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# 893 3311 4185
TUESDAY, AUGUST 12, 2025 @ 1:00 PM

MINUTES OF THE TOWN COUNCIL

Members: Present: Mayor Clayton Calloway, Council Member Martin Tidwell, Council Member Mitch Ricks, Council Member Duane Nyen

Members Absent: Council Member Larry Freeberg

Staff: Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Shane Williamson, Administration Dept. Head; Chief Dan Benson, Public Safety Director, Ciera Claridge, Deputy Clerk.

A. CALL TO ORDER

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

B. PLEDGE ALLEGIANCE

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

C. RECOGNITION OF COUNCIL MEMBER KELLY MARSHALL.

Mayor Calloway presented Council Kelly Marshall with a plaque for her dedicated service on the Town Council since 2018. Mayor Calloway and the Council thanked Kelly for her time and efforts on the Council.

D. SWEARING OF NEW COUNCIL MEMBER DUANE NYEN.

New Council Member Duane Nyen was sworn in as a member of the Town Council by Nancy Leigh, Town Clerk. The Mayor and Council welcomed Council Member Nyen to the Town Council.

E. 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.

F. APPROVAL OF THE MINUTES:

July 22, 2025, Town Council Meeting

Motion: Council Member Tidwell moved to approve the July 22, 2025, Town Council minutes. Council Member Ricks seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Tidwell, Council Member Ricks, Council Member Nyen, Mayor Calloway. **Absent:** Council Member Freeberg).

July 29, 2025, Town Council Special Meeting

Mayor Calloway raised a procedural issue regarding the July 29th special meeting minutes. Mayor Calloway noted that there may not be a quorum to approve the minutes. Nancy Leigh, Town Clerk, clarified that the Council could still vote on the minutes and the Mayor who was present at the meeting could make the motion to approve the minutes. Council Member Tidwell or Ricks had recused themselves from the July 29th meeting.

Motion: Mayor Calloway moved to approve the July 29th Town Council special meeting minutes. Council Member Tidwell seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Tidwell, Council Member Ricks, Council Member Nyen, Mayor Calloway. **Absent:** Council Member Freeberg).

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

Nancy Leigh, Town Clerk, reported on the success of the 50th anniversary celebration, which was a success with three days of events happening. Nancy noted that the only challenge was the high winds on Saturday, July 26th when the bounce houses had to be taken down and the vendors were struggling with the winds and shut down early. Despite the wind challenges, the Town received a lot of great feedback from the public and collected numerous photos that are being uploaded to the server. Nancy explained they would create a compilation of all photos from both the March and July events.

Council Member Duane Nyen: In his first report as a council member, Duane expressed that it is an honor and privilege to serve the town of Brian Head and is looking forward to fulfilling this term and working with the staff, the council, and community with continuing the vision of Brian Head.

Mayor Calloway provided an update on the Rocky Mountain Power project, explaining that "we're going to be listening to those generators for some time well into January." Mayor Calloway noted that the biggest delay was the delivery of the substation equipment, especially the transformers.

Council Member Tidwell

1. Thanked the staff for their efforts on the 50th anniversary celebration, stating that he thought it went well and was excellent in all regards. Council Member Tidwell specifically acknowledged seeing people on staff in different functions with helping and organizing and making sure it came off successfully. It was a great event.
2. Took a moment to personally thank Kelly Marshall for her service on the council, noting that she was very instrumental to him personally in teaching him how to be a council person. Council Member Tidwell stated that he appreciated her very much and she will be missed.

Tim Treat Letter: Council Member Tidwell reported that he was asked to read a letter from Tim Treat, property owner, into the minutes. Tim Treats Letter:

"In 2020, we purchased 2 lots in Brian Head. We proceeded with surveying soil test, the home design, and a septic design. The 2 lots were merged and given the address 950 Yankee lookout. We completed our Wildland Urban Interface (WUI) requirement and posted a bond with the Town of Brian Head. By July 2021, everything was in place, and our permit was ready for pickup in Cedar City. We had a contractor lined up to start before the snowfall of 2021. Because COVID lockdown was in place, the builders decided not to start that fall. Utah kept the COVID lockdown in place for 2 more years. We decided to abandon our dream and sell the lots. We had several interested buyers, but they were told by a Brian Head town employee that city water is required per the health department. I called and spoke to Amanda, Code Enforcement/Public Works, when I told her what lot I own. She told me that Brian Head considers my lot is on an unimproved road and not plowed, so it is considered seasonal use only. However, she informed me that the health department now considers year-round access and not eligible for haul water supply.

So, I called the health department and spoke directly to Jeremy Roberts, who claimed that sometime in 2021, he met with the town of Brian Head, and they agreed that every city lot is considered year-round *access. He quoted me 2015 rules claiming that nothing has changed since then. When I accused him of talking in circles because it is not possible that nothing has changed, when I have in my hand a sewer permit noted as hall water supply, I asked for a renewed 1-year permit or refund of my money. He said he would do neither and hung up on me. Very unprofessional.*

I called back to Brian Head and was told that it was out of their control. Every lot past the sandpit is seasonal, and anyone that has been up there in the winter knows it. To let some bureaucrat at the health department run the zoning of your town is sad. My hundred-thousand-dollar investment is now worthless. I want this on record to be to warn anyone considering Brian Head as a place to build a cabin to beware of any lot within the city limits. It's too bad because I like the city staff, the cafes, the town, and the beautiful views. Brian Head has 2 choices, remove all the lots in the loop of Aspen to Yankee lookout from city and give that land back to the county. 2, tell the health department to stop overriding that seasonal use designation you established.
Thank you, Tim Treat.

The letter was then entered into the record by Town Clerk, Nancy Leigh.

Bret Howser, Town Manager, commented that his update was in the email sent to the Council previously.

Shane Williamson, Administration Dept Head, announced that the contractors for the Rocky Mountain Power project (1884) had asked him to inform the meeting that tomorrow they would be flying in two poles on the snowmobile trail that goes up behind the hotel. Shane explained that they are going to evacuate the Brian Head Lodge and one home at the end of Holyoak Circle.
Shane emphasized that there is a rumor going around that the town is getting evacuated. That is not true. The FAA requires anyone within 300 feet, and those are the only locations within 300 feet. It will only be in place while the helicopter is there placing the 2 poles." When asked if Highway 143 would be shut down as well, Shane confirmed it would not be. He noted that based on his experience watching similar operations in the canyon, the helicopter would not be there for an extensive amount of time.

Cier Claridge, Deputy Clerk, reported she met with Council Member Tidwell yesterday regarding the upcoming strategic planning tour that is scheduled for September 24th – 26th.
The retreat would include visits to Sundance Resort, Brighton, Park City, and Alta. Ciera outlined the topics they planned to discuss with each location:

- Increased visitation throughout summer and shoulder seasons
- Relationships between the towns and resorts
- Parking issues and permitting solutions
- Employee housing and affordable housing
- Fiscal year 26 budgeting and spending priorities
- Short-term rental (STR) regulations and enforcement

Ciera asked for any additional topics the council wanted included on the agenda. Council Member Tidwell noted they were also planning two team dinners on Wednesday and Thursday nights. When asked about the location, Ciera clarified that the group would be staying in Salt Lake City so they would have one location to come back to instead of different hotels.

Kim Caddell, Crooked River #5 resident, addressed the council about ongoing construction issues with the Crooked River complex. Kim explained that six units had been standing incomplete for the last two years due to foundation problems. Caddell expressed his frustration in which they are trying to get some input as to if there any code violations that the town can impose so that the unfinished construction area is either moving forward or if it needs to be torn down and started over or possibly make a park out of that area.

Kim raised safety concerns, noting that there are some steep inclines in which someone could be hurt. Kim also mentioned that the wood that is used for the project is ruined and expressed doubts about the viability of the units without major reconstruction.
Caddell also brought up drainage issues near the dumpster area and inquired as to who to speak about ensuring proper drainage. Bret Howser responded that the town was planning to pave underneath the dumpster in anticipation of putting a dumpster enclosure there. He assured Kim that if a culvert is needed where the natural drainage flows, then the town will get a culvert under there. Bret noted the town was planning to pave in the next week or the following week and would ensure proper drainage is addressed before paving.

When Kim inquired about the builders (Frontier LLC, Frontier Building), Bret provided background on the situation. Bret explained the town had communicated with the homeowner's group multiple times. Bret acknowledged that the town has sent letters to Crooked River requesting them to clean up their site. However, Bret noted the situation was complicated since Frontier Homestead is currently in litigation with the town. Bret gave a brief background with Frontier Homestead and the town on an appeal case in which the town lost and was required to refund their cleanup bond. Bret confirmed they had sent letters requesting site cleanup, and while the developer had agreed to do so, they had not followed through yet. Bret concluded that the town would need more follow-up.

Troy Benson, 141 East Mountain View Dr., addressed the council regarding the formation of an ad hoc committee. Troy referenced the July 29, 2025, council meeting where Mayor Calloway had mentioned the intention of forming an ad hoc committee to identify the issues and congestion within the building process for the town. Troy noted that it'd be prudent to broaden the scope of the committee to examine how the staff interacts with the public."
Troy requested that the committee be established, but that it not be limited to three individuals who were not selected for the council seat appointment. Instead, propose the committee to be expanded to include seven members with representatives from diverse sectors of the community. Troy emphasized that it should include individuals with firsthand experience of the construction process as well as both permanent and non-permanent residents who interact with the town and local government. Troy volunteered to serve as chair of the committee and expressed his desire to proceed with selecting the remaining members so they could begin the process immediately and report back to the board."
Mayor Calloway responded that Greg Sant, Planning & Building Administrator, was working on forming the committee and would be part of the committee. The Mayor noted that Greg had already gathered a few members together. There was some confusion regarding the selection process. Mayor Calloway explained that the intent was to have those who were not selected for the council appointment along with a contractor from Choice Builders to serve on the committee. Troy commented he believes it leaves out the homeowners who have been impacted by different things in the town as well. Troy requested a seven-member committee to break any ties that may occur.
Bret Howser confirmed there was no issue with expanding the committee to seven members, and it was agreed that Troy could work with staff to finalize the committee composition.

H. AGENDA ITEMS

1. **COMMERCIAL BUILDING INSPECTIONS AGREEMENT WITH ENOCH CITY.** An agreement for commercial building inspections with Enoch City.

Bret Howser, Town Manager, presented a draft agreement with Enoch City for commercial building inspections (see attached). Bret explained the proposed agreement would establish payment terms for when Enoch provides commercial inspection services. Bret explained they currently had two commercial permits receiving inspections: one for the addition on the mall (a more intensive project) and a telecommunications cell tower project that did not require many inspections.

Bret noted they did not anticipate this happening frequently, though they did have one ongoing commercial project. Bret mentioned the option of contracting with private inspection firms for larger commercial projects if it provided more favorable terms. Bret reported that Enoch City Council approved the same agreement yesterday in their council meeting.

Motion: Council Member Tidwell moved to approve the amended cooperative agreement for building inspection services with the city of Enoch. Council Member Ricks seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Tidwell, Council Member Ricks, Council Member Nyen, Mayor Calloway. **Absent:** Council Member Freeberg).

2. PUBLIC ART PROJECT. Discussion on a public art piece.

Bret Howser, Town Manager, introduced the public art project discussion, explaining that Mayor Calloway had proposed an idea to several businesses in town. The basic concept involved having sculptures - either identical or similar - that businesses could purchase and then have murals painted on them.
Regarding the Public Art Committee, Bret explained they had used an ad hoc committee for the Brian the Bear art project but had struggled to maintain energy from that committee. Bret suggested either using the Iron County Public Art Committee (of which he was also a member) or forming a new ad hoc committee locally.

Mayor Calloway elaborated on the concept, explaining he had reached out to businesses and pitched the idea of sculptures – such as a bear, an elk, a Sasquatch, or whatever would suit Bria Head and that businesses would purchase. The town would then issue an RFP to find artists to submit three or four different options for each one, for each business location so that they had some input on what was going to be displayed.

The Mayor reported positive responses from Georg's Ski Shop, Brianhead Sports, The Mall, and Thunder Mountain Motorsports who were willing to participate. Mayor Calloway reported he spoke with Council Member Freeberg, in which his comment was that he does not like psychedelic animals.

The Mayor then asked from input from the council:

- Council Member Nyen commented suggested getting his wife involved in the art committee. He shared her thoughts that she was not necessarily wanting to add more sculptures around town but possibly considering some decorative cover for the Rocky Mountain Power substation, such as screening and making it an art project.
- Council Member Nyen expressed some reservations, noting he had already been approached by individuals in the community who found Brian the Bear a controversial art project. While he did not object to Brian the Bear art piece in the park, he felt it beautified the park and made it a central location. Council Member Nyen suggested the council consider future art projects should be more useful and practical but was not opposed to businesses buying and decorating sculptures and echoed Council Member Freeberg's concern about maintaining the town's "rustic flavor" rather than something "psychedelic."
- Council Member Tidwell asked for clarification about business enthusiasm and costs. Mayor Calloway confirmed he had researched options in cast aluminum or epoxy resin, ranging from $1,500 to $2,000. When asked about placement, particularly where the mall would put a sculpture, the Mayor suggested letting businesses decide, noting it could be under the covered porch and would serve as another photo op. Mayor Calloway referenced the buffalo sculptures in St. George,

where people go on these quests to find the approximately 20 painted buffalo around the city.

- Council Member Tidwell expressed support of the art project, and the council should pursue it. Council Member Tidwell confirmed that if the businesses were willing to pay the $2,000 cost, with town support for the painting or wrapping of the sculptures. When asked about funding from the County Art Council, Bret confirmed they had not identified any funding sources yet.
- Council Member Ricks asked several questions about whether these would be permanent structures (yes, anchored down), materials (aluminum or resin compound, no maintenance required), and liability for damages. Mayor Calloway indicated those details would need to be worked out. Mitch also raised safety concerns about the size, referencing pictures showing people riding similar sculptures. The Mayor confirmed they would be a similar size or close to life size.
- Council Member Ricks expressed his support for the public-private cooperation aspect and suggested involving more community members, suggesting that the town has folks that are artistic and how could the town reach out to them and get them to participate?"
- Council Member Tidwell suggested incorporating the theme into shuttle stops proposing that the town could sponsor one at each of the shuttle stops. Mayor Calloway agreed.

Consensus of the Council: the Council preferred an Ad Hoc Committee over the Iron County Art Committee for aesthetic input. Bret will create an Ad Hoc Committee and requested suggestions for members. The choice for the creature would be something local and indigenous with the committee to make the final decision.

3. ENGINEERING AGREEMENT FOR THE ELK DR. & BRIAN HEAD UNIT 3 SPECIAL ASSESSMENT AREAS (SAA). An agreement for engineering for SAAs.

Bret Howser, Town Manager, presented an engineering agreement for the Elk Drive and Brian Head Unit 3 Special Assessment Areas (see attached). Bret explained the town had gone out to bid for engineering services specifically for the waterline projects.

Bret noted that based on conversations that Jon Ficken, Public Works Director, had with contractors, they learned that when the town typically goes out to bid in March and April, It is too late for contractors to include in their summer schedule, therefore would hope that bidding in the Fall for spring and summer installation could give the town more of robust response for the RFPs.

The town issued an RFP directly to multiple engineering firms but received only one response (see attached). The amount that Alpha Engineer proposed is less than the twelve percent engineering costs that were included in the engineering and construction management costs in the project cost estimates" used for both SAA notices.
Bret addressed public input received on the item, noting concerns about Alpha Engineering's performance on recent SAAs and confirmed that staff discussed this with Alpha Engineering, who committed to doing a better job. There was also a suggestion for a field feasibility analysis after design completion, which would be incorporated into the final contract.

Another suggestion was to avoid awarding construction management simultaneously with engineering design, potentially using a different engineer for accountability. It was noted that this was a new concept for the town and checked with Parowan City and Enoch City about their practices. Bret confirmed it had been Brian Head's practice to award both engineering design and construction management to the same firm, which was typical for most cities.

Mayor Calloway raised a concern from Council Member Freeberg about reverse-engineering the costs based on recent projects to ensure assessments align with lot valuations, avoiding another Ranger Court SAA situation. Bret confirmed they had done this analysis, looking at actual appraised values rather than assessed values. For Elk Drive, they had "well over a 4 to 1 ratio," while BH Unit 3 was at "3.7 to 1 ratio," with higher appraisals due to many properties being zoned multifamily.

Shane Williamson, Administration Department Head, confirmed that council had discussed this in a previous meeting discussing the ratios in detail with direction to staff to move forward based on the reversed engineering analysis.

Bret outlined the timeline: award the contract, begin design work, go out to bid by mid-November, receive bids in December, proceed with assessment ordinances in January or February, issue bonds in February or March, and be ready for construction when the season begins.
A key consideration was the town potentially purchasing materials directly to address contractor concerns about price fluctuations between fall bidding and spring construction. This approach might also open the project to additional contractors who could bid solely on installation services.

Council Member Tidwell asked about the BH Unit 3 notice status. Bret explained they could not begin engineering expenditures until the notice of intent was issued, which he hoped to have on the next council meeting agenda. Bret then provided an update on the BH Unit 3 SAA project, confirming that boring under Highway 143 would be included in the current highway project rather than the SAA costs, as better bids had been received and money had been reallocated.

Council Member Ricks asked questions about the projects being separate SAAs (confirmed as legally required), current bond market conditions (rates in the 4-5% range with potential Fed news in September), and the bidding process. Council Member Ricks also inquired about early indicators that the new approach would attract more contractors.

Regarding prepurchase of materials, Bret clarified the town would use bond proceeds and would not purchase until after bonds were issued, likely in March, with materials potentially stored until June construction. Council Member Ricks expressed concern about the risk of paying for BH Unit 3 engineering if the project could not proceed. Bret acknowledged there was no real mitigation but noted the main risk would be if 40% of property owners protested during the 60-day period. With 22 units in BH Unit 3, about 10 people would need to object. Shane noted that over 60% had signed the petition in favor when the council changed the policy to increase the required petition percentage for risk mitigation.

Mayor Calloway asked about the recommendation regarding awarding engineering versus engineering and construction management. Bret confirmed his recommendation was to award the contract as proposed in the RFP for both design and construction management. Discussion confirmed this was consistent with other municipalities' practices, though Council Member Ricks suggested adding this topic to their upcoming strategic planning retreat agenda to validate that resort towns follow similar practices.

Motion: Council Member Tidwell moved to award the contract for water infrastructure design and construction management in the Elk Drive and Brian Head unit 3 special assessment areas to Alpha Engineering for the amount of $107,372 in the form of approval by the town attorney. Council Member Nyen seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Tidwell, Council Member Ricks, Council Member Nyen, Mayor Calloway. **Absent:** Council Member Freeberg).

4. **FUTURE AGENDA ITEMS.** Discussion on potential items for future Council agendas.

August 19th Planning Commission Agenda

- Planning Commission will review a Plat Amendment for 450 East (Copper Lane) in which there will be a road vacation request presented to the Council for that subdivision for a portion of that road.
- An amendment to the Land Management Code on flag lots.

August 26th Town Council agenda

- Notice of Intent for the Brian Head Unit 3 SAA.

Discussions on the streetlight project throughout the Town. Cache Valley Electric is installing the streetlights and concrete has been poured. The poles are delivered, and they may be waiting on Rocky Mountain Power for the installation.

Council Member Ricks inquired about the road repairs for Steam Engine Drive due to the construction, Bret responded that it is in Perco Rocks contract to repair the road.

The Highway 143 waterline project that was happening in front of Apple Annies is now complete and Perco Rock will begin at Georg's Ski Shop as part of the Highway 143 waterline project. Bret explained that they are trying to keep to a minimal impact on businesses with the construction project.

I. ADJOURNMENT

Motion: Council Member Ricks moved to adjourn the regular meeting of the Town Council on August 12, 2025. Council Member Tidwell seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Tidwell, Council Member Ricks, Council Member Nyen, Mayor Calloway. **Absent:** Council Member Freeberg).

The regular meeting of the Brian Head Town Council was adjourned at 2:18 pm on August 12, 2025.

8/26/25

Date Approved

~~Nancy Leigh~~, Town Clerk

Ciera Claridge, Deputy Clerk