

A Special Meeting of the
Brian Head Town Council
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Via Zoom Meeting ID# 898 4328 0524
TUESDAY, DECEMBER 21, 2021 @ 10:30 AM

Roll Call.

Members Present: Council Member Larry Freeberg, Council Member Kelly Marshall, Council Member Shaun Kelly, Council Member Lynn Mulder, Mayor Calloway (arrived at 10:45 am)

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

A. CALL TO ORDER

Mayor Pro-tem Freeberg called the special meeting of the Town Council to order at 10:35 am for December 21, 2021.

B. DISCLOSURES

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

C. AGENDA ITEMS:

1. **A RESOLUTION DECLARING THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF BRIAN HEAD, IRON COUNTY, UTAH, FOR WATER SYSTEM IMPROVEMENTS AND RELATED IMPROVEMENTS WITHIN THE CEDAR BREAKS MOUNTAIN ESTATES, UNIT B SUBDIVISION; TO DESIGNATE OR CREATE THE TOWN OF BRIAN HEAD, UTAH SPECIAL TAX ASSESSMENT AREA NO. 2021-04 (SCENIC DRIVE); TO FUND THE COST AND EXPENSES OF SAID ASSESSMENT AREA BY SPECIAL TAX ASSESSMENTS TO BE LEVIED AGAINST THE PROPERTY BENEFITTED BY SUCH IMPROVEMENTS; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH IMPROVEMENTS AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH IMPROVEMENTS OR THE CREATION OF SAID ASSESSMENT AREA; TO DECLARE ITS INTENTION OF FUNDING A RESERVE FUND IN LIEU OF A GUARANTY FUND; AND RELATED MATTERS.** A resolution amending the Notice of Intent for the Scenic Drive Special Assessment Area (SAA).

Nancy Leigh, Town Clerk, presented a draft resolution for the Notice of Intent for the Scenic Court Special Assessment Area (see attached). Nancy reported the Council accepted the Scenic Drive SAA petition during the December 14, 2021, Council meeting. The SAA includes fourteen properties on Scenic Court and Lupine Court and is requesting waterline improvements to the area.

The Council discussed the following:

1. Council Member Kelly stated his concerns on the dates for the SAA. Nancy reported she will confirm the dates with the attorney before publication.
2. Council Member Freeberg inquired on the timeframe for financing the project. Bret responded this project would be approximately two-weeks behind the Falcon Court and Trail Road SAA's. Once the staff knows what the project bids are, then it would take approximately six weeks to finance which would bring the funding in July 2022.
3. Bret reported the Town has moved quickly with the three SAA's to begin construction within the 2022 construction season. Staff identified a timeline for SAA's in which an SAA petition would need to be submitted by July 1st in order to meet the next construction season.
4. Bret explained with the three SAA's that are in process, the field data was collected before the petitions were submitted to Council for approval.



5. Nancy reported the Notice of Intent sets the public hearing date and once the public hearing is completed, there is a 60-day protest period. The public hearing date for this SAA is scheduled for February 1, 2022, at 11:00 am.
6. Council Member Freeberg commented he did not realize the Town was responsible for the implementation of the project and that the Town would be responsible for the engineering. Mayor Calloway responded that there is a risk for the Town, but the Town wants to work with those who are wanting to do water/sewer improvements and to ensure the engineering is done correctly to the Town's standards, there is an element of risk involved, otherwise, engineering submitted from the owners could be incorrect and not meet the Town's standards and would sidetrack the SAA.
7. Bret reported the Trail Road SAA is looking to submit consents and waivers from 100% of the properties identified in the SAA to forego the public hearing and protest period.
8. Mayor Calloway explained it is the Town's project and there are some assurances that the property owners will make their assessments, or the Town can foreclose on their property.
9. Bret explained the Town is looking to get all three SAA projects started this summer (2022) under one construction company to save on costs.
10. Bret explained it would benefit the Town to identify all three SAA projects in one bid with each project identified as a separate quote and if there are any significant protests within the first 30 days, then the Town will hold off on that particular project bid. The sponsors have been notified that it is not a guaranteed project.
11. Council Member Kelly stated that he believes that it could bleed over to other Town Code issues. Council Member Marshall responded that the timeframe staff has identified is not identified in an ordinance and would not affect any other Town Codes.
12. Bret explained that only the property owners affected by an SAA can protest it and it must exceed 40%.
13. Mayor Calloway commented that he would like to see the Council discuss a policy of how much SAA debt the Town wants to take on. Bret explained the Town is looking at one million dollars with the three current SAA projects and believes there are five more projects that are interested in starting an SAA.
14. Bret reported he would like to identify a policy on how much SAA debt the Town can take on, but that the finance may set that cap instead. Bret reported in speaking with the financial advisor, they were okay with one million dollars in bonding for the SAA's.
15. Bret explained that staff did not anticipate receiving this many SAA requests at one time. There is a slight risk, but if paying the bonds with the water utility fees, he believes it is reasonably secured.
16. Council Member Mulder commented that the properties in the SAA are used as collateral for the assessment.
17. Council Member Freeberg commented he had heard that the Town would be supplying valves and materials for the Falcon Court SAA. Bret responded that he was talking to both the sponsors for the Toboggan Road and Falcon Court and that it was the highest-ranked expansion projection in wake of the discussion and said that the Town could possibly throw in a hydrant for the project. The rest of the SAA's have not asked for anything nor has the Town offered anything.
18. Mayor Calloway inquired if the properties in the SAA's would be subject to the impact fees. The Town currently has a policy that if a property owner extends the water/sewer lines they would be given a percentage of the impact fees up to the full amount of the impact fees. Bret explained the Council does not have to drop the impact fees for the property owners in the SAA since impact fees pay for the water tanks, water rights, and wells and pay on the GO water bonds.
19. Mayor Calloway inquired as to how the staff is planning to administer the impact fees with the new connections from the SAA's. Bret responded that he would follow the policy until the Council directs him otherwise and would bring it to the Council for their consideration.
20. Council Member Freeberg commented that since the property owners in the SAA are paying for the water/sewer lines, then he feels the impact fees should be waived. Council Member Marshall commented they would still be required to collect the connection fees.
21. Bret explained this SAA does not have laterals included in the project.

Motion: Council Member Mulder moved to adopt resolution No. 510, a resolution declaring the intention of the Town Council for water system improvements and related improvements within the Cedar Breaks Mountain Estates, Unit B, Subdivision; to designate or create the



Town of Brian Head, Utah Special Tax Assessment Area No. 2021-04 (Scenic Drive); to fund the cost and expenses of said assessment area by special tax assessment to be levied against the property benefitted by such improvements; to provide notice of intention to authorize such improvements and to fix a time and place for protests against such improvements or the creation of said assessment area; to declare its intention of funding a reserve fund in lieu of a guaranty fund; and related matters. 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).

E. ADJOURNMENT

Motion: Council Member Kelly moved to adjourn the special meeting of the Town Council for December 21, 2021. Council Member Mulder 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).

The special meeting of the Brian Head Town Council was adjourned at 11:15 am on December 21, 2021.

January 11, 2022
Date Approved

Nancy Leigh, Town Clerk

