

The Regular Meeting of the
Brian Head Town Council
Acting as the Governing Body for the
Brian Head Redevelopment Agency and
Brian Head Special Service District
[Via Zoom Meeting ID# 813 9085 0414](#)
www.zoom.us
TUESDAY, JUNE 9, 2020 @ 1:00 PM

Roll Call:

Members Present: Mayor Clayton Calloway, Council Member Kelly Marshall, Council Member Shaun Kelly

Members Absent: Council Member Lynn Mulder, Council Member Larry Freeberg

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Shane Williamson, Town Treasurer, Aldo Biasi, Public Works Director, Wendy Dowland, Public Works; Chief Dan Benson, Public Safety Director

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council acting as the governing body for the Brian Head Redevelopment Agency, Special Service District, and Municipal Building Authority to order at 1:00 pm for June 9, 2020.

B. PLEDGE ALLEGIANCE

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

C. DISCLOSURES

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

D. APPROVAL OF THE MINUTES:**May 12, 2020, Town Council Meeting.**

Motion: Council Member Marshall moved to table the May 12, 2020, Town Council minutes. Council Member Kelly seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Council Member Marshall, Council Member Kelly, Mayor Calloway. **Absent:** Council Member Freeberg, Council Member Mulder)

E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS.**Mayor Calloway**

- a) Has been appointed to the Iron County Economic Development Advisory Board. Mayor Calloway commented he looks forward to working as a Board Member.
- b) Thunder, the Town deer, was hit by a vehicle several weeks ago and is now recovering.
- c) The ramp going to the dock requires repair and may need to be replaced by next year.
- d) Mayor Calloway inquired as to the status of the fire mitigation projects Chief Benson reported they have begun their fire mitigation projects this week. Mayor Calloway inquired as to where the hotshots' crew who will be working on the south end of town.

Chief Benson responded he is not aware of their schedule but will investigate and report back.

- e) Recommended the Town enter into a permit agreement with the Forest Service for the Town to open the Brian Head Peak Road by June 1st of each year, and as part of the agreement, the Forest Service could evaluate the permit annually. Mayor Calloway reported he tried contacting the Forest Service on opening the Brian Head Peak Road in early spring, but by the time contact was made, the snow had already melted down on the road going to the restrooms along the Marathon Bike Trail.
- f) Inquired as to the distance the new ladder truck pump can spray water. Chief Benson responded it would depend on what the water source was, but the new ladder truck pump has a long distance in spraying water.

Council Member Marshall reported that with the increase in visitors in town, real estate sales are active, and the Covid-19 pandemic did not seem to slow sales down.

Bret Howser, Town Manager

- a) The American Conservation Experience (ACE) trail crew will be finishing up the first hitch of the Manzanita Trail tomorrow, June 10, 2020. There are three planned hitches for the Manzanita Trail in which the second hitch is scheduled to be completed before July 4, 2020, and the third hitch will consist of cleaning up the trail. Staff is hoping to have a grand opening ceremony by the 4th of July 2020.
- b) The Dark Hollow bike trail was scheduled for reconstruction this summer season, but work has not yet begun on the trail. The trail will be rerouted due to the damage from the 2017 Brianhead Fire along with damage from years of use. A portion of the trail has now been flagged.
- c) Mayor Calloway reported he has been contacted by Georg's Ski Shop who requested the Dark Hollow Trail begin construction soon. Mayor Calloway inquired if the Town could contact the Forest Service on the Town's priority of getting the trails open. Bret responded that at this point, the Town would not be able to change the priority of trails to be completed.

F. AGENDA ITEMS:

1. PUBLIC HEARING FOR THE FISCAL YEAR 2020 AMENDED BUDGETS FOR THE TOWN, SPECIAL SERVICE DISTRICT, REDEVELOPMENT AGENCY. A public hearing for the fiscal year 2020 amended budgets for the Town, RDA, and SSD.

Shane Williamson, Town Treasurer, presented the amended fiscal year 2020 budgets for the Town, Redevelopment Agency (RDA), Special Service District (SSD), and the Municipal Building Authority (MBA) (see attached). Shane reported with the close of the fiscal year, June 30, 2020, changes throughout the year are identified in the amended budget. Some of the main amendments are as follows:

- a) Retail Fuel has been moved into its own fund to track the revenue and expenses of the Town's fuel pump. There was an adjustment of \$15,000 to account for the taxes that were not originally planned for.
- b) The part-time firefighter wages have increased to \$3,320 for the fire inspection shifts for the nightly rentals.
- c) The contingency fund was amended \$20,000 for the purchase of the ladder truck.
- d) An adjustment in the Debt Service Fund and transfer fund for the excess accumulated of \$85,000 transferred to the Water Fund to pay for General Obligation debt.
- e) The Capital Projects Fund had an adjustment due to the wayfinding sign project that hit the budget in July. The wayfinding sign project was identified in the FY 2019 budget, but some expenditures fell into the FY2020 budget.
- f) The Capital Project Fund now shows an adjustment to differentiate between the Chair #1 parking lot and Chair #1 restroom project.

- g) An increase in the Asset Replacement Fund to account for the carryover of \$56,000 for the purchase of the Public Works service truck that was recently purchased.

Mayor Calloway explained that during the public hearing portion, the Council will not respond to any questions raised, but will answer all questions after the public hearing is closed.

Mayor Calloway opened the public hearing at 1:21 pm.

No comments were received, and no written comments were received. Mayor Calloway closed the public hearing at 1:22 pm.

2. ADOPTION OF THE FISCAL YEAR 2021 BUDGETS FOR THE TOWN, SPECIAL SERVICE DISTRICT, MUNICIPAL BUILDING AUTHORITY, AND REDEVELOPMENT AGENCY. Adoption of the FY 2021 Budgets for the Town, Special Service District, Municipal Building Authority, and Redevelopment Agency.

Shane Williamson, Town Treasurer, presented the Fiscal Year 2021 budgets for the Town, Redevelopment Agency, Municipal Building Authority, and Special Service District (see attached). Shane explained the Council who is acting as the governing board for the RDA, SSD, and MBA will be adopting either an ordinance or resolution.

Council discussed the following:

- a) Two new departments were created: Retail Fuel and Transit. These funds will allow staff to ensure the correct fuel prices are identified and will give additional data on the fuel pumps. The transit will track the Town's shuttle revenue and expenses.
- b) Council Member Kelly explained he did not understand the provision identified in the ordinance in which it identifies the Town Manager, Town Clerk, and Town Treasurer's compensation. Nancy Leigh, Town Clerk, explained that it was because of state code for appointed/statutory officers.

Town Budget

Motion: Council Member Kelly moved to adopt ordinance No. 20-004, an ordinance adopting the fiscal year 2021 Town Budget as presented. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Council Member Marshall, Council Member Kelly, Mayor Calloway. **Absent:** Council Member Freeberg, Council Member Mulder)

Redevelopment Agency Budget

Motion: Board Member Kelly moved to adopt Resolution No. RDA-035, a resolution adoption of the fiscal year 2021 Redevelopment Agency Budget as presented. Board Member Marshall seconded the motion.

Amended Motion: Board Member Kelly moved to amend his motion to change the name on the resolution from "Shad Hunter" to "Shaun Kelly". Board Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Board Member Kelly, Board Member Marshall, Chairman Calloway. **Absent:** Board Member Freeberg, Board Member Mulder).

Special Service District Budget

Motion: Board Member Marshall moved to adopt Resolution No. SSD-029, a resolution adopting the fiscal year 2021 Special Service District Budget. Board Member Kelly seconded the motion.

Amended Motion: Board Member Kelly moved to amend the motion to identify the budget date from "2020" to "2021". Board Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Board Member Kelly, Board Member Marshall, Chairman Calloway. **Absent:** Board Member Freeberg, Board Member Mulder).

Municipal Building Authority Budget

Motion: Board Member Marshall moved to adopt Resolution No. MBA-010, a resolution adopting the fiscal year 2021 budget. Board Member Kelly seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Board Member Kelly, Board Member Marshall, Chairman Calloway. **Absent:** Board Member Freeberg, Board Member Mulder).

3. SHORT TERM RENTAL DISCUSSION. Discussion on the short-term rental code and recommendation from the Short-Term Rental Committee.

Nancy Leigh, Town Clerk, gave a brief history of the nightly rental code that was adopted in July 2019. During the process, the Short-Term Rental Committee was established to draft the Good Neighbor Policy. The Short-Term Rental Committee met on June 1, 2020, for an overview of the new nightly rental code over the 2019-2020 winter season. The outcome of the meeting was a recommendation to the Council for an amendment to the Nightly Rental Code that would put the responsibility of regulating the occupancy limits, parking, and any nuisance violations their guests might violate onto the license holder.

Some of the key topics discussed centered on nightly rental homes that repeatedly had guests who violated the nuisance code and/or possibly the nightly rental code with excessive numbers of people staying at the homes, parking issues, and trespassing onto neighbor's properties. Nancy presented a copy of the Town's current nuisance code (see attached) along with a copy of the Town's adopted Nightly Rental Management Facilities Standards (see attached). The Nightly Rental Management Code is distributed to the license holder at the time the license is issued.

The Council discussed the following:

1. Possible options on what can be done with nightly rental businesses that repeatedly violate the short-term rental and nuisance codes and determine whether there is a pattern for that the license holder allows the guests to do without any consequences from the license holder.
2. Council Member Kelly commented on a state nuisance code that puts the responsibility back onto the owner for violations of the code.
3. Mayor Calloway commented he attended the Short-Term Rental Committee meeting and it was noted that one issue was the lack of reporting violations to the Marshal's office at the time of the violation.
4. Larry Edgerton, a resident, encouraged the Council to amend the short-term rental code to set a maximum occupancy limit in single-family residential zones.
5. Chief Benson explained the nuisance code is sufficient to issue a citation if there is enough evidence, but that there are some items in the nuisance code that would need to go through the administrative process first. Issues such as parking, noise complaints, and trespassing would be addressed by the Marshals.
6. Mayor Calloway reported that one particular rental management company stated the nightly rental businesses have the ability to control their guests on their properties.
7. Chief Benson reported that the main goal is to educate the guests which is typically a contact from a Marshall informing the guests of the Town's regulations.
8. According to the nuisance code, there need to be three complaints from three individuals to have a citation issued. Chief Benson explained the Marshall can speed that process along if they witness or are aware of a violation without the complaints being filed.
9. Bret reported that one of the first drafts presented to the Council in February 2019, held the license holder responsible for their guests, but the Council decided not to identify the language at the time.

10. Mayor Calloway stated he would like to those nightly rental businesses which seem to have numerous complaints filed, investigated to determine if there is a pattern of the license holder allowing their guests to violation the nightly rental and/or nuisance code and if so, the Town needs to consider the "three strikes" rule to suspend or revoke the business license.
11. Bret reported staff first proposed language that requires the license holder to be responsible for their guests, but the Council decided against the language at that time. Bret reported staff can identify language that would make the license holder responsible for what happens on their property.
12. Council Member Kelly commented that if the issues are nightly rentals in single-family residential zones and the purpose of the zone is residential, then the Town would need to define "family".
13. Whether nightly rentals should be considered commercial and charged a commercial utility rate.
14. Mayor Calloway stated that Brian Head is a resort community where there will be a big influx of people which is why the Town is here and he has no intention of changing that. In reviewing the picture that was presented by Larry Edgerton, resident, showing a family (15-18 people) standing in the driveway of a nightly rental, Mayor Calloway commented that there would need to be a pattern of violations before the three-strikes rule could take effect.
15. Mayor Calloway stated that the staff should continue with education on the nightly rental code.
16. Council Member Kelly reported that during the Short-Term Rental meeting, the rental management owner, Matt Tesdall, stated they handle their guests who cause issues, in-house, and that an option could be to allow the nightly rental owners to police themselves in single-family residential zones.
17. Mayor Calloway stated that the nightly rental owner does not have direct control over their guests, but the Town is looking for a pattern of repeated violations and it will be up to the residents to report nuisances to the Town.

Consensus of the Council: Direct staff to propose language that would require the license holder to control their guests on their property.

4. REVIEW OF OHV ENFORCEMENT POLICIES. Discussion on the OHV enforcement policies and practices.

Mayor Calloway stated this agenda item was requested by Council Member Freeberg who is not present at today's meeting. Mayor Calloway suggested the Council table this item until the next Council meeting.

Motion: Council Member Kelly moved to table Agenda Item F-4, OHV Enforcement Policies until the next Council meeting. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Council Member Marshall, Council Member Kelly, Mayor Calloway. **Absent:** Council Member Freeberg, Council Member Mulder)

5. WILDLAND URBAN INTERFACE CODE ADOPTION. An ordinance adopting the Wildland Urban Interface Code.

Mayor Calloway reported he was contacted by several Planning Commission Members requesting the Wildland Urban Interface Code be reviewed again by the Planning Commission. Some of the members had concerns regarding the code. Mayor Calloway recommended the WUI Code be remanded back to the Planning Commission for another review and recommendation to the Council.

Motion: Council Member Kelly moved to table Agenda Item F-5, Wildland Urban Interface Code, and to be remanded back to the Planning Commission for review and a recommendation. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Council Member Marshall, Council Member Kelly, Mayor Calloway. **Absent:** Council Member Freeberg, Council Member Mulder)

6. POTENTIAL FUTURE AGENDA ITEMS. The Council will discuss potential items for future agenda items.

Mayor Calloway requested the Town Manager's performance evaluation be scheduled for the next Council meeting. Nancy will send out the performance evaluations to the Council.

Bret explained that there is a property for sale that was discussed during the Strategic Retreat and the Town has received notice of a Sheriff's sale that will take place on June 25, 2020. The initial thought was that the land may be valuable to the Town for access to the Town's property that is planned for a public works facility. When walking the property, the steepness on the terrain was more than anticipated and it was determined that this particular piece of property would not suit the Town's purposes. The staff contacted the adjacent property owner to see if they were interested in selling. Bret recommended the Town not pursue this particular piece of property.

G. ADJOURNMENT

Motion: Council Member Kelly moved to adjourn the regular meeting of the Town Council acting as the governing body for the Redevelopment Agency and Special Service District for June 9, 2020. Council Member Marshall seconded the motion.

Action: **Motion carried 3-0-0 (summary: Yes = 3 Vote: Yes:** Council Member Marshall, Council Member Kelly, Mayor Calloway. **Absent:** Council Member Freeberg, Council Member Mulder)

The regular meeting of the Brian Head Town Council was adjourned at 2:55 pm for June 9, 2020.

June 23, 2020
Date Approved

Nancy Leigh, Town Clerk