

The Regular Meeting of the
Brian Head Town Council
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Via Zoom Meeting ID# 851 9482 5811
TUESDAY, OCTOBER 12, 2021 @ 1:00 PM

Roll Call.

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

Members Absent: Council Member Kelly Marshall.

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

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 pm for October 12, 2021.

B. PLEDGE ALLEGIANCE

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

C. DISCLOSURES

- Council Member Kelly stated he may have a potential conflict of interest with Agenda Item F-1 Camping in Residential Areas in which he owns a vacant lot and intends to build in the future.

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

D. APPROVAL OF THE MINUTES:**September 28, 2021, Town Council Meeting**

Motion: Council Member Mulder moved to approve the September 28, 2021 Town Council minutes. Council Member Freeberg seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes: Council Member Freeberg, Council Member Kelly, Council Member Mulder, Mayor Calloway. Absent: Council Member Marshall).**

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

Nancy Leigh, Town Clerk, reported the ballots for the upcoming election are scheduled to be mailed out today. Nancy reported she will be working with the County Clerk on the upcoming Brian Head election.

Mayor Calloway

1. Met with Gardner Plum Group regarding a potential annexation of 1,700 acres of property located north of Brian Head Town.



2. Reminded the public to vote in the upcoming November election.

Bret Howser, Town Manager presented a GIS map of the area being proposed for annexation by the Gardner Plum Group (see attached). Bret reported the area formally known as Alpine Creek is now identified as the Aspen Meadow development. The developer is in the beginning stages of the development and is working with the Town on a future annexation of the area. Bret reported there are 60+ acres and 159 acres in the Steam Engine Meadows area that are within the Town boundaries. The developer also purchased 12+ acres on the upper portion of Ridge View Street and they are considering different development ideas for each of the properties.

Bret went on to report the developer, Gardner Plum Group, is considering a mixed-use development for the 1,700 acres of commercial, condominiums, and single-family residential. The entrance to the development would begin on Burt's Road and there are discussions about constructing an underpass or bridge for the OHV traffic which crosses Burt's Road. The total build may be 1,350 units. The Town will have an annexation agreement and development agreement. The School District, along with other affected entities, would also be involved in the review of the annexation. Currently, no timeline has been established for the development.

Shane Williamson, Town Treasurer, reported the Town Auditor emailed a fraud questionnaire to each Council Member to complete and submit to the mayor for his acknowledgment as part of the annual audit.

Chief Dan Benson reported that Sierra Wincentsen, Public Safety Admin. Assistant and her baby are doing well. Sierra is scheduled to return to work at the end of October. Officer Jon Bettridge's wife also had a baby last week and he has taken time off to be with his family.

Mayor Calloway inquired on the progress of the speed signs. Chief Benson reported he is currently working with the Utah Department of Transportation (UDOT) on the speed signs. The chain-up sign located in Parowan Canyon can now be turned on remotely, but the department will first need to be trained on it.

F. AGENDA ITEMS:

- 1. CAMPING ON RESIDENTIAL PROPERTY DISCUSSION.** A discussion on camping on residential unimproved property.

Mayor Calloway reported the Council recently discussed camping on vacant single-family residential (R-1) property and determined the Town would enforce no camping on a vacant property unless it fell under an exception. Mayor Calloway commented he understands and sympathizes with those who want to stay on their property which is why exceptions were identified in the current code. Mayor Calloway stated he believes the Council has developed a good policy currently in place and believes the current code should remain as written.

Mayor Calloway commented there could be a need for a developed campground in the area and the Town could negotiate with the Forest Service for a semi-improved campground area.

Mayor Calloway inquired if Council is interested in an amendment to the current code as it relates to camping.

The Council discussed the following:

1. Council Member Freeberg commented he agreed to discuss the issue but agrees with Mayor Calloway with keeping the code the way it is currently written.
2. Council Member Kelly suggested the Council consider an appeal process in the Town Code for camping.
3. Council Member Kelly suggested the Council move the camping provision from the Parking Code to the Land Management Code in the Zone District Regulations chapter.



4. Bret explained the current zone for single-family residential, camping is a prohibited use, but is a permitted use in the recreational open space zone.
5. Bret reported staff is currently enforcing the camping code as a prohibited use on single-family residential properties unless they meet one of the exemptions. The primary use of the zone is single-family residential which is how the staff has been interpreting the code.
6. Mayor Calloway stated that the issue began when people started clearing their lots and putting multiple trailers on the property for the summer.
7. Bret reported the Town is attempting to preserve the character of the neighborhood which is the intent of the Land Management Code.
8. Linda Ames, resident, commented she has been in Brian Head for many years and her property is surrounded by vacant lots. Ms. Ames reported she does not feel people have the right to affect the character of the neighborhood and the value she has paid for. She feels that she has rights since she has made a large investment in Brian Head, and no one should have the right to purchase property and camp for an extended period. Ms. Ames recounted an experience in which a nightly rental location that is three lots away from her allowed their guests to set up tents on other people's properties which she felt was a liability for the Town since they could have started a campfire which could have gotten out of control. Ms. Ames reported she has served the community and thanked the Council for their consideration.
9. Bret reported the Town owns property that currently has a conditional use permit for a campground which could be an option for the Council to consider.

Consensus of the Council: Staff will investigate the options for improvements of the Bearflat Campground and report back to Council. The camping provision will be moved from the Parking Code to the Land Management Code as a land use.

2. OFF-HIGHWAY VEHICLE ENFORCEMENT SEASON FOLLOW-UP. A season follow-up on the OHV Enforcement for the 2021 year.

Bret reported the following stats for the 2021 summer season with 400 OHV stops and thirteen citations issued. Chief Benson reported the majority of the citations that were issued were for no registration and the owners were sent to get their machines registered. Chief Benson explained the goal was to have the machines registered and in compliance with state law. Chief Benson reported there were a lot of new visitors and the stance of "no tolerance" does not mean a citation should be issued.

Chief Benson reported there were a total of six (6) complaints that were called in for the entire summer season and one challenge the marshals have faced are those who do not call when there is an issue with OHV's.

Mayor Calloway inquired if the Council is satisfied with the efforts made by the public safety department on the enforcement of OHV's this last summer. The majority of the Council agreed that the increased enforcement of OHV's was effective.

Bret Howser, Town Manager, reported staff plans to move forward and will be utilizing the strategies. Bret reported staff discussed moving the electronic reader board currently located on the north end of Town since staff believes leaving the sign there could desensitize the public and lose its effectiveness. Bret reported staff has discussed scaling back on placing the sign next summer and using it during weekends where there is heavy use of OHV's.

Martin Tidwell, resident, reported he has seen some improvement with the OHV enforcement and suggested leaving the electronic message board up for the entire summer season. Mr. Tidwell reported there have been a couple of issues with OHVs in the Steam Engine Subdivision and there have been some instances where the Marshal was not able to respond quickly. Mr. Tidwell cautioned the Council on being too kind to offenders since it is an important issue to people.



Mayor Calloway commented he believes the increased OHV enforcement was effective. Mayor Calloway suggested the electronic message board be changed so it does not have a pause between the messages. Chief Benson reported the messages can be changed easily.

Bret reported staff will continue with the action steps for OHV enforcement identified in the Strategic Plan while staying within the budget.

3. WORKFORCE HOUSING DISCUSSION. A discussion on potential strategies for resolving the workforce housing issues.

Bret Howser, Town Manager, introduced Nate Walhberg and Alyssa Gamble, Five County Association of Government, who are working on the Town's workforce housing plan. Bret reported they have put together potential tools for affordable/workforce housing (see attached). Bret explained that in light of a potential annexation agreement, the workforce housing plan is particularly important to the Town. Alyssa and Nate have identified a list of strategies that have been effective for other communities.

Alyssa Gamble presented the list of strategies and asked the Council to give their input on the strategies to be broken down into sections: The Council reviewed the following:

Zoning Practices:

1. Some elements in the Zoning Code could impact affordable housing such as parking. The Town could also consider other incentives.
2. Inclusionary zoning is when a portion of the development is identified for affordable housing for certain low to moderate-income people who qualify.
3. Incentives for the developer could be a lower parking requirement or density bonus.
4. Smaller lots are appropriate for affordable housing in certain areas in the community.
5. Alyssa reported she would send a sample code to the Town on inclusionary zoning.
6. Inclusionary zoning would allow the development to increase the number of units being built.
7. Nate reported most large cities did identify a parking allowance, but the plan would be customized to the Town's needs.
8. Nate reported that according to the International Conference for Planners, he learned that the typical requirement for inclusionary zoning outside of Utah is between 10% and 25%.

Accessory Dwelling Units

1. Accessory Dwelling Units (ADU) are typically used as a tool for affordable housing.
2. Nate reported in reviewing the Town's Code, there is an allowance for ADU's and there are ways to improve the ADU's for more affordable housing.
3. Nate presented a sample ordinance for ADU's (see attached).

Workforce Housing

1. Allyssa reported there are cost constraints for affordable housing which is the cost of travel to and from work / commercial centers. The Council will need to consider the placement of workforce housing close to downtown facilities.
2. A discussion was held regarding the seasonal employee and the challenge of finding affordable housing when a majority of cabins and condominiums have turned into short-term rentals.
3. Ruby's Inn in Bryce Canyon has workforce housing for their employees. Nate reported he will contact them and find out what they offer to their employees and report back to the Council.
4. Mayor Calloway inquired as to the definition of low income. Allyssa reported they use low to moderate-income. Very low income is 30% of the medium income. Low income is 50% of the moderate and moderate-income is 80% of \$60,000. Anyone at 80% is low to moderate-income.
5. Nate reported that affordable housing is defined as the following: Housing cost of 30% of the annual income which includes rent and utilities. 33% of the income is used for driving costs which leave 33% for all other living costs.
6. Mayor Calloway expressed his concern on how workforce housing could be operated long-term by the Town and if deed restrictions could be an option. Nate responded that Cedar City has a



- 1 Housing Authority and would suggest the Town contact them for assistance or consider creating
2 a housing authority.
- 3 7. Grants have been used for affordable housing, but the rules and regulations associated with
4 grants are complicated and may not be in the best interest of the Town.
- 5 8. Bret reported Park City built affordable housing and it may be an option for the Town to contact
6 them for assistance. The deed restrictions have appreciation caps and must be sold to someone
7 within the low to moderate-income requirements.
- 8 9. Allyssa reported that deed restrictions could be a valuable tool since it would be sold to someone
9 with a low to moderate-income for 99 years, but there are different requirements in other
10 communities.
- 11 10. Bret reported the Town would need to have the requirement that any units remain as affordable
12 housing. Bret suggested the Council consider building affordable housing instead of fighting a
13 market in a resort community.
- 14 11. Mayor Calloway inquired if there is a clear distinction between workforce housing and affordable
15 housing. Allyssa reported that workforce housing is income that is 50% to 80% of the moderate-
16 income but it would depend on what is used in the Town's plan. Nate explained he would use
17 affordable housing unless the resort is wanting to build strictly for their employees.
- 18 12. Attainable housing term was used in St. George and the plan identified all types of workers for
19 housing.

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21 The Council thanked Allyssa and Nate for their presentation and discussed the following:

- 22 1. Council Member Kelly commented the Town would need to make better use of ADU's and
23 prohibit them from becoming short-term rentals with deed restrictions. The Town could also
24 pick up property at tax sales; a land trust to barter with developers to identify attainable
25 housing; find a way to reduce the difficulty for density; and along the Highway 143 corridor,
26 the multi-family residential properties could identify affordable units.
- 27 2. Council Member Mulder cautioned the Council on getting into the business of affordable
28 housing. Council Member Mulder explained there are many resources available for affordable
29 housing and explained she is unsure if the Town should be subsidizing to create havens for
30 populations.
- 31 3. Council Member Freeberg agreed with Council Member Mulder. Council Member Freeberg
32 inquired if the Council is interested in looking at affordable housing to bring in a workforce
33 and believes the key players such as the resort need to be involved. Council Member
34 Freeberg commented he opposes the idea that the Town should fund affordable housing and
35 reminded the Council that there are other items such as maintenance of the buildings that
36 would need to be funded. Council Member Freeberg stated he is opposed to allowing AUD's
37 to be short-term rentals.
- 38 4. Mayor Calloway inquired if the Council would be interested in a partnership with the resort to
39 create affordable housing where the Town donates the land and infrastructure, and the resort
40 builds the buildings. Council Member Kelly expressed his concerns on allowing just the resort
41 employees to qualify for affordable housing but allowing all workforce personnel to qualify for
42 affordable housing. There is also the issue of maintaining a community feel.
- 43 5. Council Member Freeberg commented he believes the issue is complicated and would be
44 costly for the Town.

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46 **Consensus of the Council:** The Town will continue to review the workforce housing and work
47 with Nate and Allyssa to determine the needs for identifying employer assessed housing as a
48 joint venture concept. Staff will gather data that will give more information for the missing middle-
49 level concept and how applicable it will be in the community. The Council will identify strategies to
50 address the missing middle level for attainable housing.

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53 **4. STRATEGIC PLANNING PROCESS 2.0/FY 2022 QUARTER 1 UPDATE.** A demonstration of Asana
54 software as it relates to the Strategic Plan.
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Shane Williamson, Town Treasurer, explained the Town recently purchased a new software program, Asana, which is a time-management program for tracking the strategic plan and action steps. Shane presented a demonstration of the program to the Council. Some of the highlights of the program are as follows:

1. Gives live reminders to address action steps completed.
2. Currently, only several staff are testing the program, Bret, Shane, Nancy, Aldo, and Dan.
3. The program will create subtasks.
4. When a task is completed, updated, or delegated to another, it will instantly notify everyone on the program.
5. The program has apps that can be used for those in the field to update their action steps.
6. Photos can be uploaded into the program.
7. Projects can be created for training purposes.
8. Deadlines are identified for action steps and any other project identified.

Bret explained staff is looking at implementing the program for the entire staff to use and could include Council Members to receive updates on action steps instead of staff providing a lengthy hard copy of the staff's action step progress.

Council Member Freeberg commented the program could take up valuable time with those who are in the field. Bret reported that staff is moving cautiously this year so the data is being inputted correctly along with learning the process.

Consensus of the Council: Council will review this item during the FY2023 Strategic Retreat to discuss whether to expand the system.

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

Nightly Rental Code Amendment

Bret reported staff will be addressing Jim Ortler's proposed amendments to the Nightly Rental Code for condominium units. The proposed amendments request the following:

- a. Regulate the maximum number for occupancy on advertising sites.
- b. Regulate the number of parking for condominiums.
- c. Prohibit short-term rentals from identifying their unit as a primary residence as required by state law.
- d. HOA approval for short-term licensing.

Bret inquired if there were any specific items the Council would like to review. Mayor Calloway recommended the staff review nightly rentals to determine if they are claiming primary residence since it would affect the Town's and County's property tax base.

The Council discussed the proposed amendment for regulating the number of parking spaces at condominiums. Mayor Calloway commented he is unaware of how to limit the number of licenses based on the number of parking spaces and how it would be applied. Council Member Freeberg commented the Council decided to allow the HOA's to regulate the parking and occupancy and believes that it should remain as written. Council Member Kelly commented there are several HOA's who have commented that their CC&Rs are difficult to enforce. Bret reported the suggested amendments by Mr. Ortler have to do with multi-family residential properties and wanting the Town to take more action in the enforcement of the HOA's.

The Council discussed the proposed amendment to regulate the maximum occupancy by regulating their advertising sites. Bret explained that there is a state law that prohibits a municipality from penalizing a nightly rental based on their advertising. Bret reported the Town recently purchased a short-term program that provides information on all operating short-term rentals in Brian Head, and he has consulted with the attorney to ensure the Town can enforce the Town's code using the program.



1 Mr. Ortler also recommended an amendment to the Nightly Rental Code requiring approval from the HOA
2 for a short-term rental license. Mayor Calloway commented that this item would be an additional step in-
3 licensing and would not recommend the Council address it unless other HOA's are requesting the same
4 thing. Council Member Freeberg recommended the Council allow the HOA's to continue to regulate the
5 maximum occupancy and parking.
6

7 **Consensus of the Council:** Staff will review the proposed amendments and research the primary
8 residence status of the licensed nightly rentals. This item will be on the next Council agenda for
9 discussion.
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11 12 **G. ADJOURNMENT**

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14 **Motion:** Council Member Freeberg moved to adjourn the regular meeting of the Brian Head Town
15 Council for October 12, 2021. Council Member Mulder seconded the motion.

16 **Action:** **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Freeberg, Council
17 Member Kelly, Council Member Mulder, Mayor Calloway. **Absent:** Council Member
18 Marshall).
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20 The regular meeting of the Brian Head Town Council was adjourned at 4:15 pm for October 12, 2021.
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24 October 26, 2021

25 Date Approved
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Nancy Leigh, Town Clerk

