

The Regular Meeting of the
Brian Head Town Council Acting as the Governing Body for
Redevelopment Agency – Special Service District
And Municipal Building Authority
[www.Zoom.us \(Click Here\)](https://www.zoom.us/j/88071802770)
Via Zoom Meeting ID# 880 7180 2770
TUESDAY, MAY 25, 2021 @ 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; Aldo Biasi, Public Works Director; Wendy Dowland, Town Planner; 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, Municipal Building Authority to order at 1:00 pm for May 25, 2021.

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 with the Town Clerk and can be inspected during normal business hours.

D. APPROVAL OF THE MINUTES:**1. March 23, 2021, Town Council Meeting**

Motion: Council Member Marshall moved to approve the March 23, 2021, Town Council minutes. Council Member Mulder seconded the motion.

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

2. April 16, 2021, Town Council Closed Session Meeting

Motion: Council Member Mulder moved to approve April 16, 2021, Town Council Closed Session minutes. Council Member Kelly seconded the motion.

Action: **Motion carried 3-0-2 (summary: Yes = 3, No = 0, Abstain = 2 Vote: Yes:** Council Member Kelly, Council Member Mulder, Mayor Calloway. **Abstain:** Council Member Freeberg, Council Member Marshall).

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

Nancy Leigh, Town Clerk, reported the filing for Declaration of Candidacy for the upcoming Brian Head Municipal Election begins June 1st through June 7, 2021. Those who are interested will need to file in person with her. Nancy reported there are two Council seats and Mayor's seat up for election this year.

Mayor Calloway

1. Met with Iron County on possible road improvements for Aspen Drive. The County is willing to participate if the Town can identify a long-term solution for the dust and condition of the road. Another topic discussed was relocating the Rainbow Meadow and Meadow Lakes dumpsters away from the highway. The dumpsters will be relocated inside the fence line and staff is working with the Forest Service on this.
2. He met with the Southwest Health Department and staff regarding the water hauling policy. Mayor Calloway distributed a water hauling policy to the Council (see attached). Mayor Calloway recommended those wanting to install a septic tank will need to work with the Health Department on this matter. Mayor Calloway commented the Health Department has limited water hauling for commercial users and due to the number of short-term rentals which could be identified as a commercial use, Mayor Calloway reported this item will need to be addressed as an agenda item for future discussion.
3. Brian Head Peak Road is open to the Trailhead. The staff has worked with the Forest Service in opening the road. Aldo reported the public can access up to the Trailhead but will not be able to go beyond due to high snow drifts.
4. Updated the Council on HB1003 formally known as HB98. The bill was approved in a special session of the Legislature in which municipalities are prohibited from restricting certain designs on single-family residences. Bret reported staff was working with the Utah League of Cities and Towns on a resort community exception, but it was too late for the exception during this legislative session. The ULCT reported they will pursue a resort community exception in the next legislative session.

Council Member Marshall reported she met with the Art Committee for the Iconic Art Piece Project. There were 34 applicants, and it was narrowed down to seven who will be submitting proposals to the Town.

Bret Howser, Town Manager

1. The Town received the Utah Outdoor Recreation grant for the Phase 2 Manzanita Trail for \$75,000. Bret reported he met with the ACE crew leader and walked the area for the improvements that will take place in the Spring of 2022. There will be some tree removal in the loop area later this season. The Town will work on the trailhead improvements and signage. The grand opening for the Manzanita Trail is scheduled for July 4, 2022.
2. The Code Enforcement Officer and Public Safety Officer positions have been posted. Internal interviews for the Public Safety Officer position will be taking place on June 16, 2021. The department is looking for an experienced officer since Officer Brad Benson is scheduled to retire in February 2022. The Town received 15 to 20 applications for the Code Enforcement Officer position. Bret reported he will be doing code enforcement this weekend.

Wendy Dowland, Town Planner, reported two building permits have been approved with four more permits pending. A new condo project is being proposed on the south side of Georg's Ski Shop along with another small home community project in the Crystal Aire Subdivision. Wendy reported the plans are available for review if the Council is interested.

Council Member Freeberg inquired as to the Sojourn project. Wendy responded they are in the process of closing on the property.

Aldo Biasi, Public Works Director

1. The crew has completed the culvert installation along Highway 143. Western Rock is now looking to begin work on June 1, 2021, on the paved trail in front of Brian Head Village. Aldo



- 1 reported Western Rock is the contractor for the 2021 Streets Project. They were notified they
- 2 will need to work in areas not affected by the July 4th holiday events. Most of the work may
- 3 be on Zion View Drive or west of Town.
- 4 2. Mag chloride will be put down on the dirt roads and in front of the dumpsters along the
- 5 highway to reduce the dust in the area.
- 6 3. Trees have been ordered for the Bristlecone Pond area and are scheduled to arrive on June
- 7 23, 2021.
- 8 4. The crew will be doing dust control over the weekend. The trails and park are being prepped
- 9 for the upcoming summer season. Once the temperatures rise, the sprinklers will be turned
- 10 on at the park.
- 11 5. Ethan Gurr has been hired as the park's seasonal worker. The Town received only one
- 12 application for the position.
- 13 6. Staff is waiting on the OHV signs for the trails which were ordered a month ago. Once they
- 14 arrive, staff will be installing the signs along the OHV trail hopefully by the weekend.
- 15 7. The Town's Surplus Sale ends tomorrow. Those interested in bidding on an item, please
- 16 contact Tom Gur to inspect the items. Bids are submitted to Nancy Leigh.

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18 **Shane Williamson, Town Treasurer**, updated the Council on the refinance of the 2009 USDA
19 water bonds. Shane reported the Town received a better interest rate on the refinance and will
20 save \$675,000 in interest alone over the life of the bonds.

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22 **Chief Dan Benson, Public Safety Director**,

- 23 1. The department is gearing up for the summer season and will have an OHV enforcement
- 24 shift scheduled for this weekend. The electronic reader board has been put up on the north
- 25 end of Town identifying that the OHV rules are strictly enforced. Chief Benson reported he
- 26 has met with Brian Head Outdoor Adventures and Thunder Mountain Motorsports to ensure
- 27 they are educating their guests on the Town's OHV regulations.
- 28 2. Stage 1 Fire Restrictions will take effect on May 26, 2021. Campfires are allowed only with
- 29 improved fire rings. No cutting or welding is allowed, and spark arrestors are required for
- 30 OHV's. The information will be posted on the Town's website, social media, and around
- 31 town. Chief Benson reported this is one of the earliest times the Town has gone into fire
- 32 restrictions.
- 33 3. Mayor Calloway inquired if information for the newly passed ordinance identifying the town
- 34 roads as transportation only and not recreational use for OHV's has been publicized yet. Bret
- 35 reported the updated brochures should be here within a week and staff will be putting up
- 36 signs regarding the new ordinance requirements.
- 37 4. Mayor Calloway requested Chief Benson contact the Iron County Sheriff to arrange an OHV
- 38 patrol of the Dry Lake area. Chief Benson reported he has already contacted the Sheriff's
- 39 office and reported they will be patrolling the Dry Lake area this weekend.
- 40 5. The electronic speed sign is scheduled to arrive on July 1, 2021. The new handheld radar is
- 41 scheduled to be shipped by June 2, 2021. Chief Benson reported the radar trailer will be put
- 42 on the roads over the weekend.

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45 **F. AGENDA ITEMS**

- 46
47 **1. PUBLIC HEARING FOR FY 2022 BUDGETS.** A public hearing for the FY2022 Budgets for the
48 Town, RDA, SSD, and MBA.

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50 Shane Williamson, Town Treasurer, presented the FY2022 Budgets for the Town, Redevelopment Agency
51 (RDA), Special Service District (SSD), and the Municipal Building Authority (MBA) (see attached). Shane
52 reported a public hearing is required before the adoption of the budget. The proposed budget identifies
53 the following changes:

- 54 1. Increase in revenue for the property taxes: \$894,050.
- 55 2. The Short-Term Rental Enhanced Service Fee was decreased from 80% to the 50% level that was
- 56 proposed to Council during the May 11, 2021, meeting.



3. Expenditure for benches for the walking trail has been added and are identified in the RDA fund in the amount of \$1,000.
4. Council Member Freeberg inquired as to the STR Enhanced Service Fee vs. property tax increase. Shane reported there is a proposed property tax increase and an Enhanced Service Fee for the short-term rentals identified in the budget.

Mayor Calloway recessed the regular meeting of the Town Council and opened the public hearing for the FY2022 Budgets for the Town, RDA, MBA, SSD at 1:42 pm.

No comments were received. Mayor Calloway closed the public hearing at 1:43 pm and reconvened the regular meeting.

The Council discussed the following:

1. Mayor Calloway reported that during the last Council meeting, there was a tie of 2-2 with the Council on the STR Enhanced Service Fee level of 80%. With the property taxes which increased slightly to include road improvements, it was decided the STR fee could be reduced to the 50% level.
2. Shane reported that with the property tax increase, a primary resident who has a home value of \$100,000 would pay \$15.
3. An additional \$50,000 was included in the property tax increase for road improvements.
4. Council Member Freeberg stated he is not in favor of 50% but would compromise to 75% level for the enhanced service fee for short-term rentals. Council Member Mulder agreed.
5. Bret reported the Council agreed to go by the unit instead of the permit. The 80% level would charge the cabins \$547 and \$119 for the condos and the 50% level would charge the cabins \$342 and \$74 for the condos.
6. Mayor Calloway explained the fee can be reviewed and adjusted if it is determined that the fee is too low.
7. Council Poll: Council Member Freeberg and Mulder would like to see the rate at the 65% level. Mayor Calloway and Council Member Marshall would like to see the rate at the 50% level and Council Member Kelly agreed with leaving it at the 50% level and that it can be reviewed at a later time.

2. PUBLIC HEARING FOR PROPOSED AMENDMENTS TO THE LAND MANAGEMENT CODE, CHAPTER 7 (ZONE DISTRICT REGULATIONS), CHAPTER 10 (OTHER PERMITS), CHAPTER 11 (FLEXIBLE APPROACHES) AND CHAPTER 12 (DESIGN STANDARDS FOR CONSTRUCTION) A public hearing on proposed amendments to the LMC for Chapter 7, 10, 11 & 12.

Wendy Dowland, Town Planner, gave an introduction for the public hearing on the proposed amendments to the Land Management Code (LMC), Chapters 7, 10 11, and 12. Wendy reported the proposed changes will now line up with the building packets and procedures making the process more efficient.

Mayor Calloway recessed the regular meeting and opened the public hearing at 2:00 pm. Mayor Calloway stated the Council will not engage with the public during the hearing but will address any questions after the hearing is closed.

There were no comments from the public. Mayor Calloway closed the public hearing and reconvened the regular meeting at 2:01 pm.

3. ORDINANCE AMENDING THE LAND MANAGEMENT CODE, CHAPTER 7 CHAPTER 10, CHAPTER 11, & CHAPTER 12. An ordinance amending the LMC.

Bret Howser, Town Manager, presented a draft ordinance amending Chapter 7, 10, 11, and 12 of the Land Management Code (see attached). Bret reported the staff report summarizes the proposed changes in each chapter.



The Council discussed the following:

Chapter 7 – Zone District Regulations

1. Bret reported the main change is identifying the conditional use permit for campgrounds from the commercial zone to the recreation open space zone. In the previous discussions, the Council agreed to identify campgrounds as a permitted use in the ROS zone. Chapter 12, Design Standards already identifies campgrounds. Bret recommended leaving campgrounds as a conditional use in the ROS zone. This would allow the Town to address any items that were not identified in the Design Standards. **Consensus of the Council:** Campgrounds will be identified as a conditional use in the ROS zone.
2. The ROS zone requires 75% landscape, but currently, there is no requirement for an undisturbed area. The Planning Commission recommended 50% be undisturbed area. This would apply to the ski resort ski run and if they expanded the Village Core area, this would affect them. Council Member Kelly commented the 50% undisturbed area would include the ski runs which are considered disturbed areas. Mayor Calloway suggested an exception be identified for ski runs that would be revegetated during spring. **Consensus of the Council:** Exception: revegetated ski runs are exempted from this requirement. Language to be added: "Undisturbed area: 50% of the area unless an alternate plan is approved by the Planning Commission which satisfies the intention of Title 9-12-3.
3. 9-7-10: Zone District Tables: Bret reported the information is provided elsewhere in the LMC and recommended the tables be deleted. Council Member Kelly suggested staff identify a separate table apart from the LMC for staff to distribute.

Chapter 10 – Other Permits

1. An updated tree removal application is now part of the building packet.
2. Council Member Freeberg inquired if the Code requires a permit for the removal of dead trees/fire mitigation. Wendy explained a permit is issued for the removal of any tree, but a permit is required for fire mitigation of dead trees. Staff tracks these permits for grant purposes. Bret reported it is illegal to cut a live tree that is more than 6" in diameter without a tree removal permit.
3. Tree permits now require a pre-inspection before the permit is issued.

Grading & Trenching Permits:

1. Bret reported there was a subsection added to the grading permit that identifies a time limitation of six months with an expiration date.
2. Wendy recommended the Council reconsider the grading permit requirement for engineered drawings to obtain a grading permit. Wendy reported she is receiving feedback from the contractors and property owners on the cost of engineered grading plans which can run from \$5,000 to \$10,000 and can take up to three to six months to acquire the plans. This puts them past the construction season.
3. Another issue she is facing is the engineers not trusting each other's work and are redrafting the engineered plans and billing the customer.
4. Wendy suggested the Council identify a requirement for engineered grading plans when there is a slope that is steeper than 12%.
5. Bret responded the requirement for building permits for single-family residential is identified in Chapter 4, Submittals, and the Council has not addressed this chapter yet and staff will review it for possible changes.
6. Council Member Freeberg stated one of his concerns is that drainage should be addressed. Wendy reported the site plan requires a drainage plan.
7. Bret explained some of the challenges staff is facing are those property owners who turn in a grading plan on the back of a napkin that has incorrect information. Bret reported a change can be identified to identify the drainage along with a couple of items on the grading plans that do not have to be engineered.
8. Council discussed the percentage of steepness that would trigger engineered grading plans. It was suggested either 12% or 20% which is used for garages.



Staff will use the information Council provided for a requirement for engineered grading plans.

Chapter 11: Flexible Approaches.

No changes were made for this chapter.

Chapter 12: Design Guidelines for Construction

1. Clarification on the language was made regarding shipping containers identified under accessory structures.
2. 9-12-20: Campgrounds: Campgrounds are restricted to the portion of the property that is not required to be landscaped or undisturbed. A campsite is not a landscaping or an undisturbed area.
3. Fire mitigation can take place in undisturbed areas according to the Wildland Urban Interface Code (WUI).
4. Snow storage can be addressed with a conditional use permit, unless the campground is seasonal, where snow storage would be not a factor.
5. 9-12-20-B(i): Add "snow storage" to the list. **Consensus of the Council**
6. 9-12-20-E(5)(i): Add: "snow storage will be provided for year-round campground usage and will not be included in the landscaped areas". **Consensus of the Council**
7. Council Member Kelly stated he would like clarification on whether the buffer between campsites includes both the setbacks of 20' total or if it would be a 10' buffer between sites.
8. A plumbing requirement is identified for cabins. This would require the cabin to be on a foundation and would require a building permit. This could be considered a tiny home.

Motion: Council Member Kelly moved to adopt ordinance No. 21-006, amending the Land Management Code Chapters 7, 10, 11, and 12 with the following changes:

1. Campgrounds identified as a conditional use in ROS Zones.
2. ROS Zones require 75% landscaping. Language to be added: Undisturbed area: 50% of the area unless an alternate plan is approved by the Planning Commission which satisfies the intention of Title 9-12-3.
3. 9-12-20-B(a) Change to read: 9-12-20-B(i)
4. 9-12-20-E (5) Add: "snow storage will be provided for year-round campground usage and will not be included in the landscaped areas".

Council Member Mulder seconded the motion.

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

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

Short Term Rentals

Mayor Calloway commented he would like to see an agenda item for the Council to discuss whether the nightly rentals businesses should be considered a commercial activity and connected to a permanent water source to follow the Southwest Health Department's requirement for a septic permit.

Mayor Calloway suggested the Council consider identifying a maximum number of nightly rentals allowed in a single-family residential zone. Mayor Calloway recommended staff identify some zones and limit caps for nightly rentals in single-family residential zones and present them to the Council.

Council Member Kelly reported there is an excellent source for nightly rentals that was developed by gnar.usu.edu. Council Member Kelly reported they have recorded webinars available to the public. Mayor Calloway requested Council Member Kelly to forward the report to the rest of the Council.



Annexation

Mayor Calloway inquired if the Council needs to review the annexation policy. Bret responded he has a meeting scheduled with County Planner, Reed Erickson, on the annexation policy and will report back to the Council.

G. ADJOURNMENT

Motion: Council Member Kelly moved to adjourn the regular meeting of the Brian Head Town Council for May 26, 2021. Council Member Freeberg seconded the motion.

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

The regular meeting of the Brian Head Town Council was adjourned at 3:15 pm on May 26, 2021.

June 22, 2021

Date Approved


Nancy Leigh, Town Clerk



