
**CITY OF BIG BEAR LAKE CITY COUNCIL
MINUTES FOR REGULAR MEETING
AUGUST 11, 2003**

A Regular Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Harris at 4:30 p.m., Monday, August 11, 2003, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

PUBLIC FORUM FOR CLOSED SESSION

None.

At the hour of 4:35 p.m., Council adjourned to Closed Session.

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

OPEN SESSION

Invocation: Dr. Michael Erickson, Big Bear Christian Center

Flag Salute: Brent Tregaskis

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

Councilmembers Excused: None

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
Kathleen Smith, Finance Manager

RESULTS OF CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54957
Title of Position: City Manager

Council discussed and continued this item after the open session.

AGENDA APPROVAL

Motion by Councilmember Hertzmann, seconded by Councilmember Conklin to move Item 4.1, Invocation Policy to be heard prior to Item 3.1, Draft Development Code and Zoning Map, and approve the Agenda as amended. Motion carried 5-0.

ANNOUNCEMENTS

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

- ❖ Dance Cottage presents the *Fantastic Voyage of Dance* – August 16 & 17
- ❖ City of Big Bear Lake presents the *Magicians of the Magic Castle* – August 23 & 24
- ❖ CATS presents the *Annual Picnic at the PAC* – August 31
- ❖ The City of Big Bear Lake presents an *Evening with Groucho* – September 6

PRESENTATIONS

Mayor Harris presented a proclamation declaring Big Bear as an American Cancer Society “Relay for Life” Community.

Council honored Deputy City Manager Development Services Molly Bogh with a City Employee Pin for her 5 years of service to the City of Big Bear Lake.

COMMITTEE REPORTS

The SANBAG Committee Report was given by Councilmember Hertzmann.

The Ad Hoc Water Committee Report was given by Mayor Harris.

The Economic Development - College Education Report was given by Mayor Harris.

PUBLIC FORUM

Elaine Tenny, Big Bear Lake: announced that information regarding the Home Energy Assistance Program (H.E.A.P.) will be available to the public on August 25th from 9:00 a.m. - 3:00 p.m., at the Sugarloaf Fire Station. The Program was initiated for citizens needing assistance with their energy bills.

Nancy Sargent, Big Bear Lake: expressed her concerns regarding the Private Home Rental Program. She commented that the program, as allowed by the City, is not working because the vacation homes are consistently rented to people who show no

consideration for the neighboring homes regarding parking, noise, trash, and other nuisance abatements. She discussed that the rental management companies are of little or no help in resolving matters, and are difficult to contact. She also commented that because the City does not have a noise ordinance, Code Compliance cannot respond to noise complaints, and the Sheriff's department rarely responds due to a shortage of staff.

Sandy Acosta, Big Bear Lake: requested the revenue and expense report for the Village Maintenance Assessment District, and asked for clarification as to why the City, with a population of 5,875, needs three Deputy City Managers.

PUBLIC FORUM RESPONSE

City Manager Perry presented the following public forum responses:

He reported that staff would meet with Ms. Sargent to discuss her concerns regarding the vacation rental homes in her neighborhood.

He informed Ms. Acosta that a meeting has been scheduled with representatives from the Village regarding the Village Maintenance Assessment District. He stated that she is more than welcome to attend that meeting, where discussions will take place regarding the costs of maintaining the Village. He explained that, even though the City has a population of 5,875 permanent residents, two-thirds of the homes are occupied on a part-time basis, requiring the services and staffing needs for a City with a population of more than 25,000.

1. CONSENT CALENDAR

Motion by Councilmember Conklin, seconded by Councilmember Hertzmann to approve the Consent Calendar as follows:

1.1 Approval of Demands – Check Issue Date 07/24/03 through 08/07/03 – Check Nos. 19500 through 19646, in the amount of \$564,964.35

Approved.

1.2 Approval of the Minutes for the Workshop Meeting of June 2, 2003

Approved as presented.

1.3 Continuance of the Declaration of a Local State of Emergency

Council consideration of continuing the Declaration of a Local State of Emergency due to the drought and Bark Beetle infestation.

Approved.

1.4 Claim of Cuzzolina

Council consideration of rejecting the Claim submitted by Jim Cuzzolina.

Approved.

1.5 Access Improvements at Lift Station No. 12 – Accept as Complete

Council consideration of accepting the Access Improvements at Lift Station No. 12 as complete; determine the final contract cost to be \$17,962.50, and direct staff to file the Notice of Completion and release the retention amount of \$1,796.25, thirty-five days after the recordation of the Notice of Completion, provided that no stop notices are filed with the City.

Approved.

1.6 Local Transportation Fund Article 8

Council consideration of authorizing the Finance Manager to execute the appropriate documents required to submit the 2002-03 Local Transportation Fund Article 8a claim form and to receive available funds in the amount of \$7,800.

Approved.

1.7 Easement Agreement with Bear Mountain, Inc.

Council consideration of approving Amendment No. 2 to the Easement Agreement with Bear Mountain, Inc.

Approved.

1.8 Administrative Secretary Position Upgrade

Council consideration of a resolution upgrading the Engineering Division's Administrative Secretary position to Counter Technician.

Adopted the following resolution, entitled:

RESOLUTION NO. 2003-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, UPGRADING THE ENGINEERING DIVISION'S ADMINISTRATIVE SECRETARY POSITION TO COUNTER TECHNICIAN

1.9 Human Resources Specialist Salary Upgrade

Council consideration of a resolution establishing a new salary range for Human Resources Specialist.

Adopted the following resolution, entitled:

RESOLUTION NO. 2003-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ESTABLISHING A NEW SALARY RANGE FOR HUMAN RESOURCES SPECIALIST

The Consent Calendar was approved by the following vote:

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

2. ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

4.1 Invocation Policy

Council consideration of adopting an Invocation Policy in order to comply with the California Supreme Court, Appellate Division ruling in Rubin v. City of Burbank.

Ralph Mueller, Presbyterian Church of Big Bear: spoke in opposition to an Invocation Policy, but stated that if the City chooses to establish a Policy, it should include a guideline and purpose of what is expected from those offering the invocation.

Pastor John Day, Big Bear City: spoke in opposition to an Invocation Policy, but stated that if a Policy was implemented, it should include a definition of sectarian prayer.

Dr. Michael Erickson, Big Bear Christian Center: spoke in opposition to an Invocation Policy stating that it would create greater issues and problems within the community.

Sandy Acosta, Big Bear Lake: spoke in opposition to the Invocation Policy, because it will prohibit the right of free speech.

Pastor Bill Weaver, Big Bear Lake Assembly of God Church: felt that the Invocation Policy, as submitted by the City Attorney, goes way beyond the guidelines of Rubin vs City of Burbank, and limits freedom of speech. He suggested that the City look at how other cities are responding to this matter before making a final decision.

Fran Fish, Big Bear Lake: suggested that other ministers throughout the Valley be invited to offer the invocation, instead of just a selected group.

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Conklin to continue this matter to August 25, 2003, and direct staff to contact other legislative bodies within California to determine how they have addressed the Rubin litigation, and to revise the Invocation Policy to include a guideline and definition of what sectarian and non sectarian prayer consists of.

Said Motion was approved by the following vote:

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

3. PUBLIC HEARINGS

3.1 Draft Development Code and Zoning Map

Council consideration of introduction and first reading of an ordinance adopting the proposed Development Code and Zoning Map.

Deputy City Manager Bogh gave an overview of the draft Development Code and Zoning Map, stating that the process began in 1999, when the new General Plan

was adopted. Once adopted, State law then requires a City to bring its Zoning Map and Zoning Code into conformance with the General Plan within a reasonable time frame. Since the incorporation of the City in 1980, staff has been applying adopted portions of the County of San Bernardino's Development Code, which is not specific to Big Bear Lake or to the development within the City.

Associate Planner Braunstein reported that the proposed Development Code will repeal various chapters of Title 17 of the Big Bear Lake Municipal Code, repeal various ordinances regulating land use, including the City's Official Zoning Map, and adopt new chapters of Title 17 of the Municipal Code and a new Official Zoning Map. He gave an overview of the significant changes from the existing code.

At the hour of 8:22 p.m., Mayor Harris opened the public hearing on the text portion of the Development Code.

Pat Miller, Big Bear City: discussed the Commercial/Industrial C5 Zone, stating that the area looks like it is being downsized and does not leave significant space for that type of growth.

Nancy Sargent, Big Bear Lake: discussed her concerns related to noise in residential neighborhoods.

Janet Stevens-Moore, Big Bear Lake: discussed her concerns regarding the garage requirement, which she felt would create a hardship for those who purchase a lot and are unaware of the requirement to build a garage.

Dixie Allison, Big Bear Lake: discussed that the Development Code, as written, is very restrictive and could hurt the older businesses trying to comply with the new codes.

Sandy Acosta, Big Bear Lake: discussed Section 17.25.150 regarding caretaker's residences, stating that the allowed use was inconsistent with what the definition section says. She discussed 17.25.110 regarding Bed and Breakfast establishments which says that the maximum number of guests permitted to stay in each guest room shall be two, with a maximum length of stay of fifteen days. She stated that it should be consistent with the Transient Occupancy Tax Ordinance, which allows a guest to stay for thirty days.

Council directed staff to contact the Bed and Breakfast establishments to see if there is a reason that the maximum length of stay could not be changed from fifteen days to thirty days.

By consensus the City Council amended Section 17.01.90.J Noise Restrictions as follows:

Section 17.01.90.J Noise Restrictions (page 17.01-11).

2. Between the hours of 7:00 p.m., and 7:00 a.m. of the following day, no person shall operate any lawn mower, backpack blower, lawn edger, riding tractor, chain saw, or any other machinery, equipment, or other mechanical or electrical device, or any hand tool which creates an unusually loud, excessive, raucous, impulsive, or disturbing sound, within any residential zone, or within any commercial zone which can be heard from any inhabited real property in residentially used or designated properties, or from a commercial lodging facility. This section shall not be interpreted to prohibit ~~snow blowing~~ snow making or snow grooming activities within approved winter resort project areas, or snow removal operations, including any audible safety alarms that are required by law for these operations.

Motion by Councilmember Dally, seconded by Councilmember Conklin, to amend Section 17.25.070.B Residential Parking Standards as follows:

Section 17.25.070.B Residential Parking Standards (page 17.25-18).

6. The use of tents, canopies or similar devices to shade vehicles is not allowed in residential zones. ~~only on single family residential lots, which do not have, a permanent covered parking space. Where allowed, such devices must be located outside of any required front, rear or side setback area, and must meet applicable provisions of the building and fire codes. The use of such devices shall not be considered to have met the requirements for provision of permanent covered parking spaces on the site. No more than one such device shall be permitted on any single-family residential lot. Where provided, covered parking shall consist of permanent structures, such as garages or carports, and shall meet all applicable codes. This section shall not be interpreted to restrict the use of vehicle coverings that are attached to the vehicle and are not affixed to the ground.~~

Said Motion was approved by the following vote:

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

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Dally, to amend Section 17.25.070.B Residential Parking Standards as follows:

Section 17.25.070.B Residential Parking Standards (page 17.25-17).

~~2. For new construction of each single family residential dwelling unit, at least one of the required parking spaces shall be covered, except as provided in Section 17.03.320.I. For additions and/or alterations to existing single family dwelling units of less than 50% of the value of the structure which do not have covered parking at the time such construction is proposed, construction of a covered parking space shall not be required; except that any such alteration or addition shall not be located or configured on the lot so as to preclude the future construction of an accessible, covered parking space on the lot. For new construction of each single family residential dwelling unit on lots of 7,200 square feet or greater, a two car enclosed garage shall be provided.~~

Said Motion was approved by the following vote:

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

Motion by Councilmember Hertzmann, seconded by Mayor Pro Tem Mulvihill, to amend Section 17.25.070.B Residential Parking Standards as follows:

Section 17.25.070.B Residential Parking Standards (page 17.25-18).

7. Where provided, garages and carports shall meet all applicable codes. A single-car garage for single-family residential use shall have minimum clear inside dimensions of 10 feet (width) by 20 feet (length). A double-car garage shall have minimum inside dimensions of 20 feet by 20 feet. Additional parking spaces within an enclosed garage shall be a minimum of 9 by 19 feet each.

Said Motion was approved by the following vote:

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

Motion by Councilmember Conklin, seconded by Mayor Pro Tem Mulvihill to amend Section 17.35.110 as follows:

Section 17.35.110 Automobile Service Stations and Repair Facilities (page 17.35-51).

- A. The minimum lot size shall be ~~40,000~~ 20,000 square feet.
- H. ~~No vehicle~~ Vehicles may be parked on the premises for the purpose of offering said vehicle for sale, in conformance with Ordinance 2001-311, as it may be amended from time to time.
- I. No used or discarded automotive parts or equipment or disabled, ~~junked, or wrecked~~ vehicles may be located outside the main structure, unless screened from view and located on an impervious surface. No junked or wrecked vehicles shall be stored on the site.

Said Motion was approved by the following vote:

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

Motion by Mayor Harris, seconded by Councilmember Dally to amend Section 17.03.290 G.5 as follows:

Section 17.03.290G.5 Temporary Use Permits (page 17.03-65).

b. Christmas tree sales shall be limited to the period of time between ~~the fourth Friday of November~~ November 15th and December 25th, both dates inclusive. No structures, including but not limited to poles, fences, lights, spray booths, and sheds, shall be erected or maintained on the site, and no Christmas trees shall be delivered to or remain on the site, sooner than ~~the Saturday prior to the fourth Friday of November~~ the Saturday prior to November 15th or later than December 31st.

c. Sales of pumpkins from pumpkin lots shall be limited to the period of time between ~~October 1st~~ September 15th and October 31st, both dates inclusive. No structure, including but not limited to poles, fences, lights, and sheds, shall be erected or maintained on the site, and no pumpkins shall be delivered to or remain on the site, sooner than ~~September 25th~~ the Saturday prior to September 15th or later than November 5th.

d. Operation of haunted houses shall be limited to the period of time between October 15th 1st and November 1st, both dates inclusive. Haunted

houses shall only be permitted in a permanent building with appropriate occupancy ratings, as determined by the Building and Safety and Fire Departments. Any temporary interior modifications are subject to approval of permits and inspections by the Building and Safety and Fire Departments.

Said Motion was approved by the following vote:

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

Motion by Councilmember Dally, seconded by Councilmember Hertzmann to revise Section 17.25.080.D as follows:

Section 17.25.080.D Residential Site Design Standards (page 17.25.25).

1. Materials for fences and walls on residential properties shall be of decorative construction, in keeping with the primary buildings and the mountain environment. Razor wire, barbed wire, and other similar types of security fencing are prohibited in residential zones. Except for use in animal enclosures on lots of 1 acre or greater, untreated chain link fencing is not permitted in residential zones. Chain link fencing, which is treated with a dark green, black or brown finish, is allowed on residential lots.

Said Motion was approved by the following vote:

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

Motion by Councilmember Hertzmann, seconded by Mayor Pro Tem Mulvihill to amend Section 17.03.270.D Home Occupation Permit as follows:

Section 17.03.270.D Home Occupation Permit (page 17.03-52).

~~18. Advertising should not include the residential address.~~

Said Motion was approved by the following vote:

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

ABSENT: None
ABSTAIN: None

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Dally to amend Section 17.35.210 as follows:

Section 17.35.210.A Portable Storage Containers (page 17.35-59).

The use of truck trailers, metal or wood boxes, segments of pipes, tanks, and similar items which are not designed or intended to be used as a structure, is prohibited for a storage use or occupancy within all commercial and public zones.

Said Motion was approved by the following vote:

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

Council amended Section 17.03.300.C Special Event Permits as follows:

Section 17.03.300 Special Event Permits

C. General Provisions.

11. Major Special Events shall be limited to one ~~event~~ occurrence per year of substantially the same event at the substantially same site. ~~each of which~~ Each such occurrence shall not exceed 45 days, except as otherwise approved by the Planning Commission.
12. Minor Special Events shall be limited to six (6) ~~events~~ occurrences per year of substantially the same event at the substantially same site. ~~each of which~~ Each such occurrence shall not exceed four (4) consecutive days, with no more than one (1) ~~event~~ occurrence in any month, except as otherwise approved by the Planning Commission and except as otherwise provided in this chapter.

The Public Hearing for the Zoning Map was continued to August 25, 2003.

RECESS

At the hour of 11:20 p.m., Mayor Harris declared a recess. At the hour of 11:45 p.m., Council reconvened.

4. DISCUSSION/ACTION ITEMS

4.2 September 11th Ceremony

Fire Chief Hammond announced that a ceremony in commemoration of those who lost their lives on September 11, 2001, would be held at Veterans Park on September 11, 2003 at 6:00 p.m. Details of the event will be provided to the Council and the public once they have been finalized.

4.3 Ad Hoc Committee - Private Home Rental Program

Council consideration of appointing two members of the City Council to a Private Home Rental Ad Hoc Committee to meet with staff and review the progress of the Program.

Motion by Councilmember Dally, seconded by Mayor Pro Tem Mulvihill to appoint Councilmember Conklin and Councilmember Hertzmann to a Private Home Rental Ad Hoc Committee to review the progress of the Program.

Said Motion was approved by the following vote:

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

4.4 Transient Occupancy Tax, Sales Tax and Property Tax Revenue Status Report

Motion by Councilmember Dally, seconded by Councilmember Conklin to receive and file the report.

Said Motion was approved by the following vote:

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

FUTURE AGENDA ITEMS

Mayor Pro Tem Mulvihill requested that a report on the Fire Steering Committee be given at the next Council meeting.

CITY MANAGER REPORTS

None.

CITY COUNCIL REPORTS

Councilmember Dally reported that he had attended a press conference on August 8th in San Bernardino regarding the removal of dead and dying trees in our mountains. He stated that following a tour of the San Bernardino mountains to review the trees, Secretary of Agriculture Ann Veneman announced that \$5 million would be available toward the removal of the trees, bringing a total of \$13 million in federal funds granted by the government. She plans to meet with President Bush regarding the subject later this week.

Mayor Pro Tem Mulvihill requested that the media table be moved closer to the Council table.

Councilmember Dally stated that he had heard several complaints that the television coverage is hard to hear, and asked if it would be possible for Channel 6 to connect directly into our sound system. City Manager Perry stated that he would look into it.

Mayor Pro Tem Mulvihill inquired on the status of a proposed project to convert an existing residence on Knickerbocker Road into a business. He asked if the City Manager was able to work with the applicant regarding issues that he had with his project. City Manager Perry responded that he met with the applicant and reported that the applicant has decided to look for another location for his business.

Bill Weaver: stated that he represented the applicant in the real estate transaction, and that the reason the applicant backed out of the deal was because of the numerous and unrealistic requirements that City staff placed on his client.

At the hour of 12:05 a.m., Council adjourned to Closed Session.

CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code Section 54957

Title of Position: City Manager

No reportable action.

ADJOURNMENT:

There being no further business to come before the Council at this session, Mayor Harris adjourned the meeting at 12:35 a.m.

Katherine E. Jefferies, City Clerk

APPROVED AT THE MEETING OF: September 22, 2003