

---

**CITY OF BIG BEAR LAKE CITY COUNCIL  
MINUTES FOR REGULAR MEETING  
JUNE 23, 2003**

---

A Regular Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Harris at 5:30 p.m., Monday, June 23, 2003, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

**PUBLIC FORUM FOR CLOSED SESSION**

None.

At the hour of 5:35 p.m., Council adjourned to Closed Session.

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

**OPEN SESSION**

Invocation: Reverend Ernest Nickerman, St Columba's Episcopal Church

Flag Salute: Public Works Superintendent Vantine

Councilmembers Present: Mayor Liz Harris  
Mayor Pro Tem Darrell Mulvihill  
Councilmember S. O. Conklin  
Councilmember Ken Dally

Councilmember Excused: Councilmember Hertzmann

Others Present: Michael Perry, City Manager  
Steve Deitsch, Best Best & Krieger LLP, City Attorneys  
Katherine E. Jefferies, City Clerk/ACM  
Molly Bogh, Deputy City Manager Development Services

**RESULTS OF CLOSED SESSION**

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR pursuant to Government Code Section 54956.8

Property Negotiation: APN 308-053-10  
Name of Parties: City Manager and owner of the property Term:  
Price and Terms of Payment

No reportable action.

## **AGENDA APPROVAL**

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Conklin to approve the Agenda as presented. Motion carried 5-0.

## **ANNOUNCEMENTS**

Upcoming events scheduled for the Performing Arts Center: (For ticket information please contact the box office at 866-4970)

- ❖ CATS will present “Oklahoma!” – June 27 – 29, July 1, 2, 3, 5, 6, 9, 11, 12.
- ❖ The Old Miners Association will present the “Cowboy Poetry and Music Gathering” – July 18 & 19.
- ❖ The Woman’s Club Annual Flower Show will be held on July 25 & 26.

City offices will be closed on Friday, July 4, 2003, in observance of Independence Day.

## **PRESENTATIONS**

City of Montclair Councilmember and AQMD Governing Board Member Len Paulitz gave an update on AQMD air quality issues.

Judy Harris presented to the City a 1977 painting by Gigi Gallant, in memory of her husband Steve Harris. The acrylic was painted from a photograph of the 1976 Burro Race during Old Miner’s Days in Big Bear Lake.

Mayor Harris presented an engraved watch, and Fire Chief Hammond presented a plaque to Fire Captain Jeff Woodruff, in recognition of his 30 years of service to the Fire Protection District.

## **COMMITTEE REPORTS**

- ❖ The Fire Study Report was given by City Manager Perry.
- ❖ The Economic Development Report was given by Mayor Harris and Mayor Pro Tem Mulvihill.
- ❖ The Solid Waste Task Force Report was given by Councilmember Conklin.

## **PUBLIC FORUM**

Dr. Michael Erickson, Big Bear Christian Center: offered a Prayer of Invocation.

Phyllis Clark, Big Bear Lake: discussed that the City is sending the wrong message to the citizens by approving an \$80,000.00 expenditure for Boulder Bay Park, while at the same time proposing to increase fees and taxes.

Laura Koepke, President of Government Watch: discussed the need for the City to look at ways to reduce the budget instead of increasing current taxes and initiating new taxes.

Sandy Acosta, Big Bear Lake: discussed her concerns regarding the hazards of MTBE, and asked why the City is not being more proactive to eliminate it because it threatens our health and our lake. She reported that she did not receive her ballot for the Village Assessment District election.

Hal Schoettger, Big Bear Lake: stated that he has a County report that lists all property owners in the Village Assessment District, and reported that Ms. Acosta is on the list.

City Manager Perry stated that he would see to it that Ms. Acosta receives her ballot.

## **PUBLIC FORUM RESPONSE**

None.

### **1. CONSENT CALENDAR**

Motion by Councilmember Conklin, seconded by Mayor Pro Tem Mulvihill to approve the Consent Calendar as follows:

#### **1.1 Approval of Demands – Check Issue Date 06/05/03 through 06/18/03 – Check Nos. 18884 through 19050, in the amount of \$597,283.45**

This item was removed from the Consent Calendar for separate discussion.

#### **1.2 Approval of the Minutes for the Regular Meeting of May 12, 2003, and the Regular Meeting of May 27, 2003**

Approved as presented.

**1.3 Monthly Financial Report**

Received and filed.

**1.4 Incorporation of the 2003-2004 Department of Water and Power's Approved Budget into the 2003-2004 City of Big Bear Lake Budget**

Council consideration of a resolution incorporating the DWP approved budget for fiscal year 2003-2004 into the fiscal year 2003-2004 City Budget.

Adopted the following resolution, entitled:

RESOLUTION NO. 2003-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, INCORPORATING THE DEPARTMENT OF WATER & POWER APPROVED BUDGET FOR FISCAL YEAR 2003-2004 INTO THE CITY BUDGET

**1.5 Agreement with the Big Bear City Community Services District (BBCCSD) concerning Sewage Treatment Fees**

Council consideration of approving an agreement between the City and BBCCSD concerning sewage treatment fees, directing the City to charge and collect annual sewer user fees, and to pay the BBCCSD for all fees charged to them by BBARWA, for all parcels contained in the areas mentioned in the agreement, which continue to use the BBCCSD's trunk lines.

Approved.

**1.6 Memorandum of Understanding between the City of Big Bear Lake and the San Bernardino County Employees Association General Unit**

Council consideration of a resolution approving a Memorandum of Understanding between the City and the San Bernardino Public Employees Association for the General Unit, effective July 1, 2003.

Adopted the following resolution, entitled:

RESOLUTION NO. 2003-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE SAN BERNARDINO COUNTY PUBLIC EMPLOYEES ASSOCIATION GENERAL UNIT

**1.7 Declaration of a Local State of Emergency**

Council consideration of a resolution declaring a Local State of Emergency due to the Bark Beetle infestation and drought, and direct staff to agendaize this item for review at each regularly scheduled meeting, until such time as our current tree mortality situation has subsided.

This item was removed from the Consent Calendar for separate discussion.

**1.8 Civic Center Painting**

Council consideration of awarding the contract to NW Painting to paint the Civic Center building, for an amount not to exceed \$45,477.00.

This item was removed from the Consent Calendar for separate discussion.

The Consent Calendar was approved by the following vote:

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

**2. ITEMS REMOVED FROM THE CONSENT CALENDAR**

**1.1 Approval of Demands – Check Issue Date 06/05/03 through 06/18/03 – Check Nos. 18884 through 19050, in the amount of \$597,283.45**

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Dally to approve the Demands as presented.

Said Motion was approved by the following vote:

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

### **1.7 Declaration of a Local State of Emergency**

Council consideration of a resolution declaring a Local State of Emergency due to the Bark Beetle infestation and drought, and direct staff to agendize this item for review at each regularly scheduled meeting, until such time as our current tree mortality situation has subsided.

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

#### RESOLUTION NO. 2003-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DECLARING A LOCAL STATE OF EMERGENCY

and, direct staff to continue this item at each regularly scheduled meeting, until such time as our current tree mortality situation has subsided. Council asked staff to request the Chamber of Commerce, and the Big Bear City Community Services District, to write letters of support to our legislative representatives.

Said Motion was approved by the following vote:

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

### **1.8 Civic Center Painting**

Council consideration of awarding the contract to NW Painting to paint the Civic Center building, for an amount not to exceed \$45,477.00.

Mayor Pro Tem Mulvihill requested that the Civic Center painting be placed on hold until it is known how the State budget deficit will impact our City budget.

City Manager Perry explained that, due to the condition of the Civic Center, it would cost significantly more to paint the building next year instead of this year. He also commented that staff has been putting money aside each year for the project.

Sandy Acosta, Big Bear Lake: discussed the need to paint the building now instead of letting it deteriorate any further.

Laura Koepke, Government Watch: spoke in opposition to painting the Civic Center.

Motion by Councilmember Dally, seconded by Councilmember Conklin to award the contract to NW Painting to paint the Civic Center building, for an amount not to exceed \$45,477.00.

Said Motion was approved by the following vote:

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

### **3. PUBLIC HEARINGS**

#### **3.1 Department of Water & Power Standby Charges**

Council consideration of introduction and first reading of an ordinance adopting a written report regarding water standby charges for fiscal year 2003-2004, and directing that such charges be collected on the tax roll.

At the hour of 7:59 p.m., Mayor Harris opened the public hearing.

Sandy Acosta, Big Bear Lake: asked for clarification on what happens to the water connections if a building is demolished on a piece of property.

General Manager Saville explained that standby fees are only for vacant parcels of land that are not already connected to the system.

At the hour of 8:00 p.m., Mayor Harris closed the public hearing.

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Dally to introduce and waive further reading of an ordinance, entitled:

ORDINANCE NO. 2003-XXX

AN ORDINANCE OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA ADOPTING A WRITTEN REPORT REGARDING WATER STANDBY CHARGES FOR FISCAL YEAR 2003-2004, AND DIRECTING THAT SUCH CHARGES BE COLLECTED ON THE TAX ROLL

Said Motion was approved by the following vote:

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

**3.2 City of Big Bear Lake Proposed Budget for Fiscal Year 2003-2004**

Council consideration of a resolution adopting the City of Big Bear Lake approved budget for fiscal year 2003-2004.

City Manager Perry gave an overview of the proposed budget for fiscal year 2003-2004. He reported that staff has aggressively cut costs, while still maintaining the current level of service to citizens. General fund expenditures are projected to be approximately \$600,000 less than planned, and should the State take additional funds, the City has developed a contingency plan for future cuts.

At the hour of 8:10 p.m., Mayor Harris opened the public hearing.

Laura Koepke, Government Watch: spoke in opposition to the City's budget stating that it is too large for a City with such a small population.

At the hour of 8:14 p.m., Mayor Harris closed the public hearing.

Motion by Councilmember Conklin, seconded by Councilmember Dally to adopted the following resolution, entitled:

RESOLUTION NO. 2003-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ADOPTING THE CITY OF BIG BEAR LAKE APPROVED BUDGET FOR FISCAL YEAR 2003-2004.

Said Motion was approved by the following vote:

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

**4. DISCUSSION/ACTION ITEMS**

**4.1 Possible Future Revenue Sources; Transient Occupancy Tax Election; and Sales Tax Election**

Council consideration of directing staff to analyze possible future revenue sources; prepare the necessary paperwork to place a measure on the ballot to increase the TOT from 6% to 8%; and direct staff to request that Big Bear Lake be included in Assembly Bill 1412, which authorizes cities to conduct a local election to establish a local sales tax of up to 0.5%.

City Manager Perry explained that since the State plans to take City revenue in order to solve its \$38 billion budget deficit, the Council and staff have worked hard to significantly reduce the budget for both fiscal year 2002/2003 and fiscal year 2003/2004. He stated that since the adopted budget does not contain funds for Capital Improvement Projects, the Council at their June 9<sup>th</sup> workshop meeting, directed staff to prepare a report outlining several possible future revenue sources to be discussed and considered.

Laura Koepke, Government Watch: spoke in opposition to any type of an increase in taxes.

Stan Miller, Knickerbocker Mansion: stated that Transient Occupancy Tax is taxation without representation, which focuses only the lodging business. He stated that the City should look for ways to broaden the tax base, such as initiating a recreational tax.

Pat Kiranoff, Bavarian Lodge: discussed the need for the City to focus on taxing the day visitors instead of just the overnight visitors.

Dennis Large, Big Bear Lake: stated that before a decision is made, the ad hoc committee should meet with various segments of the community to discuss all possible revenue sources. He stated that excellent analysis and research has been conducted by several cities that have faced this same issue that can be retrieved by City staff.

Elaine Tenny, Big Bear Lake: spoke in opposition to an increase in existing taxes, or proposed new taxes.

Sandy Acosta, Big Bear Lake: spoke in opposition to an increase in taxes.

### **RECESS**

At the hour of 9:22 p.m., Mayor Harris declared a recess. At the hour of 9:28 p.m., Council reconvened.

Mayor Pro Tem Mulvihill asked for a response from the City Manager regarding an allegation that the Council violated the Brown Act at the June 9<sup>th</sup> workshop meeting, while discussing possible revenue sources.

City Attorney Deitsch explained that, following the June 9, 2003 budget workshop meeting, a question arose that the Council may have violated the Brown Act by taking action to move forward with the process to place a TOT increase on the November ballot, because that action had not been listed on the Agenda. He stated that the item listed on the Council Agenda indicated that the Council would discuss possible revenue sources, and he clarified that the Council did discuss some, but not all of the revenues listed on the staff report. The only action taken by the Council was to direct staff to place on the July 14<sup>th</sup> City Council Agenda, discussion regarding the possibility of placing a TOT increase on the November Ballot. He stated that in his opinion, the item as listed on the June 9, 2003 Agenda, and the action taken at that meeting was not in violation of the Brown Act.

Motion by Councilmember Dally, seconded by Mayor Pro Tem Mulvihill to reject staff's recommendation to request that Big Bear Lake be included in Assembly Bill 1412, which authorizes cities to conduct a local election to establish a local sales tax of up to 0.5%.

Said Motion failed by the following vote:

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

Motion by Councilmember Mulvihill, seconded by Councilmember Dally to direct staff to not pursue property transfer tax as a revenue source.

Said Motion failed by the following vote:

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

Motion by Councilmember Dally, seconded by Mayor Pro Tem Mulvihill that the Recreation Tax and Transient Occupancy Tax be analyzed as possible future revenue sources for the City.

Said Motion was approved by the following vote:

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

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Conklin to appoint an ad hoc committee, comprised of Councilmember Conklin and Councilmember Dally, to meet with staff and representatives from all segments of the community, in order to receive input regarding a proposed increase in the Transient Occupancy Tax, and whether a Recreation Tax should be imposed within the City of Big Bear Lake.

Said Motion was approved by the following vote:

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

At the hour of 10:16 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 10:18 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 10:19 p.m., the Improvement Agency adjourns to Regular Council Session.

**FUTURE AGENDA ITEMS**

Councilmember Conklin stated that he would like staff to prepare a report for Council discussion regarding the Supreme Court ruling on Invocations; and, a report from the Fire Department clarifying whether or not outdoor charcoal grills are allowed.

**CITY MANAGER REPORTS**

None.

**CITY COUNCIL REPORTS**

Mayor Pro Tem Mulvihill reported that he had been approached by business owners in the Village, who were upset, because the City had asked them to remove the red bark from their landscaping projects. City Manager Perry responded that he would look into the issue.

**ADJOURNMENT:**

There being no further business to come before the Council at this session, Mayor Harris adjourned the meeting at 10:25 p.m.

---

Katherine E. Jefferies, City Clerk

APPROVED AT THE MEETING OF: August 25, 2003