

The Regular Meeting of the
Brian Head Town Council Acting as the Governing Body
of the Brian Head Special Service District
Brian Head Town Hall - 56 North Highway 143
Brian Head, UT 84719
TUESDAY, FEBRUARY 26, 2019 @ 1:00 PM

AGENDA

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. DISCLOSURES**
- D. REPORTS / PUBLIC INPUT (Limited to three (3) minutes) Non-Agenda Items**
- F. APPROVAL OF THE MINUTES:** January 15, 2019 Town Council Minutes
- G. AGENDA ITEMS:**
 - 1. PUBLIC HEARINGS:**
 - a) Brian Head General Plan Revision**
 - b) Land Management Code Amendment for Chapter 10.2.H.6; Excavating & Grading Permits**

The Council will hold a public hearing to receive public comment on the above mentioned two items. Comments are limited to three minutes and written comments may be submitted to the Town Clerk no later than noon on February 26, 2019.
 - 2. ORDINANCE AMENDING THE LAND MANAGEMENT CODE, CHAPTER 10.2.H.6 OTHER REQUIRED PERMITS; EXCAVATING AND GRADING.** Bret Howser, Town Manager. The Council will consider an ordinance amending the Land Management Code, Chapter 10 for Excavating and Grading Permits.
 - 3. BUSINESS LICENSE CODE AMENDMENT DISCUSSION.** Nancy Leigh, Town Clerk. The Council will hold a discussion on the first draft of the Business License Code amendment addressing nightly rentals.
 - 4. VILLAGE CORE TRANSPORTATION PLAN PRESENTATION.** Bret Howser, Town Manager. The Multi Mobile Transportation Plan will be presented to the Council for review.
 - 5. ORDINANCE AMENDING THE FISCAL YEAR 2019 BRIAN HEAD TOWN BUDGET.** Cecilia Johnson, Town Treasurer. The Council will consider adopting an ordinance amending the fiscal year 2019 Town Budgets ending June 30, 2019.
 - 6. SPECIAL SERVICE DISTRICT WATER RIGHT LEASE RESOLUTION.** Nancy Leigh, District Clerk. The Board will consider a resolution authorizing a water right agreement for 243.08-acre feet of water for the 2019 irrigation season.
 - 7. POTENTIAL FUTURE AGENDA ITEMS.** The Council will discuss potential future agenda items

H. ADJOURNMENT

Date: February 22, 2019

Available to Board Members as per Resolution No. 347 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the Council may participate by means of a telephonic or telecommunications conference. In compliance with the Americans with Disabilities Act, persons needing auxiliary communications aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029 at least three days in advance of the meeting.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda in three public and conspicuous places within the Town Limits of Brian Head; to wit, Town Hall, Post Office and The Mall on this 22nd day of February 2019 and have posted such copy on the Utah Meeting Notice Website and have caused a copy of this notice to be delivered to the Daily Spectrum, a newspaper of general circulation.

Nancy Leigh, Town Clerk





Brian Head Town Council Update

January 1, 2019

BRIAN HEAD MARSHALS OFFICE:

As usual, January is a month of run and gun for the Marshal's Office. We handled a large volume of calls pulling a large number of incident reports of all types. Happily getting through these weeks of winter weather and large crowds we had no major incidents.

Deputies also had a great month of training and were able to conduct a large incident type training involving a snowmobile incident. Deputy Jeff Morgan was the lead instructor for this training. We were able to submit our Deputies to a snowmobile response that involved injuries, fire, media, an intoxicated subject and a snowmobile accident investigation. The incident was probably a bit much for any department to handle, but we were able to see that our Deputies had great skills in prioritizing the response and dealing with each aspect in an orderly and proper way. Deputies have been trained to organize scenes dealing with 1) Life Safety, 2) Property Conservation, and 3) Environment.

Deputies also were able to attend a training involving the "Iron County Critical Incident Task Force". Brian Head Marshals are participants in this task force which we will assist throughout the county with any critical incident investigation such as an officer involved shooting. This training was a briefing from Utah Counties CITF. They briefed us on lessons learned from Corey Ride officer involved shooting they had a few years ago.

SHIFTS AND NUMBER OF INCIDENTS

- Day Shift = 48
- Swing Shift = 56
- Grave Shift = 11
 - Total Incidents for January = 115

TYPES OF INCIDENTS

- Citizen/Motorist Assist – 40
- 911/Alarms – 4
- Fire – 3
- Fire Inspections – 6

- Medicals - 24
- Animal Problem – 2
- Theft – 4
- Trespass – 1
- Noise Disturbance – 1
- Criminal Mischief – 2
- Missing Person – 1
- Harassment – 1
- Parking Problem – 3
- Assault – 1
- Sex Offense – 1
- Vehicle Burglary – 1
- Lost/Found Property - 6
- Suspicious – 2
- Vehicle Accident – 9
- Drugs – 2
- Unsecure Premise – 2

BRIAN HEAD FIRE DEPARTMENT:

Much has happened with the fire department over the month of January. I was able to fly out to Minnesota and inspect our new type 3 engine which has sense been delivered. This new engine is going to be a great asset for our community. We are currently pricing equipment and working to get this truck set up with the necessary tools.

Training over this past month has been excellent with great numbers of volunteers showing up and participating. Deputy Morgan repeated the same training used for the Marshal's Office involving a snowmobile accident. The fire department handled this incident very well. We were also trained by Deputy Burton and Deputy Abbott on first aid and CPR. This is a certification that all of our department now have.

Cody Gregory, and Aaron Mayes, Nick Giffin, and Ryan Cooke have been attending numerous wildland fire trainings working towards their advancement in wildland fire.

We are also doing an area structural fire training working towards Firefighter I/II certification. This training is held twice a week in Parowan. We have teamed with Parowan and Paragonah Fire Departments on instructing this course and it is going very well. Deputy Brad Benson, Deputy Abbott, Firefighter Matt Gale and myself have been taking turns instructing. The class has about 12 people in it including Cody Gregory, Noah Gregory, Ryan Cook, Aaron Mayes and our newest firefighter

Sammy Sossa (NO, Not the baseball player). The goal is to have these firefighters testing for this certification by June.

We have also been doing well getting with the Public Works Department and working towards their Firefighter I/II certifications. They are doing a great job and are now integrating into some of our regular fire meetings. This is a great benefit to have them trained and now working alongside our volunteers creating better team cohesion.











Brian Head Town
Public Works Department Update
February 26, 2019

Bring on the SNOW! The comments that I have been hearing around town are “This is the way it used to be all the time”. From this comment, staff are looking for ways to improve after each storm. Public Works has been working hard in keeping the streets clear of snow from the storms and the wind. We have been working with Public Safety in coordinating our removal efforts to continue to improve our snow removal program. The following are the updates for each of the departments that we have been working on.

STREETS

- Snow Removal efforts have dominated much of Public Works Time. The blower has returned to us just in the nick of time to help with getting the streets as wide as we can for additional snow storage. Staff had been performing push backs with the loaders and doing the best we could without the blower. The blower had a vibration analysis done on it before we put it to work after the rebuild. The front ribbon shows vibration. These ribbons are bent and have been repaired/welded several times so vibration in this area was anticipated.

Staff will work with Kodiak Northwest in pricing replacement parts for the front ribbon area. This was the recommend of the Vibration analysis report.

- Design for the 2019 Streets Project has been completed. We are anticipating sending this project out to bid in March and are looking to having the work done in June at this time.

CULINARY

- Engineering work continues to move forward with the culinary projects for next year. We are looking to have the project plans delivered to us mid- March for final review and sending the project out to bid by the end of March.

TRAILS

- Snow removal along the trail has become a challenge that Public Works have faced head on. We will continue to the best we can in keeping the trail open with the heavy snow fall and drifting that we are dealing with.

IN-HOUSE PROJECTS

Public work will continue with snow removal and inside projects as time allows. This will include the start of building the signs for the trail, snow removal equipment being maintained, and planning for the project season next year. If you have any questions or concerns, please do not hesitate to call.



Blower running below Public Safety Building



Public Works crew getting a well-deserved soda after a busy morning of snow removal



Vibration Analysis Report For



Snow Blower

Contact:
Chris Leigh
435-990-1007

PdM Professionals & Consultants LLC
11000 North 8325 East,
P.O. Box 760066, Tridell, Utah 84076
Phone 435-621-2539,
E-mail: ronw@Professionalpdm.com



Report Summary

This report illustrates the vibration for Snow Blower Auger Screws Left and Right Bearings, Gearbox, Planetary Gearbox, and Impeller. This Snow Blower is a complex machine due to Hydraulic Drive Sources, Rotating Augers, Impeller, Drive Shaft, and Gearboxes (Right Angle and Planetary).

This unit ultimately takes out the output seal on the drive planetary gear box which then allows oil to leak out causing gearbox failure.

Vibration on the drive planetary gearbox taken on February 1st 2019 indicates vibration is elevated on the gearbox. This can be caused by two different sources. The first being the gearbox components i.e.; gears bearings. The second is vibration transferred from other components i.e.; augers, impeller, or drive shaft.

As I inspected this unit with Chris Leigh, we noticed that the augers had bent iron and bent support braces and bent attachment locations with cracked welds at supports for the auger gearbox. There were added washers to bolts on one side which adds weight which can cause imbalance and a high 1X RPM on the vibration plot which we see.

Now can just a few washers create enough imbalance to cause severe problems?

On high speed equipment yes! On low speed equipment it is not so severe. On rotating equipment, it is preferred to keep all systems balanced.

Vibration data indicates that the augers are out of balance due to being bent. The auger shafts could be bent as well. We are showing minimal vibration on the driver right auger bearing and elevated vibration on the driver left bearing with elevated impacts at 1X RPM of the auger.

The vibration being created by the auger causes the impeller or (fan) to wobble which takes out the output seal of the gearbox.

The excitation may be, alternatively, force applied to the system (generally, the force is applied to the mass of a single degree-of-freedom system) or motion of the foundation that supports the system. The resulting response of the system can be expressed in different ways, depending upon the nature of the excitation and the use to be made of the result:

1. If the excitation is force applied to the mass of the system the result may be expressed in terms of the amplitude of the resulting motion of the mass.

Continued page 2



2. The fraction of the applied force amplitude that is transmitted through the system to the support. The former is termed the motion response and the latter is termed the force transmissibility.
3. If the excitation is a motion of the foundation, the resulting response usually is expressed in terms of the amplitude of the motion of the mass relative to the amplitude of the motion of the foundation. This is termed the motion transmissibility for the system.
4. The root problem here is the auger system. Which creates vibration and transfers to the impeller or fan thru attached components causing an unbalance like symptom making the impeller to wobble, which takes out the seal of the gearbox.

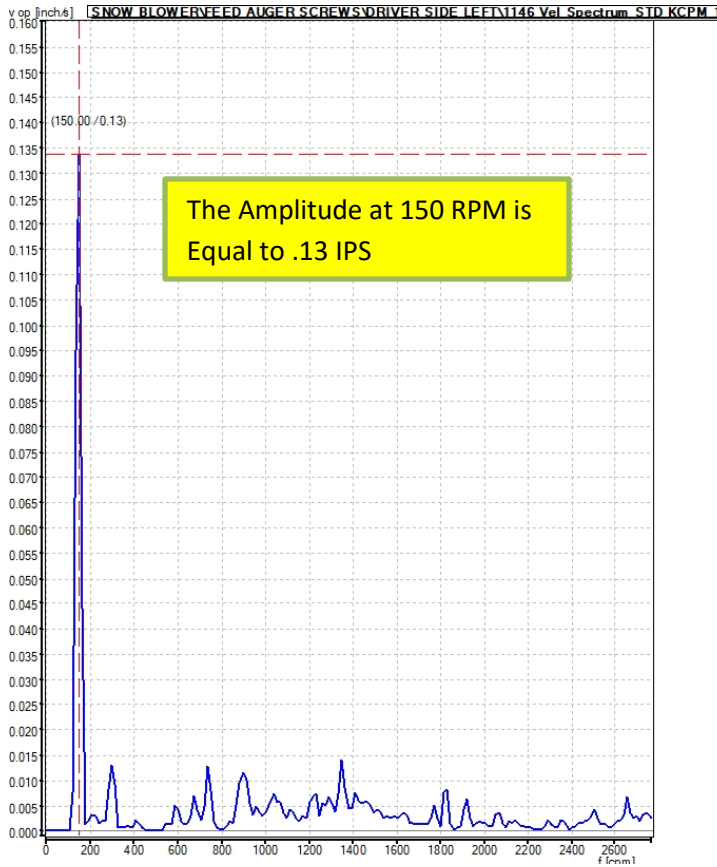
Recommendation;

- 1- Replace all auger components i.e.: square shafts, and iron.
- 2- Reweld all cracked welds on supports.
- 3- Re-balance impeller.

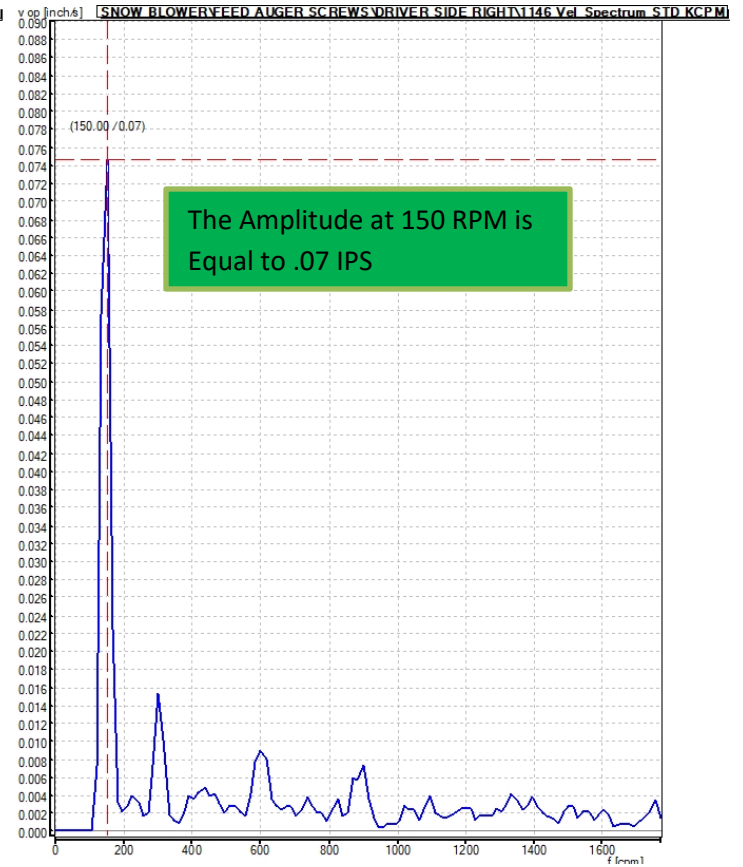


Report Graphs & Analysis

Snow Blower Auger Driver right side



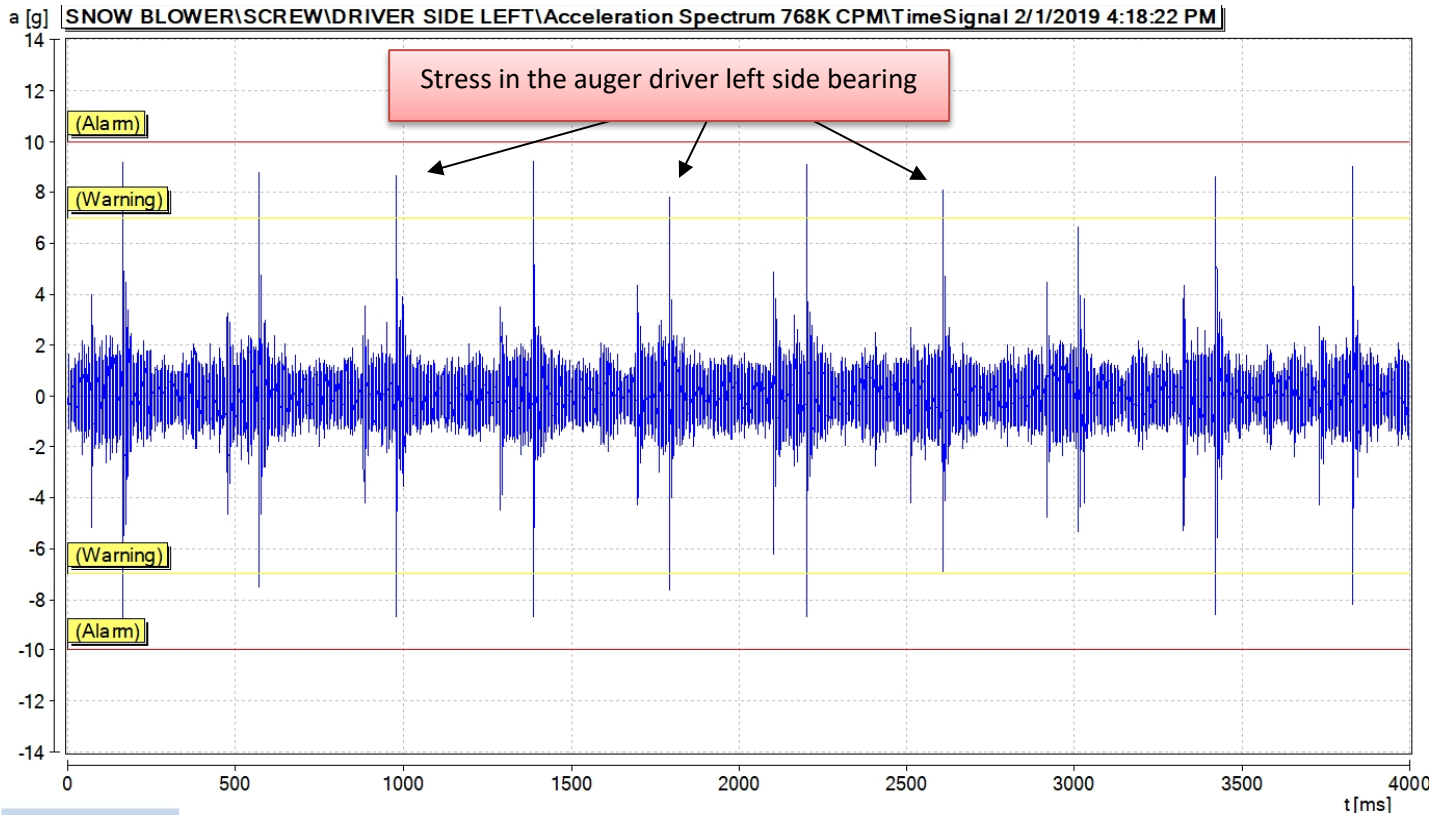
Snow Blower Auger Driver right side



Note the difference in amplitude. As the unit ran, we could visibly see the unit move in the vertical and axial direction. If we were to measure the distance it would equal .5" or more.

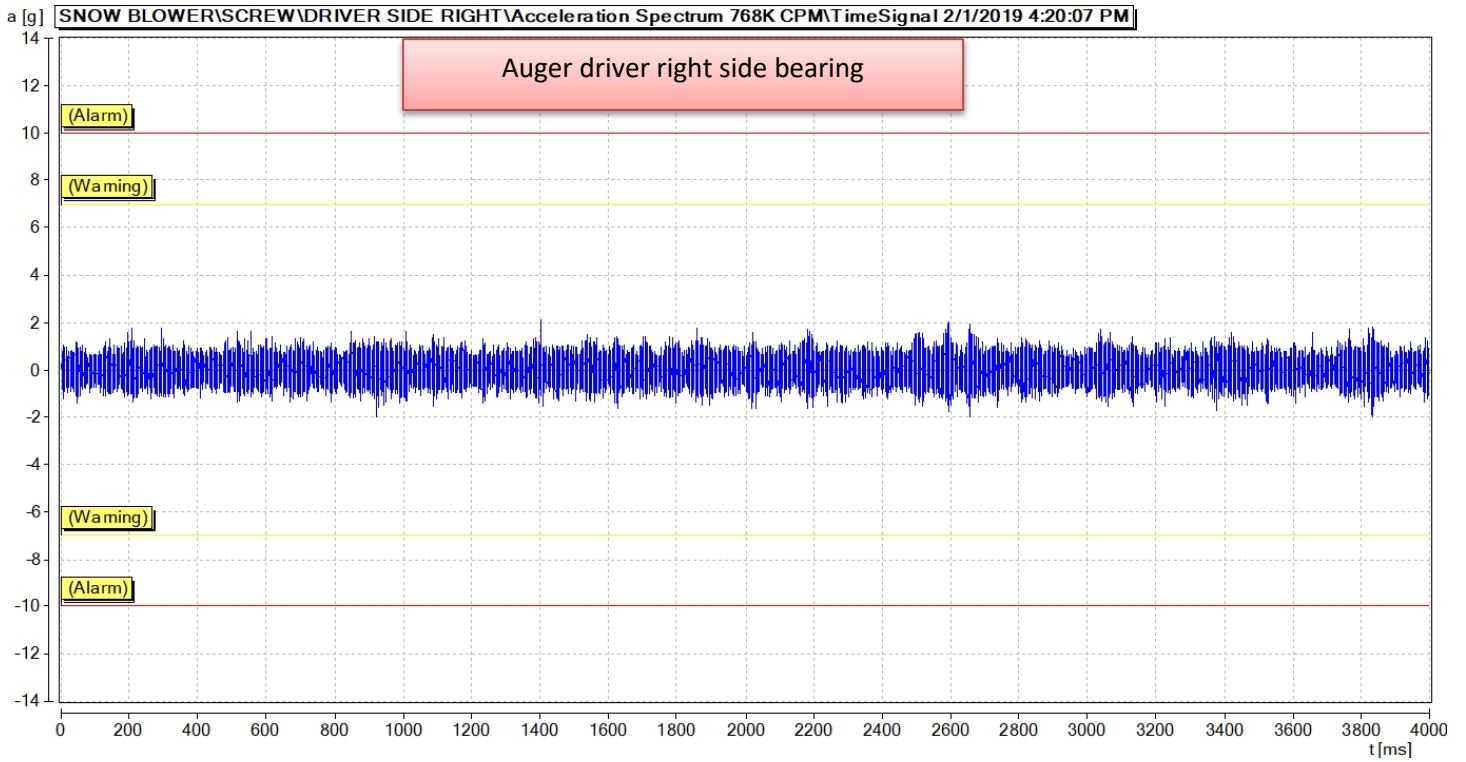


Snow Blower



Analysis

The auger driver left side bearing is showing multiple areas of stress at 1X RPM.



Analysis

The auger driver right side bearing is showing normal vibration data



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: General Plan Revision Review
AUTHOR: Wendy Dowland
DEPARTMENT: Administration
DATE: February 26, 2019
TYPE OF ITEM: Discussion

SUMMARY:

The Town Council will hold a required Public Hearing and give input regarding the General Plan revision.

BACKGROUND:

The current General Plan was last updated in 2010 and as part of a strategic plan action step to revise the town's general plan, the contracted with Rural Community Consultants to revise the town's General Plan. The Planning Commission began discussion on this topic in October 2018. Mike Hansen, with Rural Community Consultants, has broken the General Plan into several categories in order to receive organized input from the Planning Commission over the course of several meetings. The categories are as follows:

Introduction *	Community Context	Land Use
Community Design	Economic Development	Transportation
Housing	Preservation	Public Services & Facilities*

ANALYSIS:

Follow [this link](#) (Ctrl & click) for the most recent General Plan draft. Please note that Bret Howser will be expanding the Introduction and Public Services & Facilities sections of the General Plan. Most General Plans are land use based and expanding these categories will broaden the overall General Plan. Bret will give the Council more details on these sections during the Council meeting.

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

The Planning Commission gave their input on the General Plan draft on Tuesday, February 19, 2019 and Mike Hansen has incorporated those recommendations into the current draft plan that is attached as a link for your review. The Planning Commission is requesting a joint meeting with the Town Council to review the final draft before giving their formal recommendation.

STAFF RECOMMENDATION:

Staff has no recommendation at this time.

PROPOSED MOTION:

No motion necessary, is a public hearing and discussion item only.

ATTACHMENTS:

Attachment A - Link to the General Plan draft.



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: Public Hearing and ordinance Amending the Land Management Code Chapter 10.2.H6, Other Permits, Excavating / Grading Permits
AUTHOR: Wendy Dowland
DEPARTMENT: Administration
DATE: February 26, 2019
TYPE OF ITEM: Legislative

SUMMARY:

The Council will hold a public hearing on an amendment to the Land Management Code, Chapter 10.2.H.6, Other Permits, Excavating/Grading Permits. Bret will give a brief introduction to the public hearing on the proposed changes to the LMC. As part of the public hearing process, the Council will receive public comment on the proposed changes and once the public hearing is closed the Council can discuss and answer any questions that may have been asked during the public hearing portion. The second part of this agenda item is an ordinance amending Chapter 10.2.H6 of the LMC

BACKGROUND / ANALYSIS:

Several landowners have approached staff seeking permission to clear and prepare their lot for building while they are in the process of obtaining a building permit. Due to the short building season in Brian Head, owners would like to have the initial dirt work completed in the fall, so that they are ready to build as soon as snow melts in the spring.

The following language in the Land Management Code currently requires a building permit be issued before excavation can be done.

Land Management Code Chapter 9-10-2 H6 reads as follows:

If grading or clearing is being done in preparation for development, a building permit has been obtained and work has been approved to proceed. (2010 Code, amd. Ord. 15-005, 4-28-2015)

Staff is suggesting changing this section to read as follows:

*If grading or clearing is being done in preparation for development, a building permit has been obtained and work has been approved to proceed **or a performance bond has been secured sufficient to ensure that any scars on the land may be remedied.***

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

The Planning Commission met on December 04, 2018 to give input regarding Excavating & Grading permits and agreed to the suggested changes for Chapter 10. On February 19, 2019,

the Planning Commission held a public hearing on the proposed changes and made a motion to forward a recommendation of approval to the Town Council.

STAFF RECOMMENDATION:

Staff recommends Council adopt the proposed ordinance as presented with the identified changes for Chapter 10.2.H6 of the Land Management Code.

PROPOSED MOTION:

I move to adopt Ordinance No. 19-001, an ordinance amending the Land Management Code, 10.2.H6, Other permits, Excavating & Grading permits as presented.

ATTACHMENTS:

Attachments – Draft Ordinance amending 9.10.2.H6, Excavating & Grading Permits



ORDINANCE NO. _____

AN ORDINANCE AMENDING BRIAN HEAD TOWN CODE, TITLE 9, LAND MANAGEMENT CODE, CHAPTER 10.2.H6 OTHER PERMITS; EXCAVATING AND GRADING PERMITS.

WHEREAS, Brian Head Town has identified a need to amend the Brian Head Land Management Code in order to regulate land use within the Town limits of Brian Head, Utah; and,

WHEREAS, the Brian Head Planning Commission held a public hearing on February 19, 2019 giving at least fourteen (14) days' notice prior to the public hearing to receive public comment. The Planning Commission hereby forward their recommendation of approval with modifications of the Brian Head Land Management Code, Chapter 10.2.H6 Other Permits, Excavating & Grading Permits; to the Brian Head Town Council for their consideration and adoption; and

WHEREAS, the Brian Head Town Council held a public hearing on February 26, 2019 giving at least fourteen (14) day notice to receive public comment on the proposed amendments Brian Head Land Management Code; and

WHEREAS, it is in the best interests of Brian Head Town and the health, safety, and general welfare of its citizens to adopt this Ordinance:

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF BRIAN HEAD, UTAH, COUNTY OF IRON, STATE OF UTAH, AS FOLLOWS:

Section 1. The Brian Head Land Management Code is hereby amended and incorporated herein by reference as Title 9, Chapter 10.2.H6: Other Permits, Excavating and Grading Permits of the Brian Head Town Code regulating land use within the Town of Brian Head, Utah as follows:

Chapter 10 (Other Required Permits) 2.H.6 (Excavating and Grading Permits)

H. Standards For Review: All grading, filling and clearing operations which are performed under this chapter shall be consistent with section 9-12-11 of this title, and shall be designed to:

6. If grading or clearing is being done in preparation for development, a building permit has been obtained and work has been approved to proceed **or a performance bond has been secured sufficient to ensure that any scars on the land may be remedied.**

Section 2. Effective Date. This Ordinance shall take effect upon its passage by a majority vote of the Brian Head Town Council and following notice and publication as required by law. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this Ordinance shall be incorporated into Title 9 of the Brian Head Town Code.

Section 3. Conflict. To the extent of any conflict between other Town, County, State, or Federal laws, ordinances or regulations and this Ordinance, the more restrictive is deemed to be controlling.

Section 4. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer. All provisions of the Brian Head Town Code that are inconsistent with the expressed terms of this Ordinance shall be repealed.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF IRON COUNTY, UTAH this _____ day of February 2019 with the following vote.

Mayor Clayton Calloway	Aye_____	Nay_____
Council Member Lynn Mulder	Aye_____	Nay_____
Council Member Larry Freeberg	Aye_____	Nay_____
Council Member Shad Hunter	Aye_____	Nay_____
Council Member Kelly Marshall	Aye_____	Nay_____

BRIAN HEAD TOWN COUNCIL
BRIAN HEAD, UTAH

By: _____
Clayton Calloway, Mayor

ATTEST:

Nancy Leigh, Town Clerk

(SEAL)

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance passed by the Town Council on the 10th day of September 2018, and have posted a complete copy of the ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office and the Mail.

Nancy Leigh, Town Clerk

Ordinance No. _____



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: Business License Code Amendment – Nightly Rentals Discussion
AUTHOR: Nancy Leigh, Town Clerk
DEPARTMENT: Administration
DATE: February 26, 2019
TYPE OF ITEM: Discussion

SUMMARY:

The Council will review and hold discussion on the first draft of an amendment to the Business License Code addressing nightly rentals, along with some additional language for clarification purposes throughout Chapter 1 (Definitions), Chapter 2A (Licensing in General) and Chapter 2B (Revocation and Suspension). Staff is looking for the Council's input on the first draft of this ordinance.

A public hearing is scheduled for the March 11th Council meeting to receive public comment on the proposed amendment to the Code in which staff will bring back a 2nd draft of the code. Once staff has received input from the Council after this meeting, legal will need to review the final draft of the code before adoption.

BACKGROUND:

The current business license code, Section 3.2A-21, identifies a provision specifically regulating nightly rentals. At the time the code was adopted in 2008, the majority of nightly rentals were listed under a rental management company with very few individuals doing rentals on their own, that has since changed with the introduction of Airbnb, VRBO, Travelocity, and many other websites.

Currently Brian Head has a total of 132 nightly rental business licenses identifying a total of 531 cabins and condos being rented out with eight (8) licensed rental management companies operating. These numbers are based on fire inspections and licenses issued and does not include the Best Western Premier hotel which has another 100 rooms in addition to what the homeowners are renting out.

In 2006 when we first started focusing on licensing, there were a total 52 business licenses issued with 20 nightly rentals in operations. In 2019 there are 166 businesses with the majority being nightly rentals with new applications being submitted weekly.

ANALYSIS:

With the introduction of Airbnb, VRBO and the many other websites allowing homeowners to rent out their home, it has changed the platform of how nightly rentals are managed. While we still have rental management companies operating, more and more homeowners are now renting their cabin/condo on their own.

With the growing trend to rent out your cabin/condo, Brian Head is experiencing growing pains as it now is dealing with parking and occupancy issues. With 2019 being a heavy snow

year, the need for parking spaces has dramatically increased resulting in vehicles parking on the town roads which has created an issue for snow removal services.

In considering an amendment to the current code, staff researched several other resort towns (Moab, Park City, Summit County and Garden City) along with Cedar City who recently adopted a short-term rental ordinance. In reviewing each of ordinances, staff noticed a common issue each city was experiencing: 1) parking issues 2) occupancy issues and 3) disruption of the neighborhood. Even though Brian Head is mainly secondary homes, there are full-time residents who are experiencing some if not all of these issues.

The current code identifies management standards for nightly rentals. Listed below are a few of the standards identified in town code regulating nightly rentals:

1. Snow Removal For Access:
2. Off Street Parking Maintenance:
3. Parking: Parking must be in compliance with the town parking ordinance,
4. Fire Inspections.
5. Noise and Safety Control

As part of the licensing process, each nightly rental business is given a copy of the town's code regulating nightly rentals.

Staff is proposing an amendment to the licensing code that is somewhat similar to what Cedar City recently adopted. Staff is proposing the following changes to the licensing code:

1. Every physical location to be licensed for that individual location. Currently, a rental management company or homeowner can identify as many locations (rentals) on their license with one fee for the license. The proposed amendment requires each physical location to be license with a separate license fee for each location. Staff would recommend Council consider reducing the nightly rental business license application fee from \$160 to \$80 for a new application and from \$80 to \$40 for renewals.
2. The owner can designate an agent to collect fees and remit taxes, but the property owner will be ultimately responsible for signing the application and agreement. The owner would be identified on the license.
3. Maximum Occupancy identified for each physical location: Two persons per bedroom with four additional persons. An example would be five bedrooms would allow a total of 14 people in the unit. We have identified this in the fire inspection list in which a maximum occupancy sign must be posted in plain view near the main entry way.
4. Applicants must submit plot plans, building plans identifying the square footage of the home, number of bedrooms and parking spaces with their applications.
5. The licensee will be limited to a maximum number of vehicles parked on-site based on the total available developed off-street parking spaces on premises. The owner may be cited for any violations.
6. The owner or agent shall respond to complaints within one hour of any phone call or notification. Failure to respond may result in a citation to the owner and/or agent.

With the proposed changes, the owner would be ultimately responsible for what happens on their property. The owner would also be required to sign the agreement which is part of the application process identifying they acknowledge the conditions of conducting a nightly rental business in Brian Head. Attached you will find a draft of the nightly rental application with the agreement on the back side of the application and the fire inspection. This is the current fire inspection with the addition of the last requirement of having an occupancy sign posted near the front entry way.

FINANCIAL IMPLICATIONS:

The financial implications would be the reduction of the business from \$160 to \$80 for a new application and from \$80 to \$40 for a renewal. This would bring the nightly rental fees in line with the other licensing fees and would be a flat rate for all businesses.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends the Council gives their input on the first draft of the business license code amendment addressing nightly rentals.

PROPOSED MOTION:

No motion necessary, a discussion item only.

ATTACHMENTS:

- A – Business License Code 3-2A Licensing in General
- B – Business License Code 3-1: Definitions
- C - Business License Code 3-2B: Suspension & Revocation
- D - Draft Nightly Rental Application & Agreement
- E - Draft Fire Inspection Guidelines

Title 3 – Business & Licensing Regulations

Chapter 2

BUSINESS LICENSING ARTICLE A. IN GENERAL

[3-2A-1: LICENSE REQUIRED:](#)

[3-2A-2: EXEMPTIONS:](#)

[3-2A-3: TRIPLE FEE FOR FAILURE TO OBTAIN REQUIRED LICENSE:](#)

[3-2A-4: APPLICATION FOR LICENSE:](#)

[3-2A-5: FEE PROVISIONS:](#)

[3-2A-6: INVESTIGATION OF APPLICANT:](#)

[3-2A-7: INSPECTIONS FOR CODE COMPLIANCE:](#)

[3-2A-8: CONDITIONS FOR DENIAL OF LICENSE:](#)

[3-2A-9: NOTIFICATION OF ISSUANCE OR DENIAL; BUSINESS OPERATIONS
DURING REVIEW AND INSPECTION:](#)

[3-2A-10: APPEALS OF LICENSE DENIAL:](#)

[3-2A-11: ISSUANCE OF LICENSE CERTIFICATE:](#)

[3-2A-12: RENEWAL OF LICENSE CERTIFICATE:](#)

[3-2A-13: UNRELATED BUSINESS ACTIVITIES:](#)

[3-2A-14: TERM OF LICENSE:](#)

[3-2A-15: DUTY TO DISPLAY LICENSE:](#)

[3-2A-16: BRANCH ESTABLISHMENTS:](#)

[3-2A-17: SEPARATE BUSINESSES, LICENSED PREMISES:](#)

[3-2A-18: MULTIPLE LICENSING:](#)

[3-2A-19: USE OF PUBLIC PROPERTY:](#)

[3-2A-20: CERTAIN ACTS PROHIBITED:](#)

[3-2A-21: CLASSIFICATION STANDARDS OF SPECIFIC BUSINESSES:](#)

[3-2A-21-1: CONTRACTORS AND BUILDERS:](#)

[3-2A-21-2: MOBILE VENDORS:](#)

[3-2A-21-3: NIGHTLY RENTAL FACILITIES:](#)

[3-2A-21-4: RESTAURANTS, FOOD SERVICE, TAVERNS, ETC.:](#)

[3-2A-21-5: RESIDENTIAL GARAGE SALES:](#)

[3-2A-21-6: CHILDCARE SERVICES:](#)

[3-2A-21-7: OUTDOOR SALES:](#)

3-2A-1: LICENSE REQUIRED:

Unless exempted by state or federal law, or by this title, it shall be unlawful for any person to

engage in business within the town, whether on a temporary or permanent basis, without first procuring the license required by this article. (Ord. 08-017, 8-26-2008)

3-2A-2: EXEMPTIONS:

The licensing provisions of this article shall not apply to the following kinds of activities that would otherwise fall within the purview of this article:

- A. Political Actions: No license shall be required to solicit signatures on petitions of a political nature, or to canvass or solicit funds on behalf of candidates for office or ballot issues. Campaign literature may be delivered to homes, subject to the delivery conditions set forth in subsection F of this section.
- B. Religious Actions: No license shall be required of persons exercising their right to express their religious views; provided however, that no person shall use this exemption to sell merchandise. Delivery of any publication or material shall be subject to the delivery conditions set forth in subsection E of this section.
- C. Civic Groups: No licensing shall be required of local civic organizations, such as Boy Scouts, Girl Scouts, historic preservation groups, schools, museums, and charitable organizations. Delivery of any publication or material shall be subject to the delivery conditions set forth in subsection E of this section.
- D. Solicited Deliveries: No special license shall be required of any person making an "unsolicited delivery", other than the license(s) required by this title to engage in business.
- E. Unsolicited Deliveries: No special license shall be required of any person making an "unsolicited delivery" other than licenses(s) required by this title to engage in business. However, any person making an unsolicited delivery of any kind shall not cause unsolicited material to be stacked, piled or accumulated on any driveway, porch, automobile, building, yard, doorway, stairwell or doorknob, without the prior express consent of the occupant of the premises. It shall be unlawful for any person to deliver any unsolicited material to a residence where that person's previously delivered material remains uncollected. Additionally, any person making such an unsolicited delivery to a residence who finds his or her prior uncollected material there shall properly dispose of that person's uncollected material.
- F. State Licensees: Solicitors who hold valid state issued licenses to act as real estate brokers or agents, stock brokers, or insurance agents or salesmen, need not obtain a separate solicitor's license from the town, but shall conduct their solicitation activities in accordance with the provisions of this code.
- G. Delivery Prohibition: It shall be unlawful for any person to deliver any unsolicited material to any person, residence or premises where the occupant thereof has requested that such delivery cease or where such occupant has posted his/her desire not to receive such unsolicited material. (Ord. 08-017, 8-26-2008)
- H. Minors: A license shall not be required for a business that is operated occasionally and by an individual who is under 18 years of age. The Licensing Officer will evaluate the size,

frequency, duration, visibility, and seasonality of the proposed business to determine whether the proposed business is considered occasional. (Ord. 17-005, 7-25, 2017)

- I. Low Impact Home Occupation: Home occupation businesses which do not have employees or customers coming to the home, but the work of the business is conducted primarily within the home. Low impact home occupations are those which do not create the following: 1) on or off street parking which generate excessive customer or client traffic that is detrimental to the residential character of surrounding properties of the neighborhood; 2) does not have retail sales at the home site or additional deliveries; 3) does not have storage or inventory or materials; 4) does not create noise vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors; 5) does not cause an increase of common expenses or an increase in law enforcement and/or public safety services. (Ord. 17-005, 7-25, 2017).

3-2A-3: TRIPLE FEE FOR FAILURE TO OBTAIN REQUIRED LICENSE:

Unless exempted by state or federal law or by this article, any person who engages in business prior to submitting a completed application and payment of all fees shall pay triple the specified fee for said license. The payment of such triple fee shall not relieve any person from fully complying with all the requirements of this title, nor from any other prescribed penalties. (Ord. 08-017, 8-26-2008)

3-2A-4: APPLICATION FOR LICENSE:

Applications for business licenses shall be made in writing to the Town Licensing Officer or designee. Each application shall state the name of the individual applicant, the name of the business as registered with the state, the local street address of the business' physical location in the town, the business mailing address, if different from the local street address, the type of business entity (corporation, partnership, limited liability company, sole proprietorship, etc.), the license fee to be paid, the name and street address of the business' registered agent who is authorized to receive service of process, a detailed description of all anticipated business operations for which applicant seeks licensure, and any evidence of applicant's license, state sales tax reporting number, ~~town business license retail fee, state contractor's license number, if applicable, state real estate broker's license number, if applicable, state daycare licensing number, if applicable,~~ if applicant is licensed under another agency regulations, then applicant shall submit a copy of the valid permit/license issued by such agency, and federal employer identification number, and shall contain such additional information as may be needed for the purpose of guidance of the licensing officer in issuing the license. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Licensing Officer. License application forms shall be reviewed and kept on file by the Licensing officer, or their designee. (Ord. 08-017, 8-26-2008)

Formatted: Strikethrough

3-2A-5: FEE PROVISIONS:

- A. Fee For License To Accompany Application: Each license application shall be accompanied by the business license fee required to be paid for the issuance of the license desired. The applicable license fees are listed in the consolidated fee schedule.
- B. Regulatory Fees Imposed: There is hereby imposed and levied an annual business license or permit fee based on the type of businesses described below. Fees are identified in the consolidated fee schedule on file with the town licensing officer.

BRIAN HEAD TOWN BUSINESS FEES

Application	Type Of License Issued
New business application	License
Renewal business application	License
Special events coordinator	License
Special event vendor	Permit (per event)
Door to door solicitation employee	Permit (temporary)
Door to door business	License
Sexually oriented business	License
Sexually oriented business employee	Permit per employee
Outdoor sales license	Permit
Street vendor	License

- C. Fees Declared Debt; Collection: Any license fee due and unpaid under this title, and all penalties thereon, shall constitute a debt to the town and may be collected by court proceedings in the same manner as any other debt, or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.
- D. Fee Payments; Renewal And Penalty:
1. The annual business license fee provided in this section shall be due and payable to the town on or before October 1 of each year for renewal of licenses for businesses which were licensed for the previous license year. Business licenses for previously unlicensed businesses shall be issued for the unexpired portion of the license year in which issued, upon payment of the annual license fee.
 2. If the renewal license fee is not paid on or before October 31 of the year in which the renewal license is due, in addition to the regular renewal fee required, there shall be a business license enforcement fee imposed of twenty five percent (25%) of the license fee imposed by this article, or fifteen dollars (\$15.00), whichever is greater.

3.
 - a. If the renewal license fee is not paid in full on or before November 30 of the year in which the renewal fee is due, the business license enforcement fee shall be increased to fifty percent (50%) of the license fee imposed by this chapter.
 - b. If the renewal license fee is not paid on or before December 15 of the year in which the renewal fee is due, the business license enforcement fee shall be increased to one hundred percent (100%) of the license fee imposed by this article.
4. Upon a proper showing that the business is of such a seasonal nature that business has not been conducted to date, the Licensing Officer or designee may waive the business license enforcement fee of said renewal.
5. Any previously licensed business cited for engaging in business in violation of this title shall have ten (10) days from the date of citation to come into compliance with this title. Failure of the licensee to reach compliance within ten (10) days of the date of citation will subject the business to closure and the licensee to all applicable civil and criminal penalties.
- E. **Renewal Billing Procedure:** On or before August 1 of each year, the Licensing Officer shall send a license renewal application to each current licensee within the town at the last known address of the licensee as registered with the town. (Ord. 08-017, 8-26-2008)
- F. **License Fee Adjustment To Avoid Burdening Interstate Commerce:** The business license fee imposed by this title shall not be applied so as to place an undue burden on interstate commerce. In any case, where the license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, such licensee or applicant may apply to the licensing officer, or his or her designee, for an adjustment of the fee so as to relieve such burden by submitting other supporting information as the licensing officer, or his or her designee, may deem necessary in order to determine the extent, if any, of such undue burden. The Licensing Officer, or his or her designee, shall then conduct an investigation, comparing the subject business with other businesses of like nature and shall make findings of fact from which he shall determine whether the license fee is discriminatory, unreasonable or unfair as to the licensee or applicant from the standpoint of its impact on interstate commerce, and shall recommend to the Town Manager an appropriate license fee under the circumstances, and the Town Manager shall fix the license fee in such amount. If the regular license fee has already been paid, the town manager shall order a refund of any amount over and above the amount of the license fee fixed, if any. In fixing the fee to be charged, the licensing officer, or his or her designee, may use any method which will assure that the fee assessed shall be uniform with that assessed on business of like nature; provided, however, that the amount assessed shall in no event exceed the regular fee prescribed in this title. (Ord. 08-017, 8-26-2008; amd. 2010 Code)
- G. **Refund Of Fee:** Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever once the license has been issued by the town, except when the license was issued in error. If a license is denied, applicant shall be entitled to a refund of the amount paid in excess of twenty-five dollars (\$25.00). The sum of twenty-five dollars (\$25.00) shall be retained to offset application processing costs. (Ord. 08-017, 8-26-2008)

3-2A-6: INVESTIGATION OF APPLICANT:

The Licensing Officer, or designee, may, at any time prior to the issuance of any business license required by this title, investigate any applicant for such license if the Licensing Officer has reasonable cause to believe that the applicant: a) has filed an application which is incomplete, erroneous or false in any respect; b) fails in any respect to qualify to do business in the town under any federal, state or town law, rule or regulation; c) has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, state or town law, ordinance, rule or regulation; or d) investigation is provided for by town ordinance. The Licensing Officer, or designee, may compel the production of documents and witnesses in order to conduct such investigation as provided by this section. (Ord. 08-017, 8-26-2008)

3-2A-7: INSPECTIONS FOR CODE COMPLIANCE:

- A. Permitted; Fee: Prior to the issuance of a license to engage in a new business not previously licensed at that location or an existing business with a change of location, the applicant shall be required to permit inspections to be made of the prospective place of business of the applicant by the appropriate departments of the town or other governmental agency to ensure compliance with building, fire, health codes, and town ordinances that may apply. No license shall be granted unless any required inspection reveals that the prospective place of business is in compliance with the building, fire and health codes. In addition to the business license fees, the applicant shall pay an inspection fee as set forth in the consolidated fee schedule at the time of application.
- B. Periodic Inspections: Existing places of business licensed within the town may be inspected periodically by departments of the town for compliance with building, fire, health and other town codes. Written notice shall be given by the Licensing Officer, or their designee, to a licensee upon the finding of any code infractions, which notice shall provide for a reasonable period, not to exceed sixty (60) days, in which to correct such infractions, the failure of which shall result in the revocation of the license by the Licensing Officer or designee. (Ord. 08-017, 8-26-2008)

3-2A-8: CONDITIONS FOR DENIAL OF LICENSE:

- A. Specified: The licensing officer or designee may deny a license if the applicant:
 - 1. Has been convicted of a crime involving fraud or dishonesty, or a felony by any state or federal court within the past five (5) years, or now has criminal proceedings pending against him in any state or federal court for a crime involving fraud or dishonesty or a felony;
 - 2. Has obtained a license by fraud or deceit, or given false or misleading information in any application;
 - 3. Has failed to pay required taxes or fees imposed by the town;

4. Has violated the laws of the state, the United States government, or the ordinances of the town governing operation of the business for which the applicant is applying for license;

5. No longer has a current, valid permit or license from any other federal, ~~or state,~~ or county agency necessary for the applicant to engage in the business that is the subject of the application;

6. Has failed to comply with the conditions and requirements of any town ordinance;

7. Operates an offensive business that has become a "business and special events nuisance", as defined in section [3-1-1](#) of this title, or as determined by the town nuisance ordinance; or

8. Fails to meet the standards for the license classification set forth in section [3-2A-21](#) of this article.

B. Issuance Inappropriate: Applications may also be denied on the grounds that the general health, welfare and public safety of the community makes the issuance of such a license inappropriate. (Ord. 08-017, 8-26-2008)

3-2A-9: NOTIFICATION OF ISSUANCE OR DENIAL; BUSINESS OPERATIONS DURING REVIEW AND INSPECTION:

A. Notification: Within a reasonable time, the Licensing Officer or designee shall notify the applicant of:

1. The denial of a license and the reason for such denial; or

2. The issuance of the license.

B. Business Operations: Upon receipt by the Licensing Officer, or designee, of a completed license renewal application and full payment of all fees required hereunder for said application, an applicant for a renewal license may continue its business operations during the review and inspection process. Any applicant for a new license who conducts or engages in business during the review period proceeds at his or her own risk, and no legal or equitable rights exist prior to the issuance of the actual license certificate. (Ord. 08-017, 8-26-2008)

3-2A-10: APPEALS OF LICENSE DENIAL:

A license application denial by the Licensing Officer, or designee, may be appealed to the Hearing Officer by filing a written notice of appeal with the Town Clerk within ten (10) days of denial of the license application. The Hearing Officer shall hear the appeal within thirty (30) days of the filing of the notice of appeal. After the decision of the Hearing Officer, the applicant may request an appeal of the Hearing Officer's decision to the Town Council for a final decision on behalf of the

town following the same procedures set forth herein for appeal of the licensing officer's decision. (Ord. 08-017, 8-26-2008)

3-2A-11: ISSUANCE OF LICENSE CERTIFICATE:

All issued license certificates shall be signed by the Licensing Officer or designee, under the seal of the town, which signature may be placed mechanically, and contain the following information:

- A. The name of the person to whom such certificate has been issued;
- B. The name of the business, if applicable;
- C. The type of license;
- D. The term of the license with commencement and expiration date;
- E. The purpose for which the licensee is authorized to do business;
- F. The local street address;
- G. The license or permit number; and
- H. A statement that the license is nontransferable. (Ord. 08-017, 8-26-2008)

3-2A-12: RENEWAL OF LICENSE CERTIFICATE:

Upon receipt of the license fee, the town shall issue a license certificate valid through September 30 of the next year. (Ord. 08-017, 8-26-2008)

3-2A-13: UNRELATED BUSINESS ACTIVITIES:

- A. Defined: For purposes of this section, "unrelated business activities" shall mean two (2) or more activities in which a licensee engages or conducts business that the licensing officer or designee categorizes under separate use and/or service.
- B. Provisions To Do Business Under One Business License: If the purposes for which a licensee is authorized to do business include multiple unrelated business activities, the town shall identify each authorized unrelated business activity on the license. The business shall set forth and limit the unrelated business activity authorized by the business license to the location identified in the business license issued.
- C. Modification of Business License: All provision of this title for denial, revocation, suspension or change to the business license shall apply equally to all unrelated business activities identified on the issued license. Where an unrelated business activity is denied, revoked,

suspended or voluntarily terminated in accordance with this title, the applicant must notify the town business Licensing Officer within ten (10) days to amend the business license, or the Licensing Officer may amend the business license on his/her own initiative. All other business activities authorized by the business license shall remain in effect insofar as they are not affected by the revoked or suspended unrelated business activity. A modified business license will be issued which will identify all of the approved unrelated business activities of the business. A fee shall be retained to offset application processing costs as identified in the consolidated fee schedule. (Ord. 08-017, 8-26-2008)

3-2A-14: TERM OF LICENSE:

The business license period will be from October 1 through September 30 of the following year. Renewed license certificate shall be valid through the next following September 30, unless revoked pursuant to this title. New license certificates issued between August 1 and September 30 shall be valid through September 30 of the following year, unless revoked. (Ord. 08-017, 8-26-2008)

3-2A-15: DUTY TO DISPLAY LICENSE:

Every licensee licensed pursuant to the provisions of this article shall keep the license displayed and exhibited while the same is in Every licensee not having a fixed place of business shall carry such license with them at all times while carrying on the business for which the license is issued and shall produce the license for inspection when requested to do so by any person. (Ord. 08-017, 8-26-2008)

3-2A-16: ~~BRANCH ESTABLISHMENTS~~ SEPARATE LICENSE REQUIRED FOR SEPARATE PHYSICAL LOCATIONS:

A separate license must be obtained for each ~~branch establishment~~ or separate physical location in which business is engaged within the town, as if such ~~branch establishment~~ or location were engaged only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this article shall not be deemed to be separate places of business or branch establishments. (Ord. 08-017, 8-26-2008)

3-2A-17: SEPARATE BUSINESSES, LICENSED PREMISES:

Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and pay the required license fee for such business. Where a person is a licensee pursuant to provisions in the beer and liquor licensing chapter of this title, that person shall obtain a separate business license for each licensed premises. (Ord. 08-017, 8-26-2008)

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

3-2A-18: MULTIPLE LICENSING:

Any one person may be issued any of the licenses and/or permits described and created in this title and may simultaneously hold more than one license, and/or a regular town business license. The granting of multiple licenses shall not grant privileges not specifically granted by the licenses issued, nor shall the issuance of multiple licenses extend the time limitations imposed on any of these special licenses that are of a temporary nature. Suspension or revocation of one of the multiple licenses shall not act as a suspension of any other license then in effect, unless the grounds for the suspension of one are also the grounds for suspension of other licenses held by the licensee. (Ord. 08-017, 8-26-2008)

3-2A-19: USE OF PUBLIC PROPERTY:

With the exception of those licenses/permits listed above which specifically grant the right to make use of the town streets or sidewalks, all commercial activity shall be confined to private property and to fully enclosed buildings on that property, except as provided by this title. (Ord. 08-017, 8-26-2008)

3-2A-20: CERTAIN ACTS PROHIBITED:

It shall be unlawful for any person, business, corporation, partnership or other entity to attract or attempt to attract people tolling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them. (Ord. 08-017, 8-26-2008)

3-2A-21: CLASSIFICATION STANDARDS OF SPECIFIC BUSINESSES:

3-2A-21-1: CONTRACTORS AND BUILDERS:

- A. Fee Assessed: All general contractors and subcontractors, including, but not limited to, builders, electricians, plumbers and backflow device technicians, with their principal place of business within the town, shall be assessed a license fee each year as set forth in the consolidated fee schedule, which shall be paid and a business license issued prior to engaging in any construction within the town, unless exempted from licensure under state law.
- B. State Licensing Requirements: No contractor shall be issued a business license under this section unless and until they have provided a copy of a valid state contractor's license which validates that the contractor is currently licensed with the state department of commerce, including the state license number and date of expiration. If said state license expires prior

to September 30 of the year, each contractor must provide proof of renewal within ten (10) days of renewal or shall forfeit the town business license for the balance of the year. (Ord. 08-017, 8-26-2008)

3-2A-21-2: MOBILE VENDORS:

It shall be unlawful to sell food, flowers, agricultural products, ice cream, candy, popcorn or other goods or merchandise from tents/canopies, push carts, mobile wagons, trailers or motor vehicles (collectively "Mobile Vendors") on private or public property, except as authorized and licensed under this article. This section shall in no way govern temporary commercial structures, which are instead regulated under the Land Management Code and the International Building Code. Consistent with Utah Code § 10-1-203(5), a license is not required for a business that is only operated occasionally and operated by an individual under the age of 18 (such as a lemonade stand). 2010 Code, amd. Ord. 18-010, 9-10-2018

A. Sales At Construction Sites:

1. A business license may be obtained for a mobile vendor to conduct business on private property as a service to construction sites. Licensees must list the construction sites they intend to serve on the license application, and update the list as needed throughout the year. 2010 Code, amd. Ord. 18-010, 9-10-2018
2. Licensees shall have written permission from the owner of the private property to conduct business on that property and shall not remain at any one site for more than a two (2) hour period per day. 2010 Code, amd. Ord. 18-010, 9-10-2018

B. Sales Within Public Rights Of Way: Vending within any public right of way is strictly prohibited (except as allowed under the terms of a special event permit). amd. Ord. 18-010, 9-10-2018

C. Special Events: Mobile Vendors may operate on private land under a special event permit and with the permission of the property owner according to conditions of the special event permit. If the special event permit allows for the event to operate within a specific public right of way, mobile vendors associated with that special event may operate within the public right of way according to the conditions of the special event permit. Ord. 18-010, 9-10-2018

D. Terms And Conditions: Mobile vendors may obtain a license subject to the following terms and conditions: 2010 Code, amd. Ord. 18-010, 9-10-2018

1. License Fee: The license fee for a mobile vendor business license shall be as set forth by the consolidated fee schedule. 2010 Code, amd. Ord. 18-010, 9-10-2018
2. Health Department Approval: All mobile vendors serving food or garden produce for human consumption must have the means of preparing, keeping and serving the foods approved by the health department. This approval, in writing, must be submitted as part of the license application. Withdrawal of health department approval for sanitary or health violations is grounds for revocation of the town license. 2010 Code, amd. Ord. 18-010, 9-10-2018

3. Fire Inspection Approval. All mobile vendors which meet Utah State guidelines for a "food truck" serving food for human consumption must submit proof of inspection when applying for a business license. amd. Ord. 18-010, 9-10-2018
4. Limitation On Locations: Mobile vendors shall be restricted to construction sites or special events. Street vending on town rights of way during construction or other situations creating a public health or safety concern may be prohibited by the building department or public safety department. Ord. 17-005, 7-25-2017, amd Ord. 18-010, 9-10-2018
5. Mobile Vendors Required To Move Location: It shall be unlawful for any mobile vendor to obstruct pedestrian or vehicular traffic on streets or sidewalks. Vendors shall move a distance of at least two hundred fifty feet (250') from their prior location every two (2) hours during which they are conducting business, except as allowed under the conditions of a special event permit. It shall be unlawful for any mobile vendor to conduct business in a location that impairs reasonable pedestrian or vehicular access to any adjoining building, alley, yard or other property. 2010 Code amd. Ord. 18-010, 9-10-2018

3-2A-21-3: NIGHTLY RENTAL FACILITIES:

~~All nightly lodging facilities must be licensed before being offered for rent or used for nightly lodging. Licensed/contracted property management or rental agencies do not require a separate license for each rental location. No person shall operate or engage in any nightly rental activity within the town without first obtaining and maintaining a valid business license as required by this chapter.~~

Formatted: Strikethrough

- A. License Issuance: The business license for nightly lodging facilities will be issued by the town upon payment of necessary fees and upon a finding by the Licensing Officer or designee that the review criteria established below have been satisfied.

- B. Licensee: ~~The applicant and licensee for nightly lodging facilities under this section shall be the owner of the facility and/or the designated property manager, if any. The owner of the property which will be used as a nightly rental. If multiple properties will be used for nightly rentals, each separate location will be licensed individually. A property owner may designate an agent to apply for and obtain the business license and report and remit associated taxes and fees; however, the license shall be in the property owner's name and the property owner shall sign the business license agreement.~~

Formatted: Strikethrough

- C. Application Procedure: In addition to the information required by section 3-2A-4 of this article, all new and renewal license applications for nightly lodging rental facilities must contain the name of the owner and the property manager, if any, a sales tax collection number, the physical address, the address and telephone number of the owner and/or Property Manager who is available by telephone, ~~plot plans and building or floor plans one quarter inch to scale showing square footage of the home, number of bedrooms or all sleeping areas within the home, parking,~~ and all other information requested on the application forms. It is the licensee's duty to supplement all forms as information changes or as units change from one owner or manager to another.

Formatted: Strikethrough

D. Management Standards: If the nightly ~~lodging-rental~~ facility is or is to be managed by other than the owner of the nightly ~~lodging-rental~~ facility, the nightly ~~lodging-rental~~ facility must be properly managed by a Rental Property Manager as a condition to receiving and maintaining a valid business license. In the event a homeowners' association exists, the association's Property Manager may be responsible for the nightly lodging facility management. In the event an owner agrees to be responsible for property maintenance, the licensee must present a statement to that effect signed by the owner. The minimum services required, and management regulations include:

~~1. 1. All nightly rental must meet all applicable building, health, fire codes and town ordinances for the intended use.~~

~~2. Maximum occupancy of any nightly rental shall be two (2) person per bedroom plus four (4) additional persons. Notwithstanding the nightly rental shall not exceed the maximum occupancy allowed by fire code. All nightly rentals must identify a maximum occupancy sign posted in plan view near the main entry.~~

~~3. Snow Removal For Access: Snow removal during winter months to a level that allows safe access to the nightly ~~lodging-rental~~ facility over the normal pedestrian access to the unit.~~

~~24. Off Street Parking Maintenance: Snow removal service to and ~~of from~~ off-street parking facilities associated with the nightly ~~lodging-rental~~ facility must be maintained, so that off street parking is at all times available for use of the occupants.~~

~~3. Yard Maintenance: Summer yard maintenance, including landscaping, to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.~~

~~4.6 Parking: Parking must be in compliance with the town parking ordinance including limitation on on-street parking, and other state laws and regulations. Nightly rentals shall be limited to a maximum number of vehicles parked on-site based on the total available developed off-street parking spaces on premises. Staff will determine the maximum number of vehicles allowed before the license is issued. If a parking violation occurs, the business license holder may be cited for a violation of town ordinances. Structural Maintenance:~~

~~7. Structural Maintenance: Structural maintenance to sure building, health, safety and fire code compliance.~~

~~5.8 Yard Maintenance: Summer yard maintenance, including landscaping, to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.~~

~~Parking: Parking must be in compliance with the town parking ordinance, and other state laws and regulations.~~

~~6.9 Inspections: Each unit will be inspected for safety issues such as fire extinguisher, smoke detectors, maximum occupancy limits, etc., if they are renting to the public.~~

~~7.10 Signs: Signs are permitted under the town sign ordinance, title 9, chapter 14 of this code.~~

Formatted: Font: (Default) Helvetica, Font color: Black

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.4" + Indent at: 0.65"

Formatted: Indent: Left: 0.65", No bullets or numbering

Formatted: Font: (Default) Helvetica, Font color: Black

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.4" + Indent at: 0.65"

Formatted: Font: (Default) Helvetica, Font color: Black

Formatted: Body Text Indent, Left, Indent: Left: 0", First line: 0"

Formatted: Strikethrough

Formatted: Not Strikethrough

11. The owner or property manager shall respond to complaints and concerns within one hour of any phone call or notification. Failure of the town or property manager to respond in a timely manner may result in a violation and possible fines to the owner and/or property manager or revocation of the business license.

~~8.12~~ Commercial Uses Prohibited: Nightly ~~lodging-rental~~ facilities may not be used for commercial uses not otherwise permitted in the zone. Nightly ~~lodging-rental~~ facilities may not be converted to corporate sponsor or business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for.

E. Noise And Safety Control: The licensee and the owner of nightly ~~lodging-rental~~ facilities under this section are responsible for regulating noise created by the occupants of the unit. Violation of any town noise ordinance, failure to use designated off street parking, illegal conduct, or any other abuse which violates any law regarding use or occupancy of the licensed premises, is grounds for revocation of the license. Failure to collect and deposit sales tax or the Brian Head Enhanced Service Business License Fee is ~~also~~ a violation of the license and grounds for revocation.

Formatted: Strikethrough

F. Review Criteria: In determining whether or not a business license for a nightly ~~lodging-rental~~ facility shall be issued, the application shall be reviewed to see if, in addition to standards and conditions applicable to issuance of all business licenses, the following conditions and standards are met:

1. The unit is located within a zone designated as allowing rentals or nightly ~~lodging-rental~~ facilities for the period for which the license is applied.
2. The building department and public safety department has reviewed the business license application for compliance with the all building, health and fire codes. Inspection of the unit may be required under section 3-2A-7 of this article. The applicant shall bear the cost of any such inspection and any re-inspection which may be required. The cost shall be determined by the prevailing hourly rate of the building department and/or public safety department.
3. The access to the nightly ~~lodging-rental~~ facility and the layout of the unit is such that noise and physical trespass from the proposed rental unit is not likely to be a substantial intrusion to the adjoining properties.

4. ~~The applicant may designate a property manager which is a property management company, licensed real estate broker or the owner of the nightly lodging facility. The property manager or owner shall be responsible for management of the nightly lodging facility in accordance with all state, federal and local laws, including, at a minimum, the requirements of this article. Unless otherwise designated in writing to the town, the property manager is also designated as the agent for receiving all official communications under this title from the town.~~

Formatted: Strikethrough

5. The application must bear a sales tax collection and accounting number for the nightly ~~lodging-rental~~ facility. This number may be the sales tax accounting number used by the property management company or owner responsible for that unit, or may be specific to the unit, but no license will be effective until the sales tax number is provided. (Ord. 08-017, 8-26-2008)

Commented [NL1]: Addressed in Section B

3-2A-21-4: RESTAURANTS, FOOD SERVICE, TAVERNS, ETC.:

Restaurants will be required to meet the requirements of the state health department and county health department and will provide a copy of the valid food handlers permit with the submittal of the application. Restaurants and food services must meet the requirements of all local ordinances of the town and the county, and state and federal laws, regulating food services. (Ord. 08-017, 8-26-2008)

3-2A-21-5: RESIDENTIAL GARAGE SALES:

No license shall be required for sales of surplus household goods or furnishings at a private residence in the garage or yard. If a garage sale is held more frequently than three (3) days in any one calendar quarter at the same residence, it shall be deemed to be conducting business on a regular basis and a regular business license for the sale of that kind of that kind of merchandise is required. If the sale is in a zone that does not permit the sale of merchandise as a permitted or conditional use, further sales are unlawful. Sales tax on all sales is required under state law, and this title shall not be construed as attempting to waive the requirement that tax be collected and/or paid to the proper taxing entities. (Ord. 08-017, 8-26-2008)

3-2A-21-6: CHILDCARE SERVICES:

Daycare services will be required to meet the requirements of the state department of health and will provide a copy of the valid permit with the submittal of the application. Daycare services must meet the requirements of all local ordinances of the town and the county, and state and federal laws, regulating childcare services. (Ord. 08-017, 8-26-2008)

3-2A-21-7: OUTDOOR SALES:

A licensed business may hold an outdoor sale five (5) times a year for a duration of no longer than five (5) days for each outdoor sale on public sidewalks or streets adjoining the business on the following terms:

- A. Promotion By Merchants' Association: An association representing tenants in a shopping center or other merchants' association representing the businesses in a specific area may apply for an outdoor sale permit for the members of that association by providing a list of the merchants participating, and paying a fee which shall be in lieu of and not in addition to the fee assessed against individual businesses.
- B. Seasonal Plants: The business licensing officer may issue permits of longer duration to permit the outdoor sale, on a temporary basis, of Christmas trees, landscaping materials, or plants that are of a type and nature that reasonably require the sale to be conducted out of doors.

The permit fee for this kind of outdoor sale shall be as set forth in the consolidated fee schedule and no permit shall have duration of more than eight (8) weeks. These permits may be issued to any person or business. Sales shall be confined to commercial zones and to property under the possession and control of the applicant. (Ord. 08-017, 8-26-2008)

BRIAN HEAD TOWN

56 N. Highway 143 - PO Box 190068 – Brian Head, UT 84719

435-677-2029 Office – 435-677-3661 Fax

Brianheadtown.utah.gov

Town Business License # _____

Sales Tax ID # _____

State Business License # _____

Federal ID# _____

RESIDENTIAL SHORT-TERM RENTAL LICENSE APPLICATION**SECTION 1 – OWNER INFORMATION**

NAME OF OWNER: _____

TYPE OF OWNER: () Individual/proprietorship () Corporation () LLC () Partnership () Joint Stock () Trust

OWNER PHYSICAL ADDRESS: _____ BUSINESS PHONE # _____

CITY: _____ STATE: _____ ZIP: _____ OTHER PHONE# _____

MAILING ADDRESS: _____ EMAIL ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

ADVERTISING LISTING # _____ CLEANING SERVICE USED: _____

SECTION 2 – LOCAL PROPERTY REPRESENTATIVE*Complete this section if the owner is not the local property representative*

NAME: _____ TELEPHONE # _____

ADDRESS: _____ EMAIL: _____

CITY: _____ STATE _____ ZIP _____ OTHER PHONE# _____

SECTION 3 – INDIVIDUAL BUILDING INFORMATION

Rental Addresses:

1.
2.
3.
4.
5.

Residential Type: () Single Family Dwelling () Condominium () Duplex () Other Explain: _____

Liability Insurance on Buildings: () Yes () No

Submitted Diagram of the residence identifying bedrooms and parking: () Yes () No

Property Owner Notes or Explanation: _____

“Property Owner” is defined as “An individual, corporation, partnership, association, joint stock company, business trust or any unincorporated organization that is the owner of a rental dwelling or has a financial interest in the rental dwelling”.

MAKE CHECKS PAYABLE TO: BRIAN HEAD TOWN

Business License Renewals shall be due annually on October 1st of each year. If paid after October 1st a late penalty of 25% of the amount of the fee shall be added to the original due. If paid after November 15th, the fee shall be doubled.

OFFICE USE ONLY

Number of Bedrooms: _____ Parking Spaces: _____ Maximum Occupancy Allowed: _____

DATE: _____

Licensing Officer: _____

NIGHTLY RENTAL – CONT –

I, _____ to the best of my knowledge and belief, certify:
(Print Name)

Initial each statement to acknowledge compliance.

- _____ that the use and occupancy of the residential nightly rental conforms to applicable local, state and federal laws including all applicable building codes and safety standards.
- _____ that the property owner or a local property representative will be available to respond within twenty-four (24) hours to complaints regarding the conditions, operation or conduct of occupants of the nightly rental and that remedial action will be taken to resolve such complaints.
- _____ per Brian Head Town Code, Title 3, Chapter 2A, Section 21.3, the property contains an adequate amount of off-street parking.
- _____ that I understand that a renter may not use a nightly rental for a purpose not incidental to a normal residential use, At no time may the tenants of a nightly rental violate state and municipal law concerning nuisances, noise, and/or disturbing the peace.
- _____ I understand that I am assuming responsibility for all guests' activities; and that violations may result in fines to owner and/or guests; and/or license denial, suspension, or revocation.
- _____ I will use best efforts to ensure that the occupants and/or guests of the residential nightly rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any provisions of the town's ordinances or State law, including but not limited to noise, disorderly conduct, the illegal consumption of alcohol, or the use of illegal drugs.
- _____ the nightly rental will not involve the use of any accessory building(s), mobile structures or yard space for activities outside the dwelling not normally associated with residential use.
- _____ there is no Homeowners Association and/or CC&R's that restrict me from using my residence as a nightly rental.
- _____ the residential nightly rental will be rented out to no more than two (2) guests per bedroom plus four (4) guests per home.
- _____ the nightly rental has completed and passed the required fire inspection specifically associated for nightly rentals.

SECTION 4 CERTIFICATE AND SIGNATURE

I understand that falsifying any information on this application constitutes sufficient cause for rejection or revocation of my license. I also understand that the Town Licensing Office may require additional information as permitted by the town code and I agree to supply the same as part of this application. I hereby certify to the best of my knowledge or believe, that the use and occupancy of the nightly rental dwelling(s) conform to applicable local, state and federal laws. I agree to conduct said business strictly in accordance with the Laws and Ordinances covering such business. It is a Class "B" Misdemeanor to own or operate a business in Brian Head Town without a license. I further understand that the town may release the name, address, and phone number of the business, the agent's name, and the nature of business. All other information is confidential. I understand that receiving a business license for a nightly rental is not an express or implied acknowledge by the Town that the rental dwelling is in conformity with applicable laws.

Date: _____ Signed by: _____



CABIN/CONDO FIRE INSPECTION GUIDELINES

The following items are required to be corrected/installed prior to a business license inspection by the Fire Department.

1. A minimum class 2A:10BC fire extinguisher shall be located in a conspicuous location where it will be readily accessible and immediately available for use. All fire extinguishers are required to be serviced and tagged by a licensed contractor.
2. Smoke Detectors are required to be in working condition and are to be located in all sleeping rooms and hallways leading to the sleeping rooms.
3. All electrical outlets, light switches, junction boxes and other related electrical wiring must have all cover plates on and be in good working condition.
4. All electrical circuit breakers are required to be labeled in a manner that will indicate where and what the breaker serves.
5. The home's address must be placed on the building in such a position as to be plainly visible and legible from the street or road fronting the property. Lettering is to be a minimum of four inches (4") in height.
6. Storage of combustible or flammable items is not allowed in furnace rooms, mechanical rooms or electrical rooms.
7. A maximum occupancy sign identifying total number of persons allowed will be posted near the front entry way and visible at all times.

Business Name: _____ **Owner** _____ **Phone:** _____
Address to be inspected: _____ **Inspection Date:** _____

Required Items	Comments	In Compliance	Re-inspection Required
#1			
#2			
#3			
#4			
#5			
#6			
#7			

Brian Head Fire Department: _____ **Date** _____

 Signature

Re-Inspection Date: _____ Items Corrected: _____

Brian Head Fire Dept. Signed Off: _____ **Date:** _____

 Signature

Title 3 BUSINESS AND LICENSE REGULATIONS

Chapter 1 DEFINITIONS

3-1-1: DEFINITIONS:

3-1-1: DEFINITIONS:

All words and phrases used in this title shall have the following meanings, unless a different meaning clearly appears from the context:

AGENT: Means any legally authorized entity acting on behalf of a property owner, including but not limited to a rental management company, property manager, an executor of the owner's estate, or other legal fiduciary.

BUSINESS: A distinct and separate "person" or entity "engaging in business", as those terms are defined in this section. A "business" may be distinguished from another business by separate state sales tax numbers, federal tax identification numbers (employer identification number), and/or separate ownership.

BUSINESS AND SPECIAL EVENTS NUISANCE: Any licensed premises where persons are permitted to use profanity, indecent, immoral, loud or boisterous language, or immoral, unruly, disorderly, lewd, obscene conduct is permitted, or carried on; or persons under the age of twenty one (21) are permitted to purchase or drink beer, alcoholic beverages or liquor; or city, county, state or federal laws or ordinances are violated by the licensee or his agents or patrons with the consent or knowledge, actual or constructive, of the licensee which tend to affect the public health, safety, peace or morals; or patrons are throwing litter or other objects within the licensed premises or from the licensed premises in a manner which tends to affect the public safety or health.

CHARITABLE ORGANIZATION: Any organization recognized by the internal revenue service (IRS) as a 501(c)(3) charitable organization, such as, but not limited, to a religious organization, or any social or welfare organization recognized and dedicated to the relief of the poor, care of the sick or elderly, or aid to victims of disaster, catastrophe or personal tragedy.

COMMERCIAL VEHICLES AND TRAILERS: Motor vehicles that are utilized in the normal course of business, including, but not limited to, delivery trucking, commercial hauling, snow removal services, transportation of goods or other cargo rental vehicles, concrete trucks and dump trucks. "Commercial vehicles and trailers" do not include those that transport people to, from and within Brian Head Town for a fee.

CONDUCTING BUSINESS: Includes the sale or offering for sale of any goods or merchandise, or the offering or performing of any service for valuable consideration of any kind.

CORPORATE SPONSOR: Any business or combination of businesses which provide funding for any special event for a substantial amount of the funds necessary to promote the event or account for substantial amount of the event's operating expenditure budget.

DESIGNEE: A Brian Head Town staff member authorized by the town Licensing Officer to process liquor related and business license applications and renewals.

ENGAGING IN BUSINESS: Includes all activities engaged in within the corporate limits of Brian Head Town carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes, but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of services for others for a consideration, except the rendering of services by an employee to his employer under any contract of employment.

FIREWORKS PERMIT: A permit issued by the town fire marshal for aerial or concession fireworks, pursuant to current fire codes.

HEARING OFFICER: The Town Manager of Brian Head Town is designated as the hearing officer for Brian Head Town.

LICENSE FEE: Includes the administrative fee as defined by the consolidated fee schedule.

LICENSED PREMISES: Any room, building, structure or place, whether permanent or temporary, occupied by any person licensed to conduct business within the town boundaries.

LICENSEE: ~~Any person to whom a license has been issued pursuant to the provisions of this Title, including individual persons, partnerships, joint ventures, associations, clubs, trusts, corporations or any other entities qualified by law to carry on any business referred to herein. The term Licensee as used herein shall include all of the above, and shall be either the applicant or licensee., holding a valid business license in connection with the operation of a place of business. The licensee is responsible for the acts and omissions of its employees.~~

Formatted: Strikethrough

Formatted: Strikethrough

LICENSING OFFICER: The Town Clerk, or his or her designee, responsible for receiving from an applicant the completed application and either granting, suspending or denying the application.

~~**MOBILE FOOD VENDORTRUCK:** Any business in which readily consumable on-site food service is offered from a motor vehicle.~~

Formatted: Strikethrough

MOBILE VENDOR: Any means of conveyance of goods or merchandise from tents/canopies, push carts, mobile wagons, trailers, or motor vehicles.

Formatted: Font: Bold

NIGHTLY LODGING RENTAL FACILITY: Also called "short-term rental" Any place providing temporary sleeping accommodations to the public for a period less than thirty (30) days, including, without limitation, a hotel, motel, lodge, condominium project, single-family residence, bed and breakfast, boarding house, inn, resort, rooming house, recreational lodging unit, private campground, or timeshare project.

Formatted: Left

NONPROFIT CORPORATION: A corporation or company which is not conducted or maintained for the purpose of making a profit and/or no part of the income of which is

distributable to its members, trustees or officers, or a nonprofit cooperative association.

PERMIT: Permits may be issued by the Licensing Officer, or his or her designee, to any business, individual or special events that are identified in subsection [3-2A-5B](#) of this title, as a permit holder in lieu of a license. Permits are considered temporary in nature unless otherwise identified.

PERSON: Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, business trust, corporation, association, organization, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, for profit, nonprofit, or otherwise.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within Brian Head Town from which business activity is conducted or transacted. A location shall be identified by street address or by building name if a street address has not been assigned. "Place of business" means cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets, and any other place where the general public is invited or admitted for business purposes, including any patios, balconies, decks or similar areas, and also means private clubs, corporations and associations operating under charter or otherwise wherein only the members, guest members and their visitors are invited. Occupied hotel, motel rooms, condominiums and cabins that are not open to the public shall not be "places of business" as herein defined.

RESTAURANT: A place of business where a variety of food is prepared and/or cooked and complete meals are served to the general public and is engaged primarily in serving meals to the general public.

ROUTE DELIVERY: Any delivery made to customers of a business which makes repeated door to door deliveries to the same households along designated routes with an established time interval in between delivery visits. The majority of such deliveries must be to fulfill orders previously made by the customer. Such businesses will include, but not be limited to, dairies and sellers of bulk meats or produce.

SALE/SELL OR TO SELL: Any transaction, exchange or barter whereby, for any consideration, or by any means or any pretext promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant or employee, unless otherwise defined in this title.

SEASONAL BUSINESS: A business engaging in business for more than thirty (30) days in a given year, but not exceeding more than six (6) months in the same year.

SEXUALLY ORIENTED BUSINESS: A "business" as defined in [chapter 5](#) of this title, "Sexually Oriented Businesses".

SOLICITED DELIVERY: A delivery of previously ordered goods or services or the United States mail. "Solicited delivery" includes, but is not limited to, the delivery of newspapers or publications pursuant to a subscription, the United States mail, parcel delivery services, businesses engaging in route delivery or persons delivering previously ordered goods or services on behalf of an established retailer of those goods or services.

SPECIAL EVENT: Any event, public or private, with either public or private venues, requiring town licensing beyond the scope of normal business and/or liquor regulations, as defined by this

code; or any event held on public or private property in which the general public is invited, with or without charge, and which creates significant public impacts through any of the following:

- A. The attraction of large crowds;
- B. Necessity for street closures on any arterial street necessary for the safe and efficient flow of traffic in Brian Head Town;
- C. Use of public property;
- D. Use of town transportation services;
- E. Use of off-site parking facility;
- F. Use of amplified music in or adjacent to a residential neighborhood;
- G. Use of town personnel;
- H. Impacts via disturbance to adjacent residents;
- I. Disruption of the normal routine of the community or affected neighborhood; or
- J. Necessitates special event temporary beer or liquor licensing in conjunction with the public impacts.

SPONSOR: A person, group or business which has contracted to provide financial or logistical support to any special event or festival. Such agreement may provide for advertising rights, product promotion, logo promotion, exclusivity of rights, products or logos.

STREET CLOSURE: The deliberate blockage of any public street or town owned parking facility to prohibit the flow of traffic or access of vehicles. Any non-construction street closure shall require a special event license.

UNIT: Any separately rented portion of a hotel, motel, condominium, single-family residence, duplex, triplex or other residential dwelling without limitation.

UNSOLICITED DELIVERY: Delivery that is not a solicited delivery, including the delivery of any unsolicited newspaper or publication, sample product or advertising material. Unsolicited newspapers or publications, sample products or advertising material shall include, but not be limited to, handbills describing or offering goods or services for sale, any goods or products that were not previously ordered by the homeowner or occupant, any newspaper or publication delivered without a subscription by the owner or occupant, and any coupons or rebate offers for goods and services.

VENDOR: Any person, group or business that transacts business within the town limits on a temporary basis for no more than twenty nine (29) days, such as special events.

VENUE: The location or locations upon which a special event or festival is held, as well as the ingress and egress route when included in the special event license. (Ord. 08-017, 8-26-2008)

Title 3 – Business & Licensing Regulations

Chapter 2

BUSINESS IN GENERAL

ARTICLE B. SUSPENSION AND REVOCATION OF TOWN ISSUED LICENSES

3-2B-1: GROUNDS FOR REVOCATION OR SUSPENSION:

3-2B-2: ACTION OF TOWN MANAGER OR DESIGNEE:

3-2B-3: HEARING ON REVOCATION OR SUSPENSION:

3-2B-4: CRIMINAL PENALTY:

3-2B-1: GROUNDS FOR REVOCATION OR SUSPENSION:

Licenses issued under this title may be suspended or revoked by the Licensing Officer, Hearing Officer or Town Council for the following reasons:

- A. Licensee has filed false or fraudulent information on the license application;
- B. Licensee has been convicted of or pled guilty to, or paid fines or settlements in criminal or civil actions brought by the state tax commission for the collection of, or arising from the nonpayment of, taxes imposed by or collected by the state;
- C. Licensee has permitted its employees, agents or patrons to engage in illegal activities on the licensed premises;
- D. The business has been the subject of a sufficient number of consumer complaints that it has the effect of tarnishing the reputation of other businesses within the town; and
- E. Any of the grounds for denial of a license application as set forth in section [3-2A-8](#) of this title. (Ord. 08-017, 8-26-2008)

F. Failure to meet the standards identified in 3-2A-21, Classification Standards of Specific Businesses.

Formatted: Body Text Indent, Left

3-2B-2: ACTION OF TOWN MANAGER OR DESIGNEE:

- A. Investigation: Upon receiving a written complaint from any person alleging a violation of any provision of this title by the licensee or an agent of the licensee, the town, or anyone

designated by the Town Manager with the assistance of such other departments of the town as the Town Manager may direct, shall conduct an investigation of the allegations of the complaint. The town will not investigate consumer or product liability complaints. Upon completion of the investigation, the Town Manager may dismiss the matter as being without merit, settle the matter based upon the negotiations the Town Manager or designee may have undertaken with the licensee, or cause an order to show cause to be issued to the licensee requiring the licensee to come forward and answer the allegations of the order to show cause.

- B. Order To Show Cause: The order to show cause may be based upon an affidavit filed by the Town Manager, Town Attorney, or anyone else the Town Manager has designated to file such action, and said order to show cause shall specifically set forth the ordinance sections alleged to have been violated and generally describe the acts in violation.
- C. Hearing; Written Response To Allegations: In the event an order to show cause is issued to the licensee, the Town Manager shall determine whether to refer the matter to the Town Council, or to hear the matter directly himself. The order to show cause shall be issued at least fourteen (14) calendar days prior to the date set for the administrative hearing, but the hearing shall be commenced, in any event, within six (6) months of the service of the order to show cause upon the licensee, unless otherwise agreed by the parties. Within ten (10) days from the date of the service of the order to show cause, the licensee shall file with the town a written response to the allegations contained therein.
- D. Hearing By Town Council: If the matter is to be heard by the Town Council, the Town Council may elect one of its members to act as presiding officer for the hearing. The presiding officer shall rule on all matters of controversy which arise during the hearing. The Town Council may designate one or more of its members to act as a hearing panel, in which event the hearing panel shall follow the same procedural requirements as the Town Manager is required by this article to follow. (Ord. 08-017, 8-26-2008)

3-2B-3: HEARING ON REVOCATION OR SUSPENSION:

In all administrative license revocation or suspension proceedings, a hearing shall be conducted as follows:

- A. Generally: The Hearing Officer or presiding officer shall regulate the course of the hearing to obtain full disclosure of relevant facts and afford all parties the reasonable opportunity to present their positions. The Hearing Officer or presiding officer may determine the length of the hearing and may prevent the calling of witnesses or admission of documentary evidence where such witnesses or evidence are irrelevant, immaterial, unduly repetitious, or unnecessary due to the receipt of other evidence.
- B. Rules Of Evidence: Technical rules of evidence required in court proceedings shall not apply, and the presiding officer or Hearing Officer shall not exclude evidence solely because it is hearsay. The presiding officer or Hearing Officer may afford to all parties the opportunity to present evidence, argue, respond, conduct cross examination, and submit rebuttal evidence within the time frame of the hearing established by said officer.

- C. **Testimony; Record Maintained:** All testimony presented at the hearing shall be given under oath administered by a person duly authorized to administer oaths. The hearing shall be recorded by electronic means or by means of a certified shorthand reporter. The record thus created shall be preserved by the Town Council until such time as it is clear that no court proceedings or further administrative proceedings will be held concerning the matters which are the subject of the hearing, but a minimum of one year. The recording may be transcribed at the request of any party, at the expense of the requesting party.
- D. **Witnesses; Evidence:** The licensee shall have the right to appear at the hearing in person or by counsel, or both. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be issued by the hearing officer when requested by any party or may be issued by the presiding officer or hearing examiner on his or her own motion. The mere issuance of subpoenas shall not operate to require the admissibility of evidence or testimony subpoenaed.
- E. **Discovery:** Upon request, both the town and the licensee shall be entitled to discovery of the other's list of witnesses to be called at the hearing, including the names and addresses of such witnesses. The parties shall be entitled to have copies of or have access to any documents to be used by either side during the course of the hearing. No other formal discovery shall be required. The standard of proof required for any action adverse to the licensee shall be that of proof by a preponderance of the evidence.
- F. **Findings:** The presiding officer, if the Town Council hears the matter itself, or the Hearing Officer, shall prepare written findings of fact. In the case of the Hearing Officer, the Hearing Officer shall submit said findings to the Town Council. The Town Council shall either accept or reject the findings of fact, or enter its own findings, and shall state the basis from the record upon which the divergence from the Town Manager's recommended findings. The Town Council shall prepare written conclusions of law and an order.
- G. **Formal Order:** The order formally entered by the Town Council may be to:
1. Dismiss the action against the licensee;
 2. Suspend the license for a specified period;
 3. Place the licensee on probation upon such conditions as the town council may order;
 4. Permanently revoke the license in question; or
 5. Any combination of the above.
- H. **Appeal:** Any licensee aggrieved by an order of the Town Council entered pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction, where said court deems itself the appropriate forum for the appeal from the Town Council action. The licensee shall be required to follow orders and procedures of the appropriate court with regard to time for filing.
- I. **Prior Conviction Not Required:** Nothing herein shall be construed to require a showing that the licensee shall have been first convicted in a court of laws of any violation of any law, rule or regulation.

- J. Notice Requirements: All notices required by this section may be made by personal service or by certified mail, mailed to the licensee's address as it appears in the business regulation records of the town, postage prepaid, certified, return receipt requested. (Ord. 08-017, 8-26-2008)

3-2B-4: CRIMINAL PENALTY:

Any person who willfully violates any provision of this title shall be guilty of a class B misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code. Persons conducting business without having first obtained a business license are subject to the business being closed. (Ord. 08-017, 8-26-2008; amd. 2010 Code)



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: Village Core Multi-Modal Transportation Plan – Draft Presentation
AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: February 25, 2019
TYPE OF ITEM: Discussion

SUMMARY:

Council will receive a presentation of the draft Village Core Multi-Modal Transportation Plan from Jones & DeMille Engineering and may discuss and give input for the final draft.

BACKGROUND:

The Council included an action step to create a Village Core Multi-Modal Transportation Plan in the FY 2019 Strategic Plan. \$25,000 was budgeted for the project.

A Request for Proposals was issued in August, 2018 and Council awarded the contract to Jones & DeMille Engineering in September. Since that time, the contractor has worked with staff and the Planning Commission to develop the attached draft. The Planning Commission's recommendations are included in the document.

ANALYSIS:

See attached exhibits and Planning Commission recommendations

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

The Planning Commission has reviewed the draft plan and their recommendations are incorporated as follows:

Discussion items incorporated into the exhibits:

1. Connect town trail to crosswalk at village way / SR-143
2. Loading / unloading zone and shuttle stop added near businesses.
3. Change alternative 2 to show median angled parking instead of 1-way condition.
4. Shift path in front of existing businesses where snow slide-off area is a concern. This was shifted on all alternatives
5. Remove parking stalls in front of condos
6. Add parking stalls in front of Brian Head Sports

Items that were brought up in the Planning Commission meeting that will be considered in the final written report:

1. Passing areas on ATV trails may need to be added

2. Issue of Aesthetics with sidewalk attached to the curb and gutter. Also concern about vehicles parking on the path. Some options to improve include:
 - a. Planter boxes placed along the 10 ft path adjacent to the curb.
 - b. Add a park strip between curb and gutter and the 10 ft path. This would require additional right-of-way on the East side of Village Way
 - c. Use high back curb to make driving on the path more difficult. This would make plowing more of an issue.
3. Snowmobile parking
 - a. Consider using the dirt area on the county parcel across from businesses for snowmobile parking
 - b. Consider parking for snowmobile trucks/trailers near pump house.
4. Discuss turning ATV trail into a paved pedestrian trail and forcing ATV's to use the road. Long term, a path is desired on the business side, but in the short term, a paved pedestrian path on the west side may be desirable
5. Garbage Collection , dumpster locations.
6. Consider turn lanes off UDOT road SR-143 onto village way.
7. Snow storage

STAFF RECOMMENDATION:

Staff recommends that Council give additional input before the contractor prepares the final draft of the plan.

PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

A – Draft Plan Presentation

B – Draft Design Alternative

An aerial photograph of a mountain town, Brian Head, during autumn. The town is nestled in a valley, surrounded by dense forests with trees displaying vibrant yellow and orange foliage. A major road runs through the center of the town, with several smaller streets branching off. On the left, there is a residential area with many small, brown-roofed houses. In the foreground, a large, light-colored building with a green roof is visible. The background shows rolling hills and distant mountain ranges under a clear blue sky.

Brian Head Town

Village Core Multi-Modal Transportation Plan

An aerial photograph of a road winding through a forested area with autumn foliage. On the right side of the road, there are several buildings, including a large one with a tan roof. A white van is parked on the road in the lower right. A semi-transparent circular overlay is on the left side of the image, containing the title and a list of priorities.

Plan Priorities

- Shared-use path connectivity
- Maintain existing OHV trail access
- Maximize parking

Village Core Alternatives

Base Alternative

- Maximizes existing right-of-way

Alternative 1

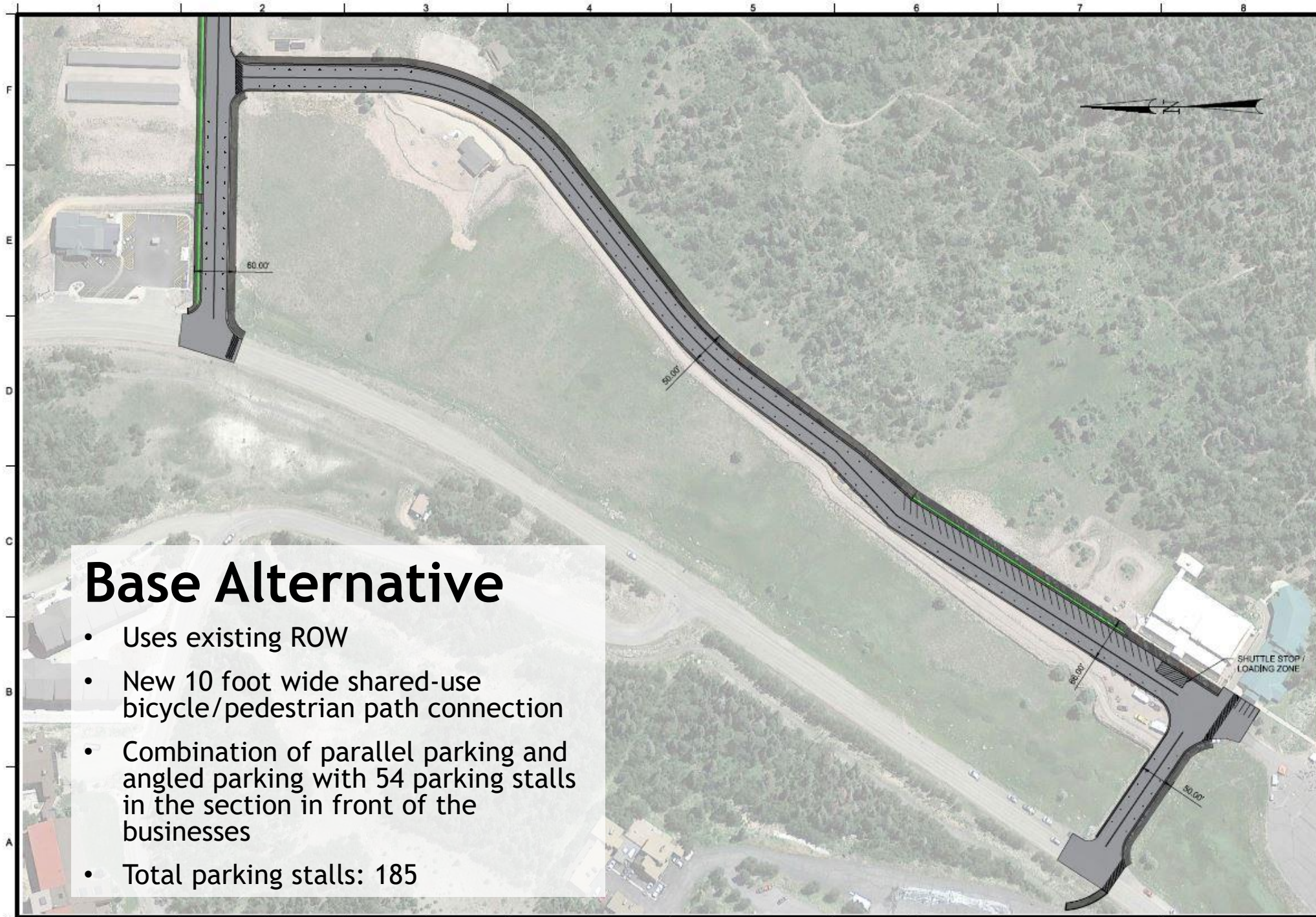
- Widened roadway with angled parking in both directions

Alternative 2

- Widened roadway with median angled parking.

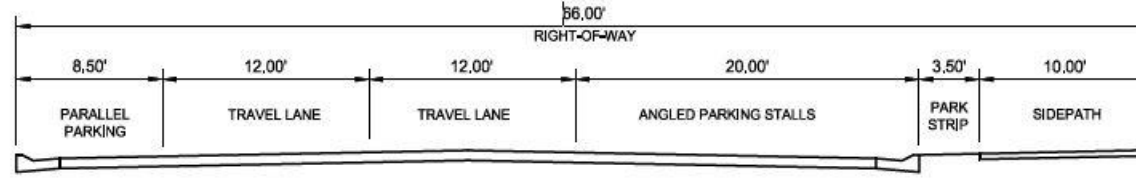
Base Alternative

- Uses existing ROW
- New 10 foot wide shared-use bicycle/pedestrian path connection
- Combination of parallel parking and angled parking with 54 parking stalls in the section in front of the businesses
- Total parking stalls: 185

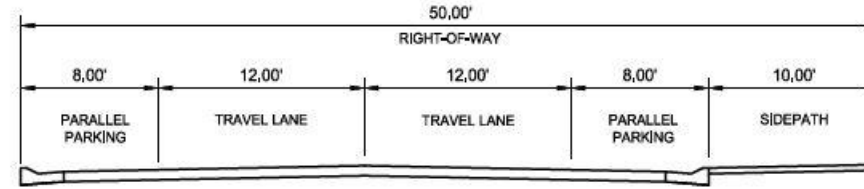


BRIAN HEAD TOWN		VILLAGE CORE		BASE ALTERNATIVE		1809-174	
IRON		COUNTY		SHEET NO.		1	
APPROVED		DATE		DATE		DATE	
PROJECT REPRESENTATIVE		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE		DATE		DATE	
APPROVED		DATE					

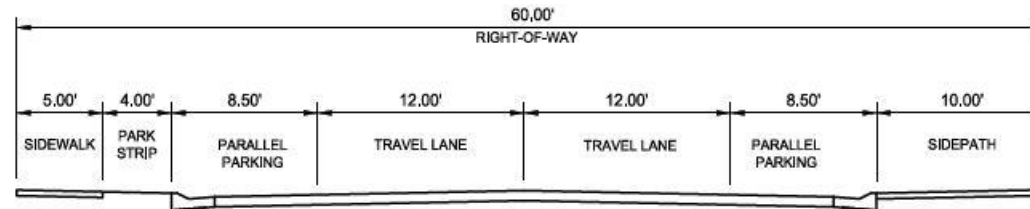
VILLAGE WAY 66' ROW



VILLAGE WAY 50' ROW

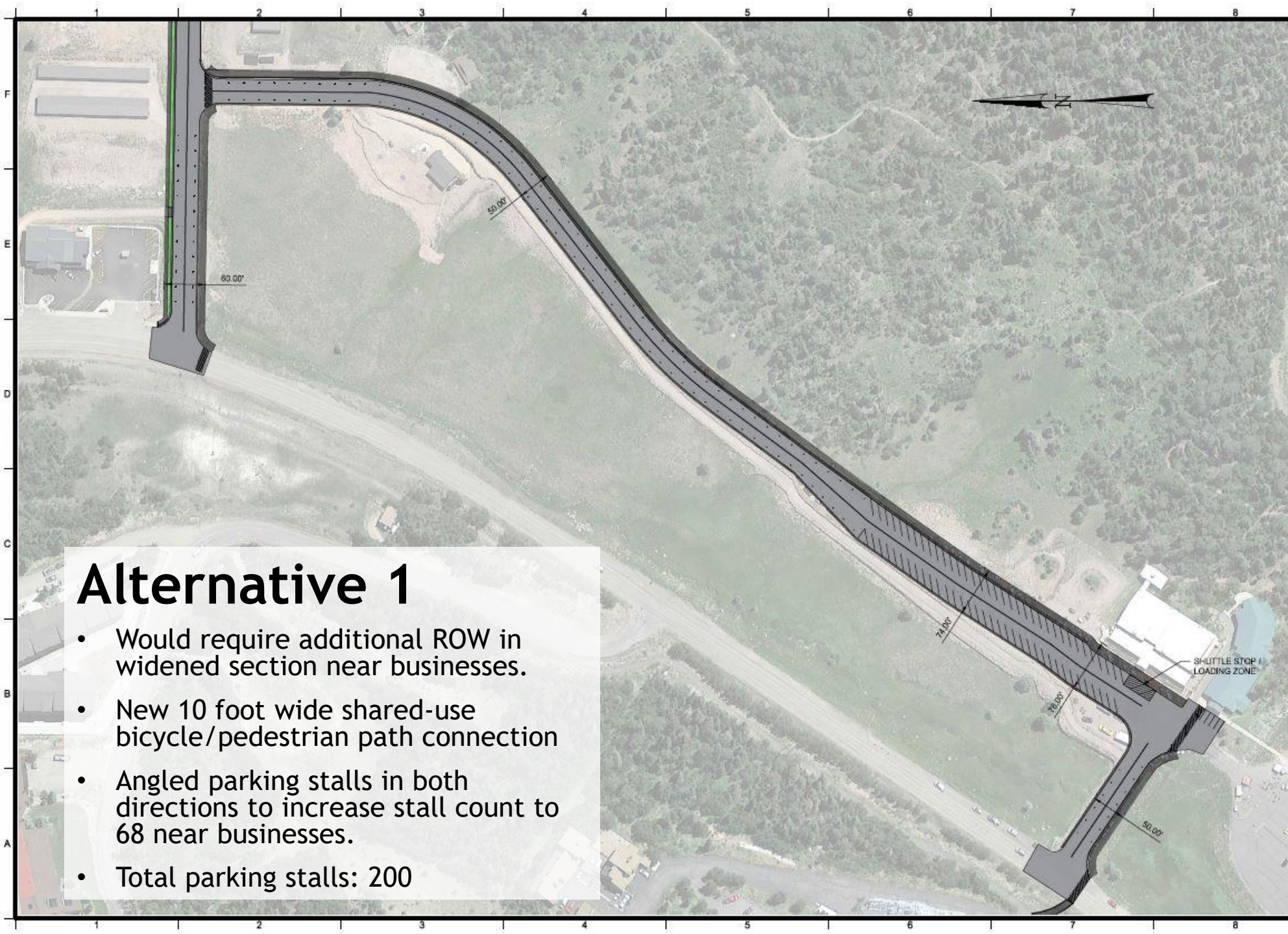


STEAM ENGINE DR 60' ROW



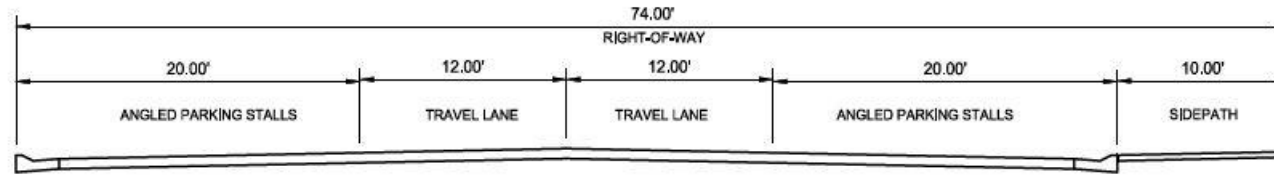
Alternative 1

- Would require additional ROW in widened section near businesses.
- New 10 foot wide shared-use bicycle/pedestrian path connection
- Angled parking stalls in both directions to increase stall count to 68 near businesses.
- Total parking stalls: 200

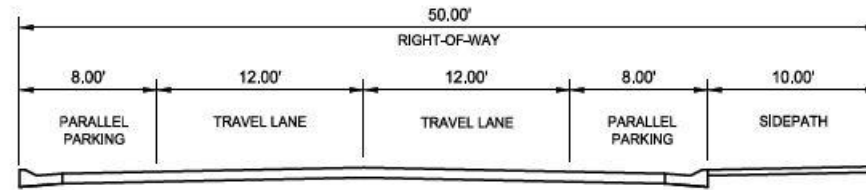


Jones & DeMille Engineering, Inc. CIVIL ENGINEERING - SURVEYING - TESTING 1.800.748.5275 www.jonesanddemeille.com		PROJECT SUPERVISOR: _____ DATE: _____ QUALITY MANAGEMENT REVIEW: _____ DATE: _____
APPROVAL: _____ REVISIONS:		DWG NAME: 1809-174_Village_Core_Parking_Alt1.dwg SCALE: NTS DATE: 2/7/2019 LAYOUT: 2/7/2019
BRIAN HEAD TOWN VILLAGE CORE ALTERNATIVE 1 (2-WAY ANGLED PARKING)		PROJECT NUMBER: 1809-174
IRON COUNTY		SHEET NO. 2

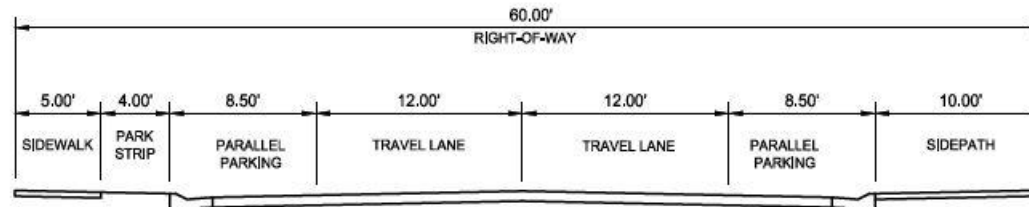
VILLAGE WAY - ALTERNATIVE 1 74' ROW



VILLAGE WAY - ALTERNATIVE 1 50' ROW



STEAM ENGINE DR - ALTERNATIVE 1 60' ROW



SCALE: 1"=10'

Alternative 2

- Would require additional right-of-way to accommodate shoulder and median parking
- New 10 foot wide shared-use bicycle/pedestrian path connection
- Combination of angled and parallel parking to increase parking to 74 stalls near the businesses
- Total parking stalls: 207

Jones & DeMille Engineering, Inc.
 CIVIL ENGINEERING - SURVEYING - TESTING
 1800-748-2525 www.jonesanddelle.com

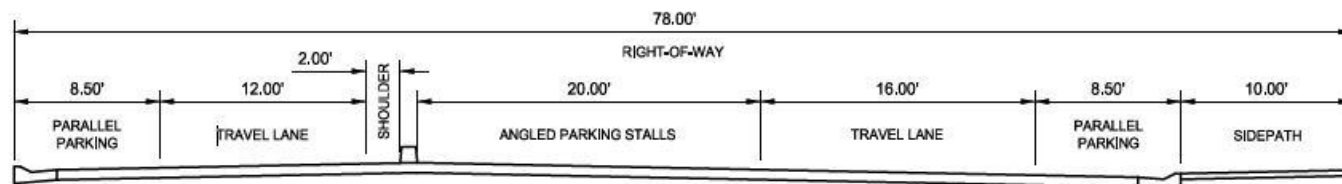
APPROVAL: _____ DATE: _____
 RECORD: _____
 PROJECT SUPERVISOR: _____ DATE: _____
 SURVEYING: _____ DATE: _____

BRIAN HEAD TOWN
 VILLAGE CORE
 ALTERNATIVE 2 (MEDIAN PARKING)
 PROJECT NUMBER: 1809-174

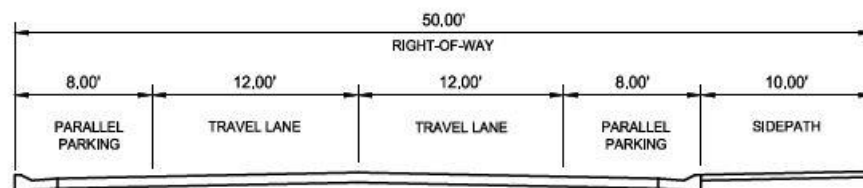
IRON COUNTY
 SHEET NO. 3

NO.	DATE	REVISIONS
1		REVISIONS
2		REVISIONS
3		REVISIONS
4		REVISIONS
5		REVISIONS
6		REVISIONS
7		REVISIONS
8		REVISIONS
9		REVISIONS
10		REVISIONS
11		REVISIONS
12		REVISIONS
13		REVISIONS
14		REVISIONS
15		REVISIONS
16		REVISIONS
17		REVISIONS
18		REVISIONS
19		REVISIONS
20		REVISIONS
21		REVISIONS
22		REVISIONS
23		REVISIONS
24		REVISIONS
25		REVISIONS
26		REVISIONS
27		REVISIONS
28		REVISIONS
29		REVISIONS
30		REVISIONS
31		REVISIONS
32		REVISIONS
33		REVISIONS
34		REVISIONS
35		REVISIONS
36		REVISIONS
37		REVISIONS
38		REVISIONS
39		REVISIONS
40		REVISIONS
41		REVISIONS
42		REVISIONS
43		REVISIONS
44		REVISIONS
45		REVISIONS
46		REVISIONS
47		REVISIONS
48		REVISIONS
49		REVISIONS
50		REVISIONS
51		REVISIONS
52		REVISIONS
53		REVISIONS
54		REVISIONS
55		REVISIONS
56		REVISIONS
57		REVISIONS
58		REVISIONS
59		REVISIONS
60		REVISIONS
61		REVISIONS
62		REVISIONS
63		REVISIONS
64		REVISIONS
65		REVISIONS
66		REVISIONS
67		REVISIONS
68		REVISIONS
69		REVISIONS
70		REVISIONS
71		REVISIONS
72		REVISIONS
73		REVISIONS
74		REVISIONS
75		REVISIONS
76		REVISIONS
77		REVISIONS
78		REVISIONS
79		REVISIONS
80		REVISIONS
81		REVISIONS
82		REVISIONS
83		REVISIONS
84		REVISIONS
85		REVISIONS
86		REVISIONS
87		REVISIONS
88		REVISIONS
89		REVISIONS
90		REVISIONS
91		REVISIONS
92		REVISIONS
93		REVISIONS
94		REVISIONS
95		REVISIONS
96		REVISIONS
97		REVISIONS
98		REVISIONS
99		REVISIONS
100		REVISIONS

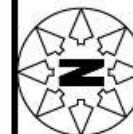
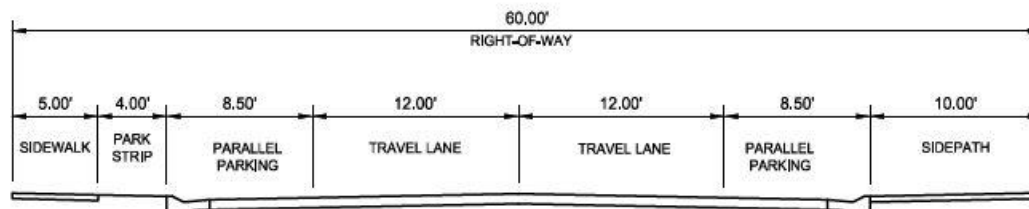
VILLAGE WAY - ALTERNATIVE 2 78' ROW



VILLAGE WAY - ALTERNATIVE 2 50' ROW



STEAM ENGINE DR - ALTERNATIVE 2 60' ROW



SCALE: 1"=10'

Jones & DeMille Engineering, Inc.
CIVIL ENGINEERING - SURVEYING - TESTING
GIS - ENVIRONMENTAL
- Infrastructure professionals -
1.800.748.5275 www.jonesanddemicile.com



FIGURE: 3

IRON
BRIAN HEAD TOWN

VILLAGE CORE - ALTERNATIVE 2

DRAWN: .
CHECK: .

FILE: TYPICAL SECTIONS_REV PROJECT: 1809-174 SHEET: 3
UPDATED: 2/5/2019 PLOTTED: 2/7/2019

Comparison of Alternatives

Base Alternative

Existing ROW

- **Pros**
 - Utilizes existing right-of-way
 - Provides 10 foot shared use path
- **Cons**
 - Decreases the available parking near the businesses from current conditions

Alternative 1

Bi-directional Angled Parking

- **Pros**
 - Increases parking near the businesses by using angled parking in both directions
 - Provides 10 foot shared use path
- **Cons**
 - Right-of-way from county parcel would be needed

Alternative 2

Median Angled Parking

- **Pros**
 - Maximizes parking near the businesses by using a combination of parallel and angled parking
 - Provides 10 foot shared use path
- **Cons**
 - Right-of-way from county parcel would be needed
 - Increased congestion in front of businesses
 - Plowing would become more difficult due to median curb



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: Ordinance for FY 2019 Budget Adjustments
AUTHOR: Cecilia Johnson, Town Treasurer
DEPARTMENT: Administration Department
DATE: February 26, 2019
TYPE OF ITEM: Legislative Action

SUMMARY:

The Town Council will adopt an ordinance showing the budget adjustments for FY 2019 that were discussed on January 15, 2019. The Council was waiting for a final cost on the repairs to the snow blower. The repairs ended up being \$43,252.17.

BACKGROUND:

On January 15, 2019 the Town Council held a public hearing to receive public comments on the following budget adjustments for the Town's FY 2019 budget: 1) increase the solid waste overtime line for "enhanced garbage pickup during peak times" by \$2,500; 2) add a general ledger line in the Asset Replacement Fund for MSA SCBA Bottles (for the Fire Department) for \$5,236; and 3) increase the snow removal line by \$50,000 to \$60,000 for snow blower repairs (this line is verified to only be increased by \$43,252).

In addition, \$25,000 for the Town Hall fuel tank replacement was paid out of general ledger line #4100.720 – Capital Project – Town Hall in the FY 2018 budget. It should have been paid out of the Asset Management Fund under general ledger line #4100.720 – Town Hall (Fuel Tank Replacement); however, the Asset Management Fund was not created until July 1, 2018 and was not active at the time the costs for the tank replacement were paid. To be able to make the fuel tank replacement costs easier to track, a transfer from the Capital Projects Fund to the Asset Management Fund is necessary. This has been cleared through the Town Auditor. On his end, the Capital Project Fund and the Asset Management Fund are combined during the annual audit so it won't affect the audit. Note: The loan/revenue was receipted into the Asset Management Fund in the FY 2019 budget.

ANALYSIS:

If the above budget requests are approved, the following budget adjustments will be made:

GENERAL FUND (10): General Ledger 3890 – Fund Balance Appropriated will be increased from \$283,273 to \$326,525; and General Ledger 4410.253 – Streets – Snow Removal will be increased from \$30,000 to \$73,252.

ASSET REPLACEMENT FUND (47): General Ledger #4890 Budgeted Increase in Fund Balance will be decreased from \$107,771 to \$102,535; and General Ledger #4220.740– Equipment Replacement (Public Safety/Fire) will be created for \$5,236.

SOLID WASTE FUND (53): General Ledger 4753.111 – Overtime Wages (Sanitation) will be increased from \$2,000 to \$4,500.

Also, a transfer of \$25,000 will be made from the **Capital Projects Fund** - General Ledger #4100.720 – Capital Project – Town Hall to the **Asset Replacement Fund** - General Ledger #4100.720 – Town Hall (Fuel Tank Replacement).

DEPARTMENT REVIEW:

Staff has reviewed the budget adjustments and feel they are appropriate.

FINANCIAL IMPLICATIONS:

The budget adjustments will bring the funds into compliance with revenues and expenditures for the projects as stated above.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAFF RECOMMENDATION:

Staff recommends that the budget adjustments be approved as presented.

PROPOSED MOTION:

“I move to adopt Ordinance No. 19-002 amending the fiscal year 2019 budget for the General Fund, Capital Projects Fund, Asset Replacement Fund, and Solid Waste Fund as presented.”



ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET OF FUNDS AND ACCOUNTS ENDING JUNE 30, 2019 FOR THE TOWN OF BRIAN HEAD, UTAH.

WHEREAS, in accordance with the Uniform Fiscal Procedures Act for Utah Towns, Brian Head Town, Utah, has amended its budget for the fiscal year ending June 30, 2019; and

WHEREAS, in accordance with Utah State law, a public hearing was held on January 15, 2019 on the amended budget and comments received relating thereto, and;

WHEREAS, the Town Council determined an adjustment was needed for the purpose of unforeseen expenditures that have taken place since the adoption of the fiscal year 2019 town budget, and;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF BRIAN HEAD, STATE OF UTAH:

ADOPTION: The Fiscal Year 2019 budget hereby be amended, including all funds and accounts as follows:

GENERAL FUND (10): General Ledger 3890 – Fund Balance Appropriated will be increased from \$283,273 to \$326,525 and General Ledger 4410.253 – Streets – Snow Removal will be increased from \$30,000 to \$73,252.

ASSET REPLACEMENT FUND (47): General Ledger #4890 Budgeted Increase in Fund Balance will be decreased from \$107,771 to \$102,535; and General Ledger #4220.740– Equipment Replacement (Public Safety/Fire) will be created for \$5,236.

SOLID WASTE FUND (53): General Ledger 4753.111 – Overtime Wages (Sanitation) will be increased from \$2,000 to \$4,500.

Also, a transfer of \$25,000 will be made from the **Capital Projects Fund** - General Ledger #4100.720 – Capital Project – Town Hall to the **Asset Replacement Fund** - General Ledger #4100.720 – Town Hall (Fuel Tank Replacement).

PASSED AND ADOPTED BY THE TOWN COUNCIL OF BRIAN HEAD on this _____ day of February 2019.

TOWN COUNCIL VOTE:

Mayor Clayton Calloway	Aye_____	Nay_____
Council Member Lynn Mulder	Aye_____	Nay_____
Council Member Larry Freeberg	Aye_____	Nay_____
Council Member Kelly Marshall	Aye_____	Nay_____
Council Member Shad Hunter	Aye_____	Nay_____

BRIAN HEAD TOWN

By: _____
Clayton Calloway, Mayor

ATTEST:

Nancy Leigh, Town Clerk

(SEAL)

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance passed by the Town Council on the____ day of February 2019, and have posted a complete copy of the ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office and the Mall.

Nancy Leigh, Town Clerk



STAFF REPORT TO THE SPECIAL SERVICE DISTRICT BOARD

SUBJECT: Resolution Authorizing Water Lease Agreement
for the 2019 Irrigation Season
AUTHOR: Nancy Leigh, Town Clerk
DEPARTMENT: Administration
DATE: February 26, 2019
TYPE OF ITEM: Legislative Action

SUMMARY:

The Council acting as the governing board of the Special Service District (The Board) will consider a resolution SSD-025, a resolution authorizing the Special Service District (SSD) to lease water for the 2019 irrigation season.

BACKGROUND:

In 2009 the SSD purchased 400-acre feet of water in the Parowan valley and entered into an inter-local agreement to allow the town to use the water for municipal purposes. In 2011 there was an amendment to the inter-local agreement between the town and SSD in which the town had to identify a beneficial use of the water rights or the SSD could lease the water rights.

In 2013 an agreement between the SSD, the town, Parowan City and Parowan Irrigation and Reservoir Company was signed in which a portion of these water rights were used in the Bristlecone Pond project to satisfy a provision that allows for additional water flow into the Parowan main creek in the late irrigation season period. Out of the original 400-acre feet, 243.08-acre feet of water was left available for the SSD to lease if it desires.

The SSD noticed a request for bids for leasing of the 243.08-acre feet of water for the 2019 irrigation season and received a bid from Richard Hammon and Robert Brothers Dairy who has been leasing the water since 2011. The SSD has entered into several water lease agreements with Robert Brothers Dairy and the agreement being presented to Council is the same agreement as in the past with updated information on the dates.

ANALYSIS:

The agreement allows for the SSD to advertise the leasing of its water rights annually and Robert Brothers Dairy has the first right of refusal if other bids are submitted. This year there were two bids submitted: Richard Hammon and Don Roberts, Robert Brothers Dairy. Mr. Hammon's bid was for \$32 p/acre foot for a total of \$7,778.56 in which Mr. Roberts matched his bid. Since the agreement gives Mr. Roberts's first right of refusal, the bid for the 2019 irrigation season will be awarded to Robert Brothers Dairy.

The water lease agreement also states the SSD can open the lease for bids for 2020 and 2021 irrigation seasons and if no other bids are received, the SSD can negotiate the terms of the lease for that irrigation season.

If the Board approves the water lease agreement with Roberts Brothers Dairy, it will be the responsibility of Mr. Roberts to pay for the temporary change application costs along with the annual assessments on the water rights the town receives. This is approximately \$450 for both the assessments and temporary change application.

FINANCIAL IMPLICATIONS:

If the Board adopts the resolution and authorizes the Chair to sign the water lease agreement, the town will receive \$7,778.56 for the lease which is identified in the water fund and the town would save the annual assessment for the water rights which is typically \$225, since Mr. Roberts is obligated to reimburse the assessment costs.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends the Board adopt the proposed resolution as presented and authorize the Chair to sign the water lease agreement with Robert Brothers Dairy as presented.

PROPOSED MOTION:

I moved to adopt Resolution No SSD-025, a resolution authorizing a water lease agreement with Robert Brothers Dairy and authorize the Chair to sign the agreement as presented.

ATTACHMENTS:

- A – Resolution authorizing a water rights agreement
- B – Water rights agreement with Robert Brothers Dairy

BRIAN HEAD SPECIAL SERVICE DISTRICT, UTAH

February 26, 2019

RESOLUTION SSD-_____

**A RESOLUTION AUTHORIZING A WATER RIGHTS LEASE AGREEMENT
WITH ROBERT BROTHERS DIARY.**

A. WHEREAS the Town of Brian Head (the “**Town**”) and the Brian Head Special Service District, Utah (the “**District**”) previously entered into an interlocal cooperation agreement titled Amended and Restated Water Rights Lease and dated September 22, 2009 (the “**2009 Lease Agreement**”) whereby the District leases certain water rights that it owns (the “**Water Rights**”) to the Town in exchange for payment of money to finance the purchase of those Water Rights.

B. WHEREAS the Town and District amended the 2009 Lease Agreement to allow District to lease the Water Rights or a portion of the Water Rights if Town does not intend to use them during a certain irrigation season.

C. WHEREAS the Town does not intend to beneficially use the portion of the Water Rights identified as water right number 75-2019 (“**WR 75-2019**”) during the 2019 irrigation season, and Robert Brothers Dairy (“**Lessee**”) desires to enter into a water rights lease agreement with the District to use WR 75-2019 supplementally for irrigation purposes with other water rights owned by the Lessee for the 2018 irrigation season.

D. WHEREAS the Governing Body of the District has determined that entering into a Water Rights Lease agreement with the Lessee in substantially the form attached as Exhibit A (the “**Water Rights Lease Agreement**”) is in compliance with the 2009 Lease Agreement, as amended, and will benefit and serve the purposes of the District.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Brian Head Special Service District, Utah as follows:

Section 1. The Water Rights Lease Agreement with the Lessee promotes the purposes for which the District has been established.

Section 2. The Water Rights Lease Agreement in substantially the form presented to this meeting and attached hereto as Exhibit A is in all respects approved, authorized and confirmed. The appropriate officials of the District are authorized to approve the final terms and to execute the Water Rights Lease Agreement on behalf of the District in the form and with substantially the same content as set forth in Exhibit A.

Section 3. The Governing Body directs the District Secretary to cause to be prepared and published one time in the Spectrum a notice of agreement in substantially the form attached

DRAFT

as Exhibit B. The District Secretary is directed to make a copy of this Resolution and a copy of the Water Right Lease Agreement available for review at the Secretary's office during regular business hours for 30 days after the publication of the notice of agreement. During that 30-day period, any person in interest may contest the legality of this Resolution or the Water Right Lease Agreement. After that 30-day period has passed, no one may contest this Resolution or the Water Right Lease Agreement for any cause whatsoever.

Section 4. All regulations, orders and resolutions of the District or parts thereof inconsistent herewith are hereby repealed to the extent only of such inconsistency.

Section 5. The Secretary is directed to complete the attached Record of Proceedings.

Section 6. This Resolution shall become effective immediately upon adoption.

ADOPTED, APPROVED, and ORDERED by majority vote at a duly called meeting of the Governing Body of the Brian Head Special Service District, Utah this February 26, 2018.

**BRIAN HEAD SPECIAL SERVICE
DISTRICT, UTAH**

By: _____
Clayton Calloway, Chair

ATTEST:

Nancy Leigh, District Secretary

(S E A L)

DRAFT

RECORD OF PROCEEDINGS

February 26, 2019

The Governing Body of the District met in public session at its regular meeting place in the Town of Brian Head, Utah, at 1:00 p.m., or as soon thereafter as feasible, on February 26, 2018, with the following members present:

Also present:

Nancy Leigh
Bret Howser

District Secretary
District Manager

Absent: None

After the meeting had been duly called to order and the minutes of the preceding meeting read and approved, and after other matters not pertinent to this resolution had been discussed, the Secretary presented to the Town Council a Certificate of Compliance With Open Meeting Law with respect to this February 26, 2019 meeting, a copy of which is attached.

Board Member _____ then introduced and moved the adoption of the foregoing resolution, which motion was seconded by Board Member _____ and the motion was passed as follow:

AYE:

NAY:

ABSTAIN:

DRAFT

CERTIFICATE OF SECRETARY

I, Nancy Leigh, the duly qualified and acting Secretary of the District, certify according to the records of the District in my official possession that the foregoing constitutes a true and correct copy of the minutes of the meeting of the Governing Body held on February 26, 2019, including a resolution adopted at that meeting as the minutes and resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have subscribed my official signature and impressed the official seal of the District this February 26, 2019.

Nancy Leigh, District Secretary

(S E A L)

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Nancy Leigh, the Secretary of the District, certify, according to the records of the District in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated, 1953, as amended, I gave not less than 24 hours public notice of the agenda, date, time, and place of the February 26, 2019, public meeting held by the Governing Body as follows:

(a) By causing a Meeting Notice, in the form attached, to be posted at the District's principal offices at least 24 hours prior to the convening of the meeting, the Meeting Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of the Meeting Notice to be delivered to a newspaper of general circulation within the District at least 24 hours prior to the convening of the meeting.

(c) By causing a copy of the Meeting Notice to be posted on the Utah Public Notice Website at least 24 hours prior to the convening of the meeting.

DATED this February 26, 2019.

Nancy Leigh, District Secretary

(S E A L)

[Attach Meeting Notice]

DRAFT

EXHIBIT A

WATER RIGHTS LEASE AGREEMENT

EXHIBIT B

NOTICE OF AGREEMENTS

On February 26, 2019, the Governing Body of the Brian Head Special Service District, Utah (the “District”) adopted a resolution (the “Resolution”) authorizing the District to enter into a Water Rights Lease Agreement for the 2019 irrigation season (the “2019 Lease”). Other than the lease of those water rights, the 2019 Lease does not affect the property rights of the District, and the 2019 Lease does not impose any obligations on the District other than the obligations related to the lease of the water rights. The term of the 2019 Lease term will be the 2019 irrigation season.

Copies of the Resolution and the 2019 Lease are and will be available for review at the Town Clerk’s office located at 56 N. Hwy. 143 in Brian Head, Utah during regular business hours from 9:00 a.m. to 4:30 p.m. Monday-Friday for 30 days after the publication of this notice. During that 30-day period, any person in interest may contest the legality of the Resolution or the 2019 Lease. After that 30-day period has passed, no one may contest the Resolution or the 2019 Lease for any cause whatsoever.

DATED February __, 2019

/s/ Nancy Leigh
District Secretary/Town Clerk

WATER RIGHTS LEASE AGREEMENT

THIS AGREEMENT is entered this 26th day of February 2019, by and between Brian Head Special Service District (“**Lessor**”) and Robert Brothers Dairy (“**Lessee**”).

RECITALS

A. Lessor is the actual and record owner of water right number 75-2019 (the “**Water Right**”), approved for use of 243.08 acre-feet of water per year for irrigation use.

B. Lessee desires to use the Water Right for irrigation purposes with other water rights owned by the Lessee for the 2019 irrigation season.

C. Lessor and Lessee will file a temporary change application to temporarily change the approved points of diversion and place of use of the Water Right necessary to allow use by Lessee for the 2019 irrigation season.

D. Lessee desires to lease the Water Right from Lessor upon the terms and conditions set forth in this Agreement.

AGREEMENT

1. Lease Agreement. Lessor hereby leases the Water Right to Lessee to use up to 243.08 acre-feet of water with other water rights owned or held by Lessee for irrigation use during the 2019 irrigation season. The water leased under this Agreement shall be diverted from one or more of Lessee’s underground wells and used on Lessee’s property, as more particularly described in temporary change application no. t41848 filed with the Utah Division of Water Rights and a substantially similar temporary change application yet to be filed.

2. Lease Payments. As the lease payment, the Lessee will pay Lessor a one-time, up-front rent payment equal to \$7,778.56, which shall be paid before Lessee may divert any water under the Water Right. In addition to the lease payment described above, Lessee shall also pay the filing fee associated with the temporary change application and reimburse Lessor for any Water Distribution Assessment associated with the Water Right for the 2019 irrigation season.

3. Lease Term; Right of First Refusal. Unless sooner terminated by mutual agreement of the parties or pursuant to paragraph 9 below, this Agreement shall continue in full force and effect for the 2019 irrigation season only. If Lessor elects to lease the Water Right for the 2020 and/or 2021 irrigation seasons, Lessor shall open the lease for bids and shall immediately notify Lessee in writing of the winning bid for such lease. Lessee shall have the right of first refusal to match the winning bid to lease the Water Right for that season. Lessee shall exercise its right of first refusal in writing within ten (10) business days of the date of such written notice to Lessee. The Parties will then proceed to finalize and gain all necessary approvals for the new lease agreement. This right of first refusal shall survive the expiration of this Lease for a period of two years. If Lessor elects to lease the Water Right or a portion thereof

during 2020 or 2021 but no bids are received, Lessor and Lessee may negotiate the terms of a lease for such irrigation season.

4. Diverting Works. All water diverted and used by Lessee shall be diverted from Lessee's groundwater wells described in temporary change application t41848 and the corresponding 2019 temporary change application, and Lessee shall have the sole obligation and responsibility to develop, maintain, and operate, at its sole cost, the groundwater wells and water works to divert and use the water leased hereunder. Lessor shall have no responsibility or obligation for developing, maintaining, operating, or paying for any diversion and water works necessary for Lessee to divert and use the water under this Lease, and Lessor shall have no obligation to deliver water to Lessee.

5. Indemnification. Lessee agrees to indemnify, defend, and hold the Lessor harmless from any and all liability, claims, demands, judgments, actions, and proceedings arising out of Lessee's taking and subsequent use of water pursuant to this Lease.

6. Termination. Lessee's failure to pay the lease payment and costs described in paragraph 2 when due shall constitute a default. Upon such default, the Lessor shall provide Lessee with a written notice of default explaining the nature of the claimed default. Service of the notice shall be deemed complete upon the date of depositing the same, registered or certified mail, return receipt requested, postage prepaid, in the United States Post Office, and addressed to Lessee at its last known address. If Lessee does not cure a default within ten (10) business days of the date of service of the notice of default, then Lessor shall have the right to terminate this Agreement, and Lessee shall be liable to Lessor for any payments or costs due but unpaid.

7. Attorney's Fees. In any action arising out of an alleged breach of this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney's fees.

8. Assignment. This Agreement may only be assigned with written consent of the other Party. Such written consent shall not be unreasonably withheld by either party.

9. Notice. All notices shall be in writing by personal service, by mail, or by facsimile transmission, and shall be deemed to have been given as follows: on the date of personal service; on the date of post mark if by regular mail; on the date of the transmission if by facsimile transmission. For purposes of this Agreement, notice shall be addressed to the parties at the following addresses, facsimile numbers, and/or telephone numbers:

Lessor:
Brian Head Special Service District
Attn: Nancy Leigh
56 N. Hwy 143
P.O. Box 190068
Brian Head, UT 84719
Fax: (435) 677-3661
Telephone: (435) 677-2029

Lessee:
Robert Brothers Dairy
Don Roberts
PO Box 1780
Beaver, UT 84713-1780
Telephone: (435) 691-4231

DRAFT

Any party may change its address for notice under this Agreement by giving written notice to the other party in accordance with the provisions of this paragraph.

10. No Waiver. Any party's failure to enforce any provision of the Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing signed by the party intended to be benefited by the provisions and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

11. Drafting Party. This document has been and shall be deemed to be a product of joint drafting by the parties and there shall be no presumption otherwise.

12. Captions. The captions and headings in this Agreement are for convenience only and shall not be considered in construing any provision contained in this Agreement.

13. Entire Agreement. This Agreement and the documents referred to herein constitute the entire agreement between Lessor and Lessee. All negotiations, representations, warranties, and other agreements between the parties and related to the Water Right are merged herein.

14. Governing Law. This Agreement shall be subject to and governed by the laws of the State of Utah.

DATED AND EFFECTIVE as of this _____ day of February 2019.

Lessor:

Brian Head Special Service District

Clayton Calloway, *Chair*

Attest:

Nancy Leigh, *District Secretary*

Lessee:

Robert Brothers Dairy

Don Roberts