

The Regular Meeting of the
Brian Head Town Council
Via Zoom Meeting ID#
www.zoom.us/j/88979146375
Meeting ID# 889 7914 6375
TUESDAY, AUGUST 11, 2020 @ 1:00 PM

Roll Call.

Members Present: Mayor Clayton Calloway, Council Member Larry Freeberg, Council Member Kelly Marshall, Council Member Lynn Mulder, Council Member Shaun Kelly.

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Shane Williamson, Town Treasurer.

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 pm for August 11, 2020.

B. PLEDGE ALLEGIANCE

Mayor Calloway led the Council and others in the Pledge of 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:**July 14, 2020, Town Council Meeting**

Motion: Council Member Mulder moved to approve the July 14, 2020, Town Council minutes. Council Member Freeberg seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Mulder, Council Member Freeberg, Council Member Marshall, Council Member Kelly, Mayor Calloway).

E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS.

Council Member Mulder reported the Community Fire Council will be working with the Brian Head Fire Department on a fire mitigation project on Wednesday, August 19, 2020, from 9:00 am to noon at the Town-owned property known as the Archery Range. The public is invited to attend.

Mayor Calloway

1. Thanked the Council and staff on behalf of the businesses for the electronic reader board located in front of the Town Hall encouraging the public to wear masks.
2. Encouraged the Council to get out and see what is happening in Town especially during the weekends and to look at areas where bottlenecks happen in Town.
3. Feels there is a loss of control on the number of ATV's and side-by-sides in the area.

Council Member Marshall

1. Real estate sales are at an all-time high which has led to a low inventory of properties to sell. Raw land is selling quickly in Town.



2. Received feedback from a contractor regarding property owners who were upset with the newly enacted Wildland Urban Interface (WUI) Code since they would be required to clear some of their trees. The property owners and contractors wanted to make the Council aware of their frustration with the WUI Code since they wanted trees next to their cabin for privacy from their neighbors. Bret recommended the Contractor and property owners contact Chief Benson for an interpretation of the Code and building in Brian Head.

Council Member Kelly reported he would like the staff to start addressing offensive lights in Town that violate the Dark Skies ordinance. Bret responded staff has contacted electricians to address the lights on the public safety building and are currently on a waiting list due to the high demand of contractors right now. Staff will follow up with the electricians on when the repairs can be scheduled.

Council Member Freeberg agreed with Council Member Marshall on the increased real estate sales in Town. He has noticed lots being cleared and stated his concern on whether they have been informed of the Town's requirements for clearing and downing trees. Council Member Freeberg commented one of the Town's action steps to have a building information packet for contractors and property owners who are looking to build in Brian Head. Bret reported he will have the information packet ready for the next Council meeting.

G. AGENDA ITEMS

1. **CEDAR BREAKS NATIONAL MONUMENT PRESENTATION.** A presentation from Park Ranger Kacey thanking the Council for the letter of support for a New Visitor at Cedar Breaks National Monument.

Ranger Jones thanked the Council for the Town's participation in submitting a letter of support for a new visitor center soon to be constructed at Cedar Breaks National Monument. Ranger Jones gave the following highlights for the new visitor center:

1. Received a grant from Utah Outdoor Recreation for \$500,000.
2. The local support they received had a tremendous impact on the grant.
3. The existing visitor center was built in 1973 and is no longer able to handle the demand of the increasing number of visitors to the monument.
4. The new visitor center will have a covered outdoor space and will expand the visitor experience.
5. The campaign for the new visitor center is "Enhance the View".
6. Radio advertisement will be informing the public on two items: 1) the National Park's 50th birthday. 2) asking for support from the visitors in the form of donations.
7. Point Supreme will be the location for the new visitor center.
8. Construction will begin in spring 2021 or 2022 depending on the fund and anticipate two seasons to construct the visitor center.

The Council thanked Ranger Jones for her presentation on the new visitor center at Cedar Breaks National Monument.

2. **ORDINANCE AMENDING THE WATER & SEWER CODE.** An ordinance amending the Water and Sewer Code.

Bret Howser, Town Manager, reported Council has reviewed several drafts proposed amendments to the Water and Sewer Code. Bret presented a revised draft of the water and sewer code for the Council's consideration and adoption (see attached).

During the previous Council meeting, Council was in consensus on the following proposed changes to the Water and Sewer Code:

- a) Applying the three hundred-foot (300') rule measured from the waterline to the furthest point of the property line. An example was presented of an existing waterline and where property owners would be required to connect. It would be measured



from the end of the existing water line to the end of their property for 300' (see attached).

- b) Council and staff will review the language in which it could be split into bullet points.
- c) The requirement for a connection for water would be required for new construction only and would not apply to existing homes or remodels.

One topic the Council was not in consensus in was the proposed language requiring existing homes to connect within three years which resulted in a tie vote of the Council.

The Council discussed the following:

- a) Clarification: If a new home was located on a corner lot and the waterline is within three hundred feet of the property, the property owner would be required to extend and connect to the waterline on the road in which the water system is located on.
- b) If a property owner should be required to pay for T-valves or fire hydrants in the road or if the Town should pay for them. One option could be a Special Assessment Area (SAA). Council Member Freeberg recommended additional language allowing an owner to petition the Town to pay for fire hydrants and T-valves.
- c) Guy Miller, a resident, commented he believes the Town should extend the waterline and then assess the property owners for the cost of the waterline. He recommended the Town prohibit those cabin owners from hauling water to the cabins and pay for the waterline extension instead.
- d) Council Member Marshall commented her home is within two hundred feet of a waterline and one of her concerns is being able to absorb the cost of extending the waterline to her home if she were required to connect. Council Member Marshall commented she feels the Town should extend the waterlines and assess the property owners for the cost, but also understands the Town has limited resources and it would not be feasible for the Town to extend waterlines.
- e) The Town saved for four years for the Mountain View Waterline Project which was a 1.4-million-dollar project. Bret suggested the Council could consider using impact fees, but staff would need to further research on how the costs could be applied.
- f) Mayor Calloway commented those who are not connected to the Town's water system are putting the rest of the Town at risk for fire protection.
- g) Council Member Kelly commented he could also be impacted with the proposed amendment in which he plans to build a home in the near future.

Consensus of the Council:

Water Code:

- a) The three-hundred-foot rule would be measured from the existing waterline to the furthest of the property going in front of the property in a Town road.
- b) Existing cabins would be required to connect within three years if the waterline runs in front of their property.
- c) Reimbursement Agreements will be repealed.

Sewer Code:

- a) The Sewer Code will follow State Code as to mandatory connection requirements.
- b) Staff will include an introduction paragraph explaining the State mandatory requirements for clarification purposes.
- c) Reimbursement Agreements will be repealed.

Bret proposed the following language for a revision in the amendment and would include a diagram as part of the Water Code amendment:

7-1-3 – mandatory connection

- A. It shall be mandatory for any property owner constructing a new dwelling unit or facility used for human occupancy and/or constructing or installing any water fixture utilizing culinary water as provided under the provision of this Chapter to apply and pay for the appropriate water connection and connect to the Town water system whenever that system is within three hundred feet of the furthest point of the adjacent property line where the water line is installed in the Town street, right-of-way or Town approved easement.



- 1 B. It shall be mandatory for any property owner who owns or maintains a building used for
2 human occupancy to connect to the Town's water system whenever that system is
3 located adjacent to and extends the length of any property line abutting a Town approved
4 street, right of way, or easement in which the system is located within three years of the
5 time the system was extended to their location.
6 C. When required, it shall be to the furthest point of the property adjacent to the Town
7 approved street, right-of-way or Town approved easement in which the water system is
8 located within three (3) years from the time the system was extended to their location.
9 D. All connections shall be through an approved water meter.

10
11 Staff will review the language and consult with the public works staff and present a revised draft
12 for Council's consideration for the next Council meeting.

13
14 Scott Parker, Zoom Meeting participant, asked the following question via Zoom chat: He is
15 closing on a cabin and wanted to know if new owners would have to extend the waterline, or
16 would they be allowed to continue using the spring water from another source? Bret reported that
17 a secondary water system is illegal. As an existing cabin, they would not be required to connect
18 unless the waterline runs in front of their cabin.

19
20 Council Member Kelly commented the language under 7.1.3 is unclear and suggested the
21 Council clarify the language. Bret explained there have been non-habitable buildings in which the
22 owner may be converting it to a habitable structure, or if they want a lawn hydrant, the Town
23 would require them to connect if they are within three hundred feet of a waterline. Mayor
24 Calloway commented staff will review the language and present a revised draft for Council's
25 consideration at the next Council meeting.

26
27 Council Member Freeberg commented he did not see a waiver provision under the Sewer Code,
28 7.2.B, but a waiver is identified in the Water Code proposed language. Bret explained the
29 language for the waiver already exists and the proposed ordinance only identifies the sections
30 that are being amended. Mayor Calloway commented he would like to see other sections of the
31 Code when proposed language is being reviewed by the Council.

32
33 **Motion:** Council Member Kelly moved to table Agenda Item F-2, Water & Sewer Code
34 Amendment. Council Member Freeberg seconded the motion.

35 **Action:** **Motion carried 5-0-0 (summary: Yes = 5, Vote: Yes: Council Member**
36 **Freeberg, Council Member Mulder, Council Member Kelly, Council Member**
37 **Marshall, Mayor Calloway).**

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40 **3. NIGHTLY RENTAL CODE AMENDMENT.** An ordinance amending the Nightly Rental Code.

41
42 Bret Howser, Town Manager, presented a draft ordinance amending the Nightly Rental Code
43 (see attached). Bret explained during the last Council meeting, Council directed staff to make the
44 following changes to the draft ordinance:

- 45 1) Identified a timeframe for suspension of a license of two years in which the
46 owner/operator of the nightly rental can reapply for their license after two years.
47 2) Suspension of a license would be for that specific unit and not the license as a whole.
48 This was for those who operate more than one nightly rental.
49 3) Separated condominiums from single-family residential nightly rentals. Where the nightly
50 rentals in the single-family zones would be responsible for regulating noise, occupancy,
51 and nuisance code violations of the cabin. Owners of the condominium units would be
52 required to use their best efforts.
53 4) If the licensee contacts the Marshals office to resolve a problem, the licensee would not
54 receive a violation notice or a "strike" against their license.
55 5) Two new sections were added to Chapter 2B, Suspension, and Revocation (see
56 attached).
57 6) Removed the word "illegal" from the language identified in the Noise, Nuisance, and
58 Occupancy Control provision in chapter 2A.21.3.E.
59

60 Discussion was held regarding a recommendation that the Town first notify the owner /



operator of an issue to give them the opportunity to resolve the issue first. Bret expressed his concerns with codifying this type of language and in discussion with the Public Safety Director, it was agreed it would slow down the response time for law enforcement and could be problematic. An administrative policy would be a better solution to the issue.

Mayor Calloway reported he will take public comments on the proposed amendments after which the Council will continue their discussion afterward.

The majority of comments received were from full-time condo residents from Timberbrook and Chalet Village/The Ridges and were complaints about noise, the number of animals, the excessive number of occupants, parking in another owner's parking spaces, and smoking marijuana. One resident contacted the rental management company on a problem and the rental management company refused to resolve the problem. Timberbrook residents stated their Homeowners Association Board Members were not responsive to them and needed the Town's assistance in regulating nightly rentals.

Nightly Rental operators (Alpine Lodging, Family Time Vacation Rentals, and Todd Abney) commented they work with property managers and have not had the complaints the residents are referring to and believe the nightly rentals are a positive impact to the local economy. In speaking with one property manager, he reported the HOA can manage the nightly rentals within their condo complex. Matt Tesdall reported he has thirteen years of data on their response time to complaints and would offer that information to the Town.

Mr. Whitelaw commented that five of his condos are now long-term rentals in which he no longer pays taxes and believes that many more of the nightly rental owners will move towards long-term rentals instead, since the Town does not license long-term rentals.

Mayor Calloway thanked the public for their comments and recommended the condo residents work with their HOA in regulating nightly rentals within their condo complex.

Council discussed the following:

- 1) Whether to identify the same language for both cabin and condo owners.
- 2) Homeowners Association can regulate nightly rentals within their complex through their CC&R's.
- 3) Concerns for the full-time residents who reside near a nightly rental and the issues they are facing like over occupancy limits, excessive vehicles, and dogs.
- 4) The officer will have discretion on a report of a violation on a nightly rental and whether it would be violation "strike" against their license. They would then contact Nancy to follow up with the violation.
- 5) Concerns on enforcement for "best efforts" for condos.
- 6) Several condo residents disagreed with the separation between the condos and cabins and encouraged the Town to reconsider and identify the same standards for both cabins and condo nightly rentals owners since there are HOA's that are not proactive or responsive to the full-time residents.
- 7) Council Member Kelly recommended the Council keep the language simple and apply it to all zones. Council Member Kelly stated he disagrees with the language allowing the licensee to contact the Marshal and would not be counted as a strike against their license.
- 8) Council Member Mulder commented she is not comfortable with the "best-effort" language and believes the HOA's should be allowed to be stricter than the Town, but not more lenient.
- 9) Council Member Marshall recommended the language should apply to both cabins and condos
- 10) Mr. Larry Edgerton recommended the Council adopt the proposed ordinance and work with the HOA's separately to resolve their issues with nightly rentals.
- 11) Council inquired as to how other cities and resort towns handle nightly rentals in condominiums.
- 12) Format change: staff will remove #14 and roll the language into E.
- 13) Mayor Calloway stated if there is a problem with a licensee using a loophole, the Council can call an emergency meeting to resolve it.
- 14) Mayor Calloway recommended the suspension period be changed from two years to six months. Council Member Mulder and Freeberg recommended one year and Council Member



- 1 Kelly recommended two years suspension. **Consensus:** one year from the date of the
2 suspension.
3 15) Council will address fees for reapplying for a suspended license at a later date.
4

5 **Consensus of the Council:**

- 6 1) Suspension of a license will be one year from the date of the suspension and the licensee
7 can reapply after the one-year period.
8 2) Agree with Section E. 1 and E.2 with the understanding the Council will re-evaluate the
9 condos at a later date.
10 3) The suspension would be attached to the property, not the owner.
11

12 **Motion:** Council Member Kelly moved to adopt ordinance No. 20-008, an ordinance
13 amending Title 3, Chapter 2A.21.3 and Chapter 2B with the following changes:
14 1. Suspension of a license will be one year from the date of suspension.
15 Licensee may reapply after the one-year period.
16 2. The suspension would be attached to the property.
17 3. Council will re-evaluate the code as it pertains to condominiums at a later
18 date.
19 Council Member Mulder seconded the motion.

20 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Mulder,
21 Council Member Freeberg, Council Member Kelly, Council Member Marshall,
22 Mayor Calloway).
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24 **4. RESOLUTION AMENDING THE BUSINESS BEAUTIFICATION PROGRAM.** A resolution
25 amending the Business Beautification Program to include condominiums and expand the program for Night
26 Skies improvements.
27

28 Bret Howser, Town Manager, presented a draft resolution amending the Business Beautification
29 Program to include the Dark Skies lighting as a project, remaining the Beautification Program as
30 Business Beautification and Dark Skies Program and allowing condominiums to apply for the
31 grant (see attached).
32

33 **Motion:** Council Member Kelly moved to adopt resolution No. 495 amending the Brian
34 Head Beautification Program as the Brian Head Beautification and Dark Skies
35 Program as presented. Council Member Marshall seconded the motion.

36 **Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Marshall,
37 Council Member Freeberg, Council Member Kelly, Council Member Mulder,
38 Mayor Calloway).
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41 **5. CONSOLIDATED FEE SCHEDULE RESOLUTION.** A resolution adopting the Fiscal Year 2021
42 Consolidated Fee Schedule.
43

44 Nancy Leigh, Town Clerk, presented a draft resolution adopting the Consolidated Fee Schedule
45 for the fiscal year 2021 (see attached). The proposed changes are listed below and are identified
46 in red font:

- 47 1. Land Use Fees have been reduced. The fees are more in line with the actual costs of the
48 services.
49 2. Business License Fees have been increased due to a license fee study that was conducted.
50 3. A fee for a paper utility bill was identified for one dollar.
51

52 The Council discussed the following:

- 53 1. The enhanced service fee discussed during the last Council meeting was not included in the
54 proposed fee schedule. The Council will review the nightly rental enhanced service fee at a
55 later date.
56 2. Mayor Calloway suggested the one-dollar fee for paper billing be removed from the
57 Consolidated Fee Schedule since there are people who may have problems with making
58 online payments.



3. Todd Abeney, nightly rental owner, suggested the Council consider identifying a pro-rated amount for business licensing for businesses that apply after the beginning of the licensing year.
4. Mayor Calloway recommended the additional unit fee for nightly rentals be reduced from \$32 to \$16 for a new additional unit and from \$19 to \$10 for a renewal additional unit and directed staff to monitor the cost of administering the license and report back to the Council after one year to ensure the increases were accurate.
5. Todd Abney commented that if a unit is suspended due to three violations and is ran by a rental management company, the property owner is affected, and the rental management company still benefits from other units that are operating.

Motion: Council Member Kelly moved to adopt resolution No. 496, adopting the Consolidated Fee Schedule for the fiscal year 2021 with a retroactive date of July 1, 2020 with the following changes:

1. Reduce the business license fees for additional units for nightly rentals to the following: \$16 for a new unit and \$10 for a renewal unit.
 2. Delete the one-dollar paper bill charge.
- Council Member Freeberg seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg, Council Member Mulder, Council Member Kelly, Council Member Marshall, Mayor Calloway).

5. POTENTIAL FUTURE AGENDA ITEMS. The Council will discuss potential items for future agendas.

Nightly Rentals

Council Member Freeberg suggested the Council discussed the following:

1. What the Town can do to assist the condo owners and the Homeowners Association with issues from nightly rentals.
2. Discussion on limiting the number of nightly rentals in single-family residential zones. Mayor Calloway stated he would not support a limit of nightly rental in Brian Head since Brian Head is a resort community. One option could be a letter sent to the HOAs inquiring as to what issues they are experiencing and possible resolutions to the issue.

Mayor Calloway requested Council email Bret with their recommendation on what type of information staff would need to gather and/or research.

Town Trail Phase 3

Mayor Calloway inquired as to the status of phase 3 for the Town Trail. Bret reported that phase 2 is currently being constructed. Phase 3 of the trail was approved in the Strategic Plan for engineering but was not identified in the budget. Staff caught this during their last review of the action steps. In a discussion with the Engineer, the engineer suggested waiting until Spring 2021 to see where the revenues are standing. Staff has currently greyed out the phase 3 of the Town Trail until Spring 2021.

H. ADJOURNMENT

Motion: Council Member Kelly moved to adjourn the regular meeting of the Brian Head Town Council for August 11, 2020. Council Member Freeberg seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg, Council Member Kelly, Council Member Mulder, Council Member Marshall, Mayor Calloway).

The regular meeting of the Brian Head Town Council was adjourned at 5:32 pm for August 11, 2020.

September 08, 2020

Date Approved

Nancy Leigh, Town Clerk

