does not pay property taxes.
- f) Council Member Freeberg inquired if the deed could be modified after the title is recorded. Mr. Maynard explained that the restrictions should be identified before the deed is recorded, but there are provisions in which both parties can amend the deed, or it can go to the court and be extinguished.
- g) Julie Saemisch commented that she believes the Council should first decide on the priorities of what they want the meadow to be and it should be identified as a goal before any action is taken.
- h) Mayor Deutschlander explained the Council designated the meadow as Conservation Open Space (COS) and since that time, the town has developed part of the meadow to construct a pump house and ATV trail. Mayor Deutschlander encouraged the Council to look at preventing further encroachment onto the meadow.
- i) Council Member Calloway commented that he has seen encroachment on the town meadows in which the Bristlecone Pond was constructed along with the pump house and ATV trail and he believes the Council should take action in preserving the meadow for the future.
- j) Council Member Ortler stated that he is 100% in favor of preserving the meadow and believes the meadow is critical to Brian Head, but has concerns about making it irrevocable for future Council and public.
- k) Mr. Maynard explained that it is a difficult process to unwind a conservation easement but there are benefits to having a permanent conservation easement since it increases the property values surrounding the property.
- l) Council Member Calloway commented that future Council will never know what the meadows looked like prior to the encroachments which have taken place over the past years.
- m) Council Member Ortler stated that the Council does not know what is going to happen in the next 100 years and since a conservation easement is permanent it is irrevocable for future Councils, and the Council needs to think before making such a permanent decision.
- n) The Council requested examples of what the deed restriction for municipal government would look like. Mr. Maynard reported he will submit an example to the Town Manager.

Council Member Ortler stated the Council will need to decide how restrictive they want to be with the preservation of the meadow. Staff will present some options for the meadow based on a conservation easement or donate the land with deed restrictions. This item will be addressed at the next Council meeting.

The Council then took a five minute break at 3:30 pm.

G. CLOSED SESSION OF THE TOWN COUNCIL. To discuss the sale, exchange, lease or purchase of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction; a strategy session to discuss collective bargaining and discuss the sale of real property.

Motion: Council Member Ortler moved to enter into closed session to discuss the sale, exchange, lease or purchase of real property. Council Member Calloway seconded the motion.
Action: **Motion carried 4-0-0 (summary: Yes = 4 Yes:** Council Member Calloway, Council Member Freeberg, Council Member Ortler, Mayor Deutschlander. **Absent:** Council Member Wilson).

The Council entered into closed session at 3:44 pm.

Motion: Council Member Ortler moved to adjourn the closed session and reconvene the regular meeting of the Town Council. Council Member Freeberg seconded the motion.
Action: **Motion carried 4-0-0 (summary: Yes = 4 Yes:** Council Member Calloway, Council Member Freeberg, Council Member Ortler, Mayor Deutschlander. **Absent:** Council Member Wilson).

H. WORK SESSION – LAND MANAGEMENT CODE REVIEW.

This item was not addressed.



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I. ADJOURNMENT

Motion: Council Member Ortler moved to adjourn the regular meeting of the Brian Head Town Council for October 14, 2014. Council Member Freeberg seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Yes:** Council Member Calloway, Council Member Freeberg, Council Member Ortler, Mayor Deutschlander. **Absent:** Council Member Wilson).

The regular meeting of the Brian Head Town Council was adjourned at 4:15 pm for October 14, 2014.

October 28, 2014
Date Approved

Nancy Leigh, Town Clerk

