

**The Regular/Special Meeting of the
 Brian Head Town Council acting as the
 Governing Board of the Brian Head
 Redevelopment Agency, Special Service District &
 Municipal Building Authority
 Town Hall - 56 North Highway 143, Brian Head, UT 84719
 TUESDAY, MAY 26, 2015 @ 1:00 PM**

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Roll Call

Members Present: Mayor H.C. Deutschlander, Council Member Jim Ortler, Council Member Larry Freeberg, Council Member Clayton Calloway, Council Member Reece Wilson
Staff Present: Bret Howser, Nancy Leigh, Tom Stratton, Dan Benson, Cecilia Johnson, Wendy Dowland, Jonha Humes

A. CALL TO ORDER

Mayor/Chair Deutschlander called the regular meeting of the Town Council and the special meeting of the Brian Head Special Service District, Municipal Building Authority and Redevelopment Agency to order at 1:00 pm.

B. PLEDGE OF ALLEGIANCE

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

C. DISCLOSURES

There were no conflicts of interest with today’s agenda items. Mayor/Chair 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:

April 28, 2015 Town Council meeting

Motion: Council Member Calloway moved to approve the April 28, 2015 Town Council minutes. Council Member Freeberg seconded the motion.
Action: **Motion carried 4-0-1, (summary: Yes = 4, No = 0, Abstain = 1 Vote: Yes:** Mayor Deutschlander, Council Member Calloway, Council Member Freeberg, Council Member Ortler.
Abstain: Council Member Wilson.

May 12, 2015 Town Council meeting.

Motion: Council Member Calloway moved to approve the May 12, 2015 Town Council minutes. Council Member Freeberg seconded the motion.
Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member Wilson,).

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

Nancy Leigh, Town Clerk, reported the time period for filing for candidacy for the upcoming municipal election begins June 1st through June 8th and those interested in filing can file with her in person during normal business hours. There are two Council seats open for this election.

Approved June 09, 2015

Bret Howser, Town Manager

1. Updated the Council on the status of the Grand Lodge's pending property tax sale. Bret reported the owner has made a partial payment, but will need to make the remaining balance by tomorrow or the property will go to a tax sale. The town will keep the Council updated on the status.
2. Rocky Mountain Power reported they will be assessing the street lights along highway 143 within the town.
3. Updated the Council on the status of the Building Inspector position the town currently has open. Bret report the staff has interview two individuals and will keep the position open until filled.
4. Inquired if the Council is interested in considering adopting a resolution encouraging the Iron County Commission to put on the local option tax for transportation that is being proposed throughout the State of Utah on the 2015 Municipal Election ballot. Bret explained the County must decide to place the initiative on the election ballot for the voters to decide on an additional 0.1% fuel tax that would go to the cities and towns for road improvements. Mayor Deutschlander reported he will bring the topic up at the next Iron County Coordinating Council meeting.
Council directed staff to put the proposed resolution on the next Town Council agenda for consideration.

Tom Stratton, Public Works Director

1. The Public Works crew finished the Bearflat pump house last week by installing rock walls and terracing the area. Picnic tables will be installed along with grass seeding the area.
2. The department will be working on the town roads which will be receiving mag chloride in the next few weeks for dust mitigation.
3. Council Member Wilson inquired if the inclinometers have recorded any movement in the highway in front of Bristlecone Pond. Tom responded there has been a movement of 2/10" with the spring thaw, but there has not been any movement near the Brian Head Village Condominium area. The Engineer is working with the Utah Department of Transportation (UDOT) in designing a road which will be paved prior to UDOT completing their improvements to the highway. The town will be conforming to UDOT's standards on the highway improvements.
4. The town's annual clean-up day is scheduled for June 3rd from 9:00 am to noon. A barbeque lunch will be held at the town pavilion along with an Arbor Day celebration. The public is encouraged to participate.
5. The town will be holding a fishing derby during the 4th of July celebrations. The Division of Natural Resources (DNR) will tag some of the fish which will be good for prizes.
6. DNR has stocked rainbow trout and tiger trout in Bristlecone Pond. Due to the high water levels some of the trout may be going over the spillway and down Parowan Canyon creek.

Dono Sanopano, resident. Mr. Sanopano reported he has been a resident for over two years and is not currently connected to the town's water system. Mr. Sanopano went on to explain he is currently purchasing the town's bulk water which is expensive. He pays \$500.00 for 5,000 gallons of water whereas the resident who is connected to the town's water system pays \$70.00 p/month for 5,000 gallons. Mr. Sanopano requested if he could set up an account with the town for the purchase of bulk water at the amount of \$70.00 for 5,000 gallons since he is a resident of the town.

Mayor Deutschlander directed staff to identify a discussion topic be placed on the next Council agenda. Council Member Ortler reported the Homeowner Associations will be having their annual meetings before the next Council meeting in June and they would need to know if the town is planning to increase the utility rates for fiscal year 2016.

Council Member Freeberg stated he may have a potential conflict of interest with this discussion item since he is currently purchasing bulk water from the town for his water source. Council Member Freeberg commented he agrees with Mr. Sanopano that the bulk water rates are high.

F. AGENDA ITEMS:

1. **PUBLIC HEARING: FISCAL YEAR 2016 BUDGET(S).** A public hearing for the fiscal year 2016 Budgets for the Town, Special Service District, Municipal Building Authority and Redevelopment Agency.



1 **Motion:** Council/Board Member Calloway moved to recess the meeting of the Town Council and
 2 open the public hearing for the proposed fiscal year 2016 budgets for the Town, Special
 3 Service District, Municipal Building Authority and Redevelopment Agency.
 4 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor/Chair Deutschlander,**
 5 Council/Board Member Calloway, Council/Board Member Freeberg, Council/Board Member
 6 Ortler, Council/Board Member Wilson,).

7
 8 Mayor/Chair Deutschlander opened the public hearing at 1:30 pm

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 10 No comments were received and no written comments were submitted to the Town Clerk.

11
 12 **Motion:** Council/Board Member Freeberg moved to close the public hearing the fiscal year 2016
 13 budgets for the town, Special Service District, Municipal Building Authority and
 14 Redevelopment Agency. Council/Board Member Calloway seconded the motion.

15 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor/Chair Deutschlander,**
 16 Council/Board Member Calloway, Council/Board Member Freeberg, Council/Board Member
 17 Ortler, Council/Board Member Wilson,).

18
 19 The Regular meeting of the Town Council was reconvened at 1:31 p.m.

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 22 **2. ARBOR DAY PROCLAMATION.** A Proclamation proclaiming June 3, 2015 as Brian Head Arbor Day will be
 23 considered by the Council.

24
 25 Cecilia Johnson, Tree Commission Secretary, presented the annual Arbor Day Proclamation for 2015
 26 (see attached). Cecilia explained the Tree Commission met and recommended Arbor Day be held on
 27 June 3, 2015 in conjunction the town clean-up day. Cecilia went on to explain that as part of Tree City
 28 USA requirements, the town needs to proclaim an Arbor Day and plant trees in celebration.

29
 30 **Motion:** Council Member Ortler moved to authorize the Mayor to sign the Proclamation declaring
 31 June 3, 2015 as Brian Head Arbor Day as proposed. Council Member Freeberg
 32 seconded the motion.

33 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor Deutschlander, Council**
 34 Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member
 35 Wilson,).

36
 37 Mayor Deutschlander requested staff to notify the other members of the Tree Commission the passage of
 38 the Arbor Day proclamation.

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 41 **3. OPEN SPACE PRESERVATION DISUCSSION.** A discussion on the preservation of the meadow.

42
 43 Council Member Ortler reported during the last Council meeting held on May 26, 2015, he requested the
 44 Council table the agenda topic in order to give him some time to investigate options, other than the
 45 proposed third party conservation easement option the Council has been discussing in their previous
 46 meetings.

47
 48 Council Member Ortler reported he has spoken with eight attorneys, including David Church who is the
 49 attorney for the Utah League of Cities and Towns. The majority of the comments from the attorneys
 50 were asking why the town would give property to a trust which is a private entity. The typical reason
 51 people use third party conservation easement trusts is to receive tax deductions, which the town would
 52 not benefit from. Council Member Ortler went on to report the town has the option to identify a deed
 53 restriction and still maintain ownership as a deterrent in deciding whether the town should ever decide to
 54 sell or develop the area. Mr. Church did state that the town cannot give away public lands and must
 55 receive a fair market value for the property since it belongs to the public and the town must follow the
 56 disposition of real property process.

57
 58 The Council held discussion on the following:



- 1 a) Bret reported he also spoke with David Church who informed him the town must get a value for
 2 the property and the legislative body must determine what the net value is as part of the criteria
 3 but that the value does not necessarily need to be monetary.
 4 b) The Council would need to state clearly what the determination of value is and can be as simple
 5 as the value of permanently preserving the land is value enough.
 6 c) Discussion on whether a public hearing to receive public comment should be held before a final
 7 decision is made.
 8 d) Bret inquired if the Council is comfortable with making a move of permanently preserving the
 9 meadow area and if so to direct staff to start pursuing the process of a third party conservation
 10 easement.
 11 e) Council Member Ortler stated he is opposed to anything permanent, but would not be opposed to
 12 a temporary commitment since he believes the Council does not have the right to take a
 13 decision away from future generations.
 14 f) Council Member Calloway stated he is in favor of permanently preserving the meadow since
 15 previous Councils have encroached into the meadow over the years and he believes it is the
 16 duty of the Council to permanently preserve the meadow for future generations.
 17 g) Mayor Deutschlander commented that he is in favor of preserving the meadow since it is a focal
 18 point of the town.
 19 h) Council Member Wilson commented he would like to see a 99% option but would lean towards
 20 protecting the meadow.
 21 i) Council Member Freeberg commented he is in support of preserving the meadow, but would like
 22 to have the 99% option also. If the town were to move in the direction of preserving the meadow
 23 he would like to have a public hearing held and if the meadow were to be preserved by a third
 24 party conservation, he would like a management plan to include certain activities that would be
 25 allowed in the meadow.
 26 j) Council Member Wilson stated he would like to have a public hearing, but would like to rally the
 27 public on this issue instead of receiving a small majority of individuals.
 28 k) Discussion was held regarding the type of notification to the public such as a survey, postcards
 29 mailed to property owners and an email blast in an effort to receive a true idea of what the public
 30 thinks about preserving the meadow.
 31 l) Staff will draft a survey and send it to Council for review prior to sending it out to the public.
 32 m) Staff will determine a process to notify the public and report back to the Council.
 33 n) A public hearing will also be held to receive the public's comments.

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 36 **4. BRIAN HEAD PERSONNEL POLICY AND PROCEDURE AMENDMENT.** An ordinance amending
 37 the Personnel Policy & Procedure Manual as it pertains to Title 5 (Discipline) and Title 9 (Grievance Process).
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39 Jonah Humes, Management Intern, presented a draft ordinance amending the Brian Head Personnel
 40 Policy and Procedure Manual, Title 5 (Discipline) and Title 9 (Grievance Process) (See attached). Jonah
 41 explained the proposed draft separates the discipline and the grievance processes and clarifies the duties
 42 of the Legislature and Administration department.
 43

44 The Council held discussion on the following:

- 45 a) Jonah explained the grievance and discipline process were connected and had redundancy. An
 46 example of when disciplining an employee for anything it turned into a grievance which went in
 47 front of the Council. The proposed change will separate the two processes in which an employee
 48 must exhaust the town appeal process which is an administrative function.
 49 b) Council Member Calloway commented he is in favor of separating the two items and agrees with
 50 the proposed grievance process, but has concerns with the proposed disciplinary process
 51 identifying an employee appeal board. Council Member Calloway went on to comment that Brian
 52 Head Town is too small of an organization to have an employee appeal board and he believes
 53 that a third party should have the final decision. Bret explain that by case law the employee is
 54 afforded the opportunity to have a jury of their peers which includes their co-workers.
 55 c) Mayor Deutschlander inquired if the proposed ordinance has been reviewed by legal. Bret
 56 reported he has spoken to the Town Attorney on the concept, but he has not reviewed the
 57 proposed document in full.
 58 d) Council Member Calloway commented he attended two seminars in which encouraged the cities
 59 and town to have an independent hear the appeals from the employees.



- 1 e) Council Member Ortler agreed with the proposal to eliminate the Council from the grievance
 2 process due to it being an administrative action and not a legislative one.
 3 f) Bret reported the town has an employee appeal board which consists of five members of the
 4 staff. There is a provision that employees in the same department as the person bringing the
 5 appeal cannot serve on the appeal board.
 6 g) Part-time employees are not eligible for the grievance process.
 7

8 **Motion:** Council Member Freeberg moved to table this agenda item for legal review and directed
 9 staff to provide for options for a third party appeal process. Council Member Calloway
 10 seconded the motion.

11 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council
 12 Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member
 13 Wilson).
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16 **5. UTAH STATE CONTRIBUTORY RETIREMENT SYSTEM RESOLUTION.** A resolution switching
 17 the retirement system from non-contributory to contributory.
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19 Cecilia Johnson, Town Treasurer, presented a draft resolution changing from the contributory retirement
 20 system to a non-contributory retirement system (see attached). Cecilia reported the Legislature has
 21 opened a window to allow municipalities who are currently on the contributory system to switch to the
 22 non-contributory retirement system. There are only twelve cities in the state that are still on the
 23 contributory system and this window that the Legislature has identified will allow those cities and towns to
 24 switch over until December 31, 2015.
 25

26 Cecilia explained switching to the non-contributory system; the town will be saving 2% which results in
 27 approximately \$10,000 annual savings to the town. Currently eight out of the fourteen employees are on
 28 the contributory system. Some of the benefits of switching to the non-contributory system are:

- 29 a) A 2% or \$10,000 annual savings to the town.
 30 b) The employee highest three years vs. five years average salary will be used for retirement
 31 benefits.
 32 c) The Public Safety officers are already on the non-contributory system and some of the new hired
 33 employees as of 2013 are on a tier 2 system which is a hybrid 401K pension plan.
 34

35 Council Member Freeberg stated that with the current contributory plan, the town could require the eight
 36 employees to contribute to their retirement and the town would only be required to pay six percent (6%)
 37 and in the non-contributory the town is required to pay the full amount. Council Member Freeberg went
 38 on to comment that there are large businesses and cites throughout the United States that have gone
 39 bankrupt due to pensions they are paying out.
 40

41 Council Member Ortler stated the Council has held various discussion regarding the increase in health
 42 insurance and requiring the employees to pay a portion of it and if the Council were to decide to stay with
 43 the contributory system then the town would be paying additional to have the option to one day decide to
 44 require some of the employees to pay into their retirement. Council Member Ortler stated that the benefit
 45 to the employees would be favorable and would be in favor of switching the retirement system to the non-
 46 contributory system.
 47

48 Council Member Calloway commented the town cannot fairly implement a requirement on some of the
 49 employees of requiring them to pay into their retirement system while the other half of employees are not
 50 required to pay into their retirement system.
 51

52 **Motion:** Council Member Ortler moved to adopt Resolution No. 448, a resolution changing from the
 53 contributory retirement system to the non-contributory retirement system as presented.
 54 Council Member Calloway seconded the motion.
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56 Council Member Wilson inquired what would be the impact if the Council chose not to adopt the
 57 resolution. Council Member Ortler responded it would be a negative impact on morale and would only
 58 affect eight out of the thirteen current employees. Bret explained it would also impact the morale and any
 59 recruiting efforts.



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3 **Action: Motion carried 3-2-0 (summary: Yes = 3, No = 2, Abstain = 0 Vote: Yes: Council Member**
4 **Calloway, Council Member Ortler, Mayor Deutschlander. No: Council Member Freeberg,**
5 **Council Member Wilson).**
6

7 **G. WORK SESSION -LAND MANAGEMENT CODE REVIEW: ZONING DISTRICT MAP**
8 **& CHAPTER 11, FLEXIBLE APPROACHES.**
9

10 Bret Howser, Town Manager, explained the Council will be reviewing the Zone District Map (see
11 attached). Bret explained the Planning Commission has made its recommendations to proposed
12 changes to the map:

- 13 1. Commercial nodes in three areas of the town; north, mid and south of the town.
- 14 2. Keeping the multi-family (R-3) near the main roads and single-family residential (R-1) off the main
15 routes.
- 16 3. The parcel of property adjacent to the Grand Lodge is proposed to go from commercial to multi-
17 family residential since it is not suitable for commercial. Council Member Ortler gave some
18 history to the zoning of the Grand Lodge property in which if they decided to expand the hotel it
19 would be appropriately zoned.

20
21 The Council then reviewed the zone district map with the following changes/recommendations and/or
22 discussions:

- 23 1. The Proposed Zoning Map identifies numbers which are proposed changes.
- 24 2. Council Member Freeberg commented that those properties that are being proposed for a change
25 in zoning should have a say in what the change should be.
- 26 3. Council agreed to leave the property adjacent to the Grand Lodge zoned as is with no changes.
- 27 4. #1- Identified as Conservation Open Space (COS). Keep as COS.
- 28 5. #2: Identifies single-family residential (R-1) and commercial which is identified along the
29 highway,
- 30 6. #3: Single-family residential and general commercial along the highway.
- 31 7. #4: Single-family residential identified north of Circle Drive and Bobcat/Gurr Well Road.
- 32 8. #5: Light industrial zone. Council Member Calloway commented he would like to see the
33 maintenance area of Cedar Breaks Lodge zoned as commercial. It is currently zoned light
34 industrial. Council Member Freeberg inquired if the town could require the area to be covered in
35 some way.
- 36 9. #6: General commercial in the middle of multi-family residential (R-3). This will be changed to
37 multi-family residential altogether.
- 38 10. #7: Single-family residential (R-1).
- 39 11. #8: Multi-family residential (R-3). Council Member Ortler suggested the area be zoned single-
40 family residential for those properties off of the highway and multi-family residential for those
41 properties adjacent to the highway. The area will be identified as multi-family residential.
- 42 12. #9: General commercial which includes Navajo Lodge and Cedar Breaks Lodge. There was a
43 proposed change from multi-family residential to commercial in this draft.
- 44 13. #10: Recreation open space (ROS). Discussion was held regarding the strip of single-family
45 residential in the middle of the ski run area. Staff will verify with previous town zoning maps.
- 46 14. #11: Multi-family residential (R-3).
- 47 15. #12: Single-family residential (R-1).
- 48 16. #13: General commercial and civic where the town hall is located.
- 49 17. #14: Multi-family residential (R-3).
- 50 18. #15: Single-family residential (R-1).
- 51 19. #16: Village core (VC). Council requested the county's property that is currently located in the
52 zone be identified as conservation open space (COS).
- 53 20. #17: Recreation open space (ROS). Council requested the change to single-family residential
54 (R-1).
- 55 21. #18: Recreation open space (ROS). This area is the top of the ski runs along with subdivide lots
56 which a majority of the lots are owned by Brian Head Resort.
- 57 22. #19: Multi-family residential (R-3).
- 58 23. #20: Single-family residential (R-1).
- 59



- 24. #21: General commercial (GC).
- 25. #22: Recreation open space (ROS) and civic (P).
- 26. #23: Multi-family residential (R-3).
- 27. #24: Identified as Multi-family residential (R-3). Council requested the change to single-family residential for those lots on the west side.
- 28. #25: Single-family residential (R-1)
- 29. #26: Multi-family residential (R-3). The properties are located in Ski Line Sites subdivision – and will be changed to single-family residential (R-1).
- 30. #27: Recreation open space (ROS).

H. CLOSED SESSION OF THE TOWN COUNCIL. A strategy session to discuss the sale of real property, including any form of water right or water shares.

Motion: Council Member Ortler moved to enter into closed session to discuss the sale of real property including any form of water right or water share. Council Member Freeberg seconded the motion.
Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member Wilson).

The Council entered into closed session at 3:50 pm.

Motion: Council Member Wilson moved to adjourn the closed session of the Town Council and reconvene the regular meeting. Council Member Ortler seconded the motion.
Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member Wilson).

The regular meeting of the Brian Head Town Council was reconvened at 4:15 pm.

G. ADJOURNMENT

Motion: Council Member Ortler moved to adjourn the regular meeting of the Brian Head Town Council for May 26, 2015. Council Member Wilson seconded the motion.
Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member Wilson,).

The regular and special meeting of the Brian Head Town Council, Special Service District, Redevelopment Agency and Municipal Building Authority was adjourned at 4:16 for May 26, 2015.

June 09, 2015
Date Approved

Nancy Leigh Town/District Clerk

