
**CITY OF BIG BEAR LAKE CITY COUNCIL
MINUTES FOR REGULAR MEETING
DECEMBER 9, 2002**

A Regular Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Cortez at 5:00 p.m., Monday, December 9, 2002, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

PUBLIC FORUM FOR CLOSED SESSION

None.

At the hour of 5:05 p.m., Council adjourned to Closed Session.

At the hour of 6:30 p.m., Council adjourned to Open Session.

OPEN SESSION

Flag Salute: Mayor Pro Tem Mellen

Councilmembers Present: Mayor Mary Cortez
Mayor Pro Tem Bill Mellen
Councilmember Liz Harris
Councilmember Hertzmann
Councilmember Darrell Mulvihill

Councilmember Excused: None

Others Present: Michael Perry, City Manager
Steve Deitsch, Best Best & Krieger LLP, City Attorneys
Katherine E. Jefferies, City Clerk
Molly Bogh, Community Development Director
Kathleen Smith, Finance Manager

RESULTS OF CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code Section 54957.6
Name of Negotiators: City Attorney, Human Resources Manager, and Fire Chief
Name of Organization: Big Bear Lake Fire Employees

No reportable action.

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8

Property: 39707 Big Bear Boulevard, 39690 Big Bear Boulevard, and 42610 Rathburn Drive, Big Bear Lake, California
Negotiating Parties: City Manager, Fire Chief and Verizon Wireless
Under Negotiation: Price and Terms of Payment

No reportable action.

AGENDA APPROVAL

Motion by Councilmember Mulvihill, seconded by Councilmember Hertzmann to approve the Agenda as presented. Motion carried 5-0.

ANNOUNCEMENTS

Upcoming events scheduled for the Performing Arts Center - Tickets are available at the box office at 866-4970.

Center Stage Performing Arts Studio presents “The Nutcracker” – December 12 – 15.

City offices will be closed Tuesday, December 24th and Wednesday, December 25th for the Christmas holidays, and Tuesday, December 31st and Wednesday, January 1st for the New Year holidays.

The next City Council meeting will be held on January 13, 2003.

PRESENTATIONS

Mayor Cortez presented a five-year City Employee Pin to Phil Mosley, Chief Building Official, and a five-year City Employee Pin to Victor Vasquez, Maintenance Worker I.

COMMITTEE REPORTS

The SANBAG Committee Report was given by Councilmember Hertzmann.

The BBARWA Committee Report was given by Mayor Pro Tem Mellen and Mayor Cortez.

PUBLIC FORUM

Don Crider, Bear Valley Hospital Chaplain: offered a prayer of invocation.

Sandy Acosta, Big Bear Lake: stated that the agenda items related to the Business License Applications for the taxi and shuttle services contain personal information that should not be included for the public to see. She commended Mayor Cortez for serving the City as Mayor, and discussed her concerns regarding budget reductions that the City will be making in the next fiscal year, which should not reduce services that would impact the health and safety of our citizens. She urged the Council to continue with the invocations at the Council meetings.

PUBLIC FORUM RESPONSE

City Manager Perry reported that the City plans to monitor the State budget reductions very closely, however, the City will be forced to make difficult decisions on how to reduce our municipal budget and continue to provide essential services to our citizens. He responded to Ms. Acosta's concerns brought up at the November 12th meeting, regarding three dead trees at the Indian Village parking lot, and reported that staff has received a recommendation to wait until spring before having them removed.

Councilmember Harris reported on the Bark Beetle problem that has hit the San Bernardino mountain range. She stated that City staff and members of the City Council had an opportunity to review the devastation of dead and dying trees due to drought and Bark Beetles from the air, and stated that the progression from Lake Arrowhead to Big Bear Lake is quite alarming. She reported that Senator Brulte has introduced a bill to the legislators asking for removal of the dead and dying trees in our forests, and that Congressman Lewis is in the process of trying to appropriate \$3 million of unspent disaster mitigation funds, and urged all citizens to support our legislators.

Councilmember Mulvihill reported that the Chamber of Commerce has formed a Fire Safe Council, a community base program run by the local citizens to address political issues dealing with the environment, and issues such as the Bark Beetle.

1. CONSENT CALENDAR

Motion by Councilmember Mulvihill, seconded by Councilmember Harris to approve the Consent Calendar as follows:

- 1.1 Approval of Demands – Check Issue Date 11/06/02 through 11/20/02 – Check Nos. 16324 through 16521, in the amount of \$588,023.63, and Check Issue Date 11/21/02 through 12/04/02 – Check Nos. 16522 through 16698 in the amount of \$905,299.82**

Approved.

1.2 Approval of the Minutes from the Regular Meeting of October 28 and the Regular Meeting of November 12, 2002

Approved as presented.

1.3 Accept as Complete – Moonridge Sidewalk Project

Council consideration of accepting the Moonridge Sidewalk Project as complete, determine the final contract cost to be \$161,400.50, and authorize the City Clerk to file the Notice of Completion and release the retention amount of \$16,565.50 thirty-five days after the recordation, provided that no stop notices are filed with the City.

Approved.

1.4 Monthly Financial Report

Received and filed.

1.5 Amended Conflict of Interest Code

Council consideration of a resolution approving the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974.

Adopted the following resolution, entitled:

RESOLUTION NO. 2002-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING THE APPENDIX OF THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

1.6 Maintenance of Common Area of Tract No. 15461 - Bear Mountain Highlands Homeowners Association Inc.

Council consideration of a request to amend the Agreement between the City of Big Bear Lake and Bear Mountain Highlands Homeowners Association Inc., for Maintenance of Common Area of Tract 15461 to provide for the maintenance of certain storm drain improvements by the Homeowners Association.

Approved.

1.7 Planning Commission Vacancy

Council consideration of authorizing staff to advertise for the vacancy on the Planning Commission.

Approved.

1.8 November 5, 2002 Election Certification

Council consideration of a resolution declaring the results of the November 5, 2002 election.

Adopted the following resolution, entitled:

RESOLUTION NO. 2002-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD IN SAID CITY ON NOVEMBER 5, 2002, DECLARING THE RESULTS THEREOF AND SUCH OTHER MATTERS AS PROVIDED BY THE PROVISIONS OF LAW

The Consent Calendar was approved by the following vote:

AYES: Cortez, Harris, Hertzmann, Mellen, Mulvihill
NOES: None
ABSENT: None
ABSTAIN: Cortez on Item 1.2 as she had not attended those meetings

2. ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

At the hour of 7:00 p.m., Council adjourned to the Fire Protection District.

FIRE PROTECTION DISTRICT

Fire Protection District proceedings are contained in separate minutes.

At the hour of 7:02 p.m., the Fire Protection District adjourned to the Improvement Agency.

IMPROVEMENT AGENCY

Improvement Agency proceedings are contained in separate minutes.

At the hour of 7:03 p.m., the Improvement Agency adjourned to Regular Council Session.

3. CEREMONIAL

3.1 Presentations to Outgoing Councilmembers

BBARWA General Manager Schindler presented Certificates of Appreciation to Mayor Cortez and Mayor Pro Tem Mellen for their participation on the BBARWA Board.

Senior Administrative Analyst Arenella presented a plaque to Mayor Pro Tem Mellen in appreciation for his participation as Boardmember on the Mojave Desert and Mountain Integrated Waste Management JPA.

3.2 Oath of Office by City Clerk to S. O. "Shed" Conklin, Ken Dally, and Darrell Mulvihill

City Clerk Jefferies administered the Oath of Office to Councilmember Conklin, Councilmember Dally and Councilmember Mulvihill.

At the hour of 7:19 p.m., Mayor Cortez declared a recess. At the hour of 7:29 p.m., Council reconvened.

4. COUNCIL REORGANIZATION

4.1 Selection of Mayor and Mayor Pro Tem

Councilmember Conklin nominated Councilmember Harris as Mayor of the City of Big Bear Lake.

Said nomination was approved by the following vote:

AYES:	Conklin, Dally, Hertzmann, Mulvihill, Harris
NOES:	None
ABSENT:	None
ABSTAIN:	None

Councilmember Dally nominated Councilmember Mulvihill as Mayor Pro Tem of the City of Big Bear Lake.

Said nomination was approved by the following vote:

AYES: Conklin, Dally, Hertzmann, Mulvihill, Harris
NOES: None
ABSENT: None
ABSTAIN: None

At the hour of 7:33 p.m., Council adjourned to the Improvement Agency Meeting.

IMPROVEMENT AGENCY

Improvement Agency proceedings are contained in separate minutes.

At the hour of 7:35 p.m., the Improvement Agency adjourned to Regular Council Session.

5. PUBLIC HEARINGS

5.1 Certification of Public Convenience and Necessity for Business License Applicant: Big Bear Shuttle and Taxi

Council consideration of a resolution granting a Certificate of Public Convenience and Necessity to Big Bear Shuttle and Taxi for the purposes of operating a taxicab business.

At the hour of 7:37 p.m., Mayor Harris opened the public hearing. Hearing no comment the public hearing was closed.

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Hertzmann to adopt the following resolution, entitled:

RESOLUTION NO. 2002-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO MUNICIPAL CODE CHAPTER 5.90, TO BIG BEAR SHUTTLE AND TAXI FOR THE PURPOSES OF OPERATING A TAXI SERVICE

Said motion was approved by the following vote:

AYES: Conklin, Dally, Hertzmann, Mulvihill, Harris
NOES: None
ABSENT: None
ABSTAIN: None

**5.2 Certification of Public Convenience and Necessity for Business License
Applicant: Snow Summit Ski Corporation**

Council consideration of a resolution granting a Certificate of Public Convenience and Necessity to Snow Summit Ski Corporation, for the purposes of operating shuttles.

At the hour of 7:42 p.m., Mayor Harris opened the public hearing.

Barbara Beard, Big Bear Lake: stated that she was under the impression that under the Conditional Use Permit that was approved by the Forest Service, Bear Mountain Ski Resort must pay a portion of the costs to maintain Clubview Drive, because of the heavy ski traffic in the wintertime.

Brent Tregaskis, Bear Mountain Ski Resort: clarified that the maintenance of Clubview Drive was a condition of approval for Phase II of the Development Plan, approved several years ago by the Forest Service. He stated that Bear Mountain Ski Resort is still in Phase I and has never begun Phase II. He also reported that the ski resort has purchased four large enclosed shuttles that will decrease the amount of shuttle trips up and down Clubview Drive.

At the hour of 7:57 p.m., Mayor Harris closed the public hearing.

Council added language to the resolution as follows:

1. This approval shall be valid for a period of ten years.
2. This approval shall include only the proposed uses and routes shown on this Resolution.
3. The City may, at any time reopen the matter of the issuance of this certificate for the purpose of making modifications or adding conditions of approval, at the City's discretion, either at the request of the applicant or at the City's initiative.

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Conklin to adopt the following resolution, entitled:

RESOLUTION NO. 2002-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, GRANTING A CERTIFICATION OF PUBLIC CONVENIENCE AND NECESSITY TO SNOW SUMMIT SKI CORPORATION, FOR PURPOSES OF OPERATING SHUTTLES

Said motion carried by the following vote:

AYES: Conklin, Dally, Hertzmann, Mulvihill, Harris
NOES: None
ABSENT: None
ABSTAIN: None

6. DISCUSSION/ACTION ITEMS

6.1 Council Meeting Invocations

Council consideration of the matter of conducting invocations at City Council meetings and provide direction to staff and the City Attorney with respect to the possible adoption of a policy.

City Attorney Deitsch briefed the Council on the basis upon which the appellate court ruled against sectarian invocations at City Council meetings, and summarized the options available for Council approval related to invocations at future meetings. He also discussed that, in his opinion, the California Supreme Court will more than likely agree with the lower courts ruling.

Barbara Beard, Big Bear Lake: discussed an invocation survey that was conducted by the League of California Cities. She stated that, out of 59 cities that were surveyed, 15 were within the same jurisdiction as the City of Burbank, 18 cities do not include invocations at their meetings, and 27 cities do have invocations at their meetings, 20 of which have made no change in their procedures since the decision. She urged the Council to make no change to our current procedures to limit the content of prayer.

Pastor Jeff Tunnell: read a memo from the Pacific Justice Institute regarding the courts decision related to the City of Burbank. The memo stated that in 1998, a Federal District Court in Southern California specifically ruled that invocation given before school board meetings was not unconstitutional. The memo also mentioned that the Pacific Justice Institute offered to provide free legal representation to any city that is challenged for failing to prohibit, or for allowing sectarian invocations before government meetings.

Carol Mulvihill, Big Bear Lake: urged the Council to continue with the invocation procedure that is currently in place until a Supreme Court decision has been made. She also suggested that the City make a concentrated effort to include all faiths to participate in our invocations.

Bob Davies, Big Bear Lake: urged the Council to continue with the current invocation procedure.

Motion by Councilmember Dally, seconded by Mayor Pro Tem Mulvihill to continue to allow sectarian invocations until a final resolution of the City of Burbank case by the California Supreme Court has been made, and that the City aggressively seek all religions of the valley to participate in our invocations.

Said motion carried by the following vote:

AYES: Conklin, Dally, Hertzmann, Mulvihill, Harris
NOES: None
ABSENT: None
ABSTAIN: None

FUTURE AGENDA ITEMS

None.

CITY MANAGER REPORTS

A Workshop Meeting was scheduled with the Council and the Planning Commission for January 27, 2003 at 3:00 p.m., to discuss the Bark Beetle issue.

A Workshop Meeting was scheduled with the Council for February 3, 2003 at 9:00 a.m., to discuss the fiscal year 2002/2003 Mid-Year budget.

CITY COUNCIL REPORTS

Councilmember Conklin asked that the Committee assignments be placed on the next meeting agenda, and suggested that the Councilmembers who are already on a specific Committee continue on that Committee. City Manager Perry responded that the Council would approve the Committee assignments at the January 13th meeting.

Mayor Pro Tem Mulvihill thanked City staff for the annual holiday dinner held on December 6th, and the Fire Department for their annual dinner held at the Fire Station on December 3rd. He addressed his concerns regarding the derogatory remarks that he has

heard against the Rotary Club during the recent election, and stated that all of the service organizations in the Valley do an enormous amount of work to support our Valley.

Mayor Harris wished everyone a Happy Holiday.

ADJOURNMENT:

There being no further business to come before the Council at this session, Mayor Harris adjourned the meeting at 9:09 p.m.

Katherine E. Jefferies
City Clerk

APPROVED AT THE MEETING OF: January 13, 2003