



CITY OF BIG BEAR LAKE *California*

Special Workshop Meeting Minutes – April 16, 2020

A Special Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Rick Herrick at 10:00 a.m., Thursday, April 16, 2020, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

OPEN SESSION

Flag Salute: Flag Salute led by Mayor Herrick

Councilmembers Present: Mayor Rick Herrick
Mayor Pro Tem Randall Putz
Councilmember David Caretto
Councilmember Bob Jackowski
Councilmember Bill Jahn

Councilmembers Excused: None

Others Present: Frank A. Rush, Jr., City Manager
Stephen P. Deitsch, City Attorney
Kelly Ent, Director of Government Services
John Harris, Director of Development Services
Erica Stephenson, City Clerk

PUBLIC COMMUNICATIONS

Barb Cohen and Ron Tholen, residents of Big Bear Lake: They emailed a public comment (read aloud by the City Clerk) expressing their hope that the lake will be open by at least May 1st and suggested the possibility of only allowing non-motorized watercraft such as, kayaks, paddleboards or canoes, to be used in a responsible way. They feel this idea wouldn't cause a significant negative impact to peoples' safety and would allow the community an additional way to try to stay healthy and active during this crisis.

Gregory Gulli, General Contractor in Big Bear: Expressed his concerns about the public seeing people using the lake.

Dawn Rowe, San Bernardino County Third District Supervisor: She wanted to let the Mayor know how much she appreciates working with Frank Rush and thanked the Mayor for his leadership during this crisis, she also appreciates the accessibility of the entire City Council and their efforts to try to keep the mountain community safe.

1. DISCUSSION/ACTION ITEMS

- 1.1 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE CONDITIONALLY WAIVING PENALTIES AND INTEREST FOR TRANSIENT OCCUPANCY TAX (TOT) AND TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) PAYMENTS DUE ON APRIL 30, 2020**

Council consideration of a resolution waiving penalties and interest for Transient Occupancy Tax and Tourism Business Improvement District payments through June 30, 2020.

At the hour of 10:10 a.m., Mayor Herrick called a short recess.

At the hour of 10:15 p.m., Mayor Herrick reconvened the meeting.

At the hour of 10:20 p.m., Councilmember Jahn who was experiencing technical difficulties logging into the Zoom meeting, was able to begin video participation in the meeting.

Frank A. Rush, Jr., City Manager, presented the proposed resolution regarding conditionally waiving penalties and interest for Transient Occupancy Tax (TOT) and Tourism Business Improvement District (TBID) payments and outlined the conditions of approval for being granted the waiver; said he hopes the deferral period will allow small businesses the time to seek other avenues regarding financial relief and assistance; briefly discussed the City's financial position and assured Council the City will not be significantly impacted if the resolution were to be approved and adopted but believes it would help our Private Home Rental and traditional lodging communities.

Mayor Pro Tem Putz asked for additional insight as to how other local businesses that are not specifically related to lodging, might be assisted if those businesses are suffering financially; asked how delays will impact Visit Big Bear (VBB) in respect to their budget and operations. Frank A. Rush Jr. outlined federal assistance programs that are available to all qualifying small businesses and noted that the filing deadline for federal income taxes and state sales tax have both been deferred; reminded Council that TOT and TBID taxes are the only taxes under local control that will benefit from this resolution; gave a brief overview of TOT revenue in past quarters including current TOT estimates, explained the City has already received TOT payments for the 1st Quarter and believes many other TOT remitters will still make their payment on time.

Councilmember Caretto inquired about the TOT remittance form and Lien Agreement execution process including the timeline of recording the Lien agreement; asked about the process to remove the lien against the property if the amount owed is remitted by June 30. Stephen Deitsch, City Attorney, discussed the process including the need for all signatures on the Lien Agreement to be notarized, the need for the legal description of the property, and the fact that the City will be recording the agreement with the County; noted that by entering the agreement the operator/owner of the property will forego contest of the amount due and will forego a right to a hearing which is

why it's important to record the document promptly and discussed the lien removal process.

Councilmember Caretto asked why staff chose the date of June 30 as the deadline date as opposed to a later date; asked about the date private home rentals and lodging facilities will be allowed to operate again. Frank A. Rush, Jr. noted that the date is at Council's discretion, and explained the rationale for why June 30 was chosen; said that the City will be guided by the Governor's and public health department's guidance in respect to the opening of private home rentals and lodging facilities.

Councilmember Jackowski asked if a new Lien Agreement will need to be executed if the date to remit payment is extended past June 30 and asked if a different deadline date can be agreed upon today. City Attorney Steve Deitsch confirmed a new Lien Agreement is not needed. Frank A. Rush Jr. indicated that a new date can be agreed upon today or the Council can adopt the resolution as written and staff would update the Council mid-June with regards to the amount of people who have and have not remitted their TOT/TBID tax.

Councilmember Jahn asked for an in-depth financial report in respect to the financial impact the delay of payments will have on the City. Frank A. Rush, Jr. confirmed that a financial report can be provided along with the draft FY 2020-21 budget being presented at the April 27 meeting.

Mayor Herrick stated he is in favor of adopting the resolution but doesn't object to delaying the deadline to July 30 because the second quarter payments would be due around that time, but he indicated he is also open to making the decision to extend at a later date; would like to discuss the option of incentives for on-time remitters by April 30 including the possibility of a discount. Frank A. Rush, Jr. responded that a discount would make the City's financial situation a little worse, but believes the loss to the City to be a manageable amount based upon the percentage.

Council Discussion regarding the possibility of implementing discounts for those who remit payment by April 30. City Attorney Steve Deitsch confirmed that it would not be a gift of public funds, so it would be lawful to implement discount incentives for on-time payments. Mayor Pro Tem Putz said he understands the pressure all lodging facilities are under right now but expressed several concerns in regards to offering discounts and stated that it is tough for him to support it. Councilmember Caretto asked if the discussion is appropriate as it's not listed on the posted agenda; Stephen Deitsch said staff should consider including it on the next meeting agenda but it's relevant to the resolution being proposed so believes it to be alright.

Councilmember Caretto stated he supports the resolution as submitted with the possibility of extending the deadline to be reviewed at a future date, said

he is okay with whatever is the will of the Council. Councilmember Jackowski believes Council should move forth with the resolution as written and believes implementing discounts will not be beneficial. Councilmember Jahn asked if the City and Visit Big Bear have been communicating about discounts for April 30 payers; said he is in favor of supporting the resolution as written and noted that the Council can re-visit the resolution at a later date so the financial position of the City is better understood, said he is not in favor of the discount at this time.

Bob Pool, President of Visit Big Bear: Addressed Council regarding the City's closure of businesses in response to the COVID-19 pandemic; proposed that the first quarter of TOT and TBID payments should be a loan covered by Measure Y funds and further proposed other options to assist our lodging community; believes the lien to be a burden and is not worth it.

Ellen Clarke, Chamber of Commerce Executive Director: Thanked City staff for their communication efforts during this time; stated the Chamber is in full support of assisting the lodging community but discussed the issues some local businesses are having with securing federal assistance loans; and said she would like the Chamber and the City to work together and discuss additional assistance options for small businesses that are not tied to the lodging community; believes there are non-financial ways for the City to assist the businesses.

Kerry Nugent, private home rental owner: Addressed Council in regards to Lien Agreement proposal and stated she will not personally go into the lien process but appreciates that Council is considering it for the community; thinks the discounts for paying the TOT would be a huge help and suggests that Council further consider it.

Erica Stephenson, City Clerk, read aloud the following comments submitted via Zoom.

Jennifer Sireika: Asked for recommendations as to the date that all rental properties should continue blocking out their reservation calendars.

Barbara Olsen: Requested that the deadline to remit TOT taxes be extended to July 31.

Ken Baskin, owner of Hillcrest Lodge: Addressed Council regarding the negative repercussions to property owners if a lien agreement is filed on their property.

Mayor Pro Tem Putz asked when the lien agreement paperwork would need to be executed and filed; proposed the City delay filing the lien agreements until after Council had a chance to meet again and discuss the payment deadline; Frank A. Rush, Jr. responded that all paperwork including the remittance form and the lien agreement needs to be submitted prior to April 30 and said we would need to communicate Council's decision to the lodging facilities as soon as possible; assured Council that it is their discretion to not require a lien agreement but made them aware of those financial risks.

Councilmember Caretto inquired about the risks the City will incur if the Lien Agreement is delayed being recorded with the County after June 30 assuming the payment is not remitted; stated that he still supports the resolution but suggested that staff delay recording the lien until June 30. Stephen Deitsch said delaying the Lien Agreement recordation can be done, but suggested that Council adopt the resolution as written, but also have a second motion directing staff not to record the Lien Agreement until a certain date; commented that if a lender is concerned about a prior lien recorded on the property by the City, the City could choose to subordinate the current Lien Agreement to the mortgage loan.

Councilmember Jackowski questioned whether or not a subordination will be written into the lien itself; asked where the lien would fall into place in respect to loans and taxes and what taxes, if any, would take precedence if it were filed without a subordination; stated he is not overtly excited about the subordination but thinks it should be considered; asked for clarification on how the recordation would work if the lien is against the property but the business owner does not own the property; concluded with saying he is in favor with having the Lien Agreement submitted to the City by April 30 and directing the City to file the Lien Agreement with the County at a later date. Stephen Deitsch did indicate that writing the subordination in the lien is an option, and the other option is include a subordination case-by-case but addressed a variety his concerns with writing the subordination within the lien; commented that the City's lien for TOT/TBID payments would automatically fall subordinate to any prior recorded liens on the property and existing property taxes; stated that he believes its best that the City file the Lien Agreement sooner rather than later; stated all Lien Agreements will be recorded against the real property on which the lodging facility is located and if the lodging facility owner/operator does not own the property it's contemplated that the lodging owner/operator would get the approval of the property owner to record the Lien Agreement; Frank A. Rush, Jr. added the easiest approach would probably be to delay recording until June 30th but asked Council to understand the risk with that approach including not recording a lien against the property at all – adding that would be an even greater financial risk.

Councilmember Jahn stated that subordination on the Lien Agreements should be done on a case-by-case basis depending on each circumstance; believes the Lien Agreement should be completed, signed, and submitted to the City by April 30 as he believes it's important to have the paperwork prepared and ready to file when the date to file with the County is identified; indicated he thinks it is important to offer help yet, stressed that this is tax payers dollars and it needs to be protected; said he is okay with the resolution as written but requested that City staff update Council next month including what accounts have been paid, the amount of TOT collected and how a further extension would impact the City financially.

Mayor Herrick believes subordination should also be on a case-by-case basis; said he would entertain the possibility of not filing the Lien Agreement with the County

until July 31 and would be in favor it; said we are in interesting times but the Council's job is to ensure the financial health of the City and do what is proper with tax payer dollars.

Mayor Pro Tem Putz asked the City Manager to clarify how a lien would work against a resort rental company that manages multiple properties and asked how they would get the property owners to execute liens as it would be cumbersome on the property management companies; Stephen Deitsch said he believes the lien would be recorded against the real property of the owner/operator that is taking advantage of the extension. Frank A. Rush, Jr. agreed with Mayor Pro Tem Putz that a level of complexity is brought forth with the large rental companies executing these Lien Agreements with multiple property owners and does question if it would be fair; said he is in regular contact with the largest rental companies and said they don't currently have much interest in filing Lien Agreements.

Mayor Herrick suggested that a solution would perhaps be to file a lien against the large rental management company office building.

Councilmember Jackowski questioned if the large management companies are required to establish a trust for each property. Kelly Ent, Director of Government Services, confirmed that the City does not required a separate trust fund to be established for each property the agency manages.

Councilmember Caretto sought clarification on Council's recommendations in respect to changes with the resolution. Mayor Herrick said he believes the due date should remain June 30 but not file the Lien Agreement with the County until July 31, but on a case-by-case basis; asked if changes can be made so that penalties and interest do not retroactively accrue since April if payment is not made by June 30. Stephen Deitsch clarified if the taxes are remitted by June 30 then penalties and interest begin accruing automatically from April 30 but said changes can be made to that schedule as it's up to Council's discretion.

Council, staff and City Attorney discussion regarding proposed changes to the resolution including the date the Lien Agreement is due to the City, the date the City will record the Lien with the County and the date the penalties and interest will begin to accrue.

Motion by Mayor Herrick, seconded by Councilmember Jahn, to approve the resolution as written with the addendum to delay recording the Lien Agreement paperwork with the County until no later than July 31; to not have retroactive penalties and interest until June 30 and all recordation dates with the County will be made on a case-by-case basis with the City Manager's discretion.

Said motion was approved by the following vote:

AYES:	Putz, Jahn, Caretto, Jackowski, Herrick
ANONES:	None
ABSTAIN:	None

EXCUSED: None

1.2 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE AUTHORIZING FY 2019-20 APPROPRIATION AND EXPENDITURE OF UP TO \$20,000 FOR JULY 4TH FIREWORKS

Council consideration of a resolution authorizing a City commitment to assist Visit Big Bear in funding July 4th Fireworks, and authorizing an appropriation of \$20,000 from the General Fund for the first of two required payments for this event.

John Harris, Director of Development Services, presented the item and outlined the recommendations being brought forth to Council.

Mayor Pro Tem Putz commented on his concerns for safety in respect to the current social distance requirements and how the City will enforce it; questioned possible alternative dates for the show and Frank A. Rush Jr. responded that if it's not safe to proceed with the fireworks show on July 4th, then the show will be postponed; wanted Council to understand that there is a financial risk involved but that staff believes it to be a worthwhile risk because of the benefits this show would have for the community . John Harris echoed Frank's comments/ideas about enforcing social distancing as such a large event.

Councilmember Caretto asked why the Rotary Club was not involved in the contract as they have been in the past; inquired about current agreement and the possibility of deferring the show's deposit this year to next year's event; wanted to know who would be in charge of the show preparation. Frank A. Rush Jr., informed Council about the positive partnership the City has with Visit Big Bear and shared his goal of working with that Visit Big Bear next year in an effort to have that organization fund 100% of the fireworks show costs in July 2021; John Harris noted that the pyrotechnics company will not allow the deposit to be held for next year's show as it will be after this fiscal year concludes; noted that the only change with this year's show will be the funding sources and confirmed the Rotary Club will still be hosting the show this year.

Councilmember Jackowski sought clarification on the amount of the deposit; asked if the Rotary Club is on-board with the changes; outlined appropriate dates for the show if July 4th would not be a possibility and asked if we would be limited to holiday weekends; hopes that the show will happen before Labor Day. Frank A. Rush, Jr. advised Council the total deposit amount is \$37,500 and the City and Visit Big Bear will split the deposit amount; stated that he would like the show to be on a date that would be most beneficial and safe for the community and businesses John Harris said all four parties in the MOU are aware and are in agreement with the current changes.

Councilmember Jahn asked when Council will need to decide to hold the show on July 4 or to postpone it; asked when the balance is due; stated he has concerns with enforcing social distancing; said he supports the resolution. Frank A. Rush, Jr. said he believes a decision will need to be made by mid-June; agreed that enforcing social distancing during the firework show will be a challenge but said the City will continue to explore options to safeguard the event.

Mayor Herrick said he is in-favor of the show and that he feels it is important for the community, but has concerns with the overall price and suggests minimizing the show to save cost; would like the show to continue no matter the date; and said the location of the barge should be moved to perhaps allow for better social distancing; wants to know if the show cost is a set contract amount or it can be negotiated and asked about additional expenses of the show; said he is in support of the resolution. John Harris said the price of the show can be negotiated slightly and detailed the additional estimated show expenses beyond the contract costs.

Councilmember Jackowski commented that the cost of enforcing social distancing will also need to be factored in to the overall expenses.

Councilmember Jahn asked if traffic control was included in the current estimated cost of the show and is interested in learning the cost of additional law enforcement officers. John Harris confirmed that the proposed cost of the show does not include traffic control, but he doesn't not expect it to be a substantial amount.

Mayor Herrick commented that the Fire Department may seek involvement in an effort to boost revenue.

Councilmember Caretto said there are law enforcement issues each year, and stated he is in support of the proposed resolution.

Motion by Councilmember Caretto, seconded by Mayor Pro Tem Putz, to approve staff recommendation and adopt the following resolution entitled:

RESOLUTION NO. 2020-07

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AUTHORIZING FY 2019-20 APPROPRIATION AND EXPENDITURE OF UP TO \$20,000 FOR JULY 4 FIREWORKS SHOW

Councilmember Jackowski asked for a review of the City's overall commitment in regards to cost for the fireworks show.

Erica Stephenson, City Clerk, read aloud the following comments submitted via Zoom.

Kerry Nugent, private home rental owner: wanted to remind the Council to take into account the fire season.

Maureen Auer, Planning Commissioner: wanted Council to know that she was observing the Zoom meeting and is in agreement with Council regarding the fireworks show.

Wendy Craig expressed concern in regards to rescheduling the show and hopes the Council takes into consideration other events scheduled in the community that may be in conflict with a new date.

Michael Rotman indicated that until there is a vaccine, he feels the show is a waste of money and that he didn't think Governor Newsom would allow such a large event until there is a vaccine. He also suggested that the City use the \$20,000 to create a fund to save small businesses.

John Wells wondered if the City had received information regarding what other cities may be doing with their 4th of July celebrations this year.

Mayor Herrick stated he understood all of the public's comments and said he wouldn't want to see the money go to waste although he is still in favor of this item especially since the City is splitting the costs with Visit Big Bear.

Councilmember Jahn echoed Councilmember Jackowski request regarding the issuance of a report that analyzes the overall cost of the show including law enforcement and traffic control.

Councilmember Jackowski supports the appropriation of funds to move forward.

Erica Stephenson, City Clerk, read aloud an additional comment submitted via Zoom.

Mike Hansen with the Big Bear Film Summit suggested the possibility of the City streaming the show live thru an online format that his group is going to use for their event this summer.

Said motion was approved by the following vote:

AYES:	Jahn, Caretto, Putz, Jackowski, Herrick
ANOEES:	None
ABSTAIN:	None
EXCUSED:	None

At the hour of 12: 31 p.m., Mayor Herrick called a short recess.

At the hour of 12:36 p.m., Mayor Herrick reconvened the meeting.

1.3 RECEIVE A COVID-19 UPDATE FROM CITY STAFF

Council will receive an update from City staff regarding the City's COVID-19 response to date, discuss potential additional actions to promote public

safety, and health, and discuss potential actions to promote the City's economic recovery.

Frank A Rush, Jr., City Manager, provided a comprehensive update to Council regarding local COVID-19 related efforts/issues; remains hopeful that the Governor and the County will consider a communities' geography when considering how the restrictions will begin to be reduced; sought Council's feedback and further direction regarding the next steps that should be taken.

Mayor Herrick thanked City staff for their efforts in dealing with these trying times.

Mayor Pro Tem Putz said it's important to begin thinking about what life and business would look like in the future in Big Bear Lake once restrictions are lifted including the positive aspects and the challenges that may be presented; feels the City is uniquely positioned due to our remote location and surrounding natural environment to be on the leading edge of the recovery; commended Frank on his community outreach efforts; wanted to remind everyone to reach out virtually to family and friends because the emotional impact of this event is easy to overlook.

Councilmember Caretto said he appreciates the communicative efforts from City staff and believes the public does too; sought clarifications on the specifics of a long-term rental versus a short-term rental in respect to the rental periods; brought up community concerns in respect to the Farmer's Market; asked if there is any effort to prohibit hikers on the Pacific Crest Trail (PCT); happy to see that the community will be provided valley-wide testing. Frank A. Rush, Jr. clarified that long-terms rentals are rental periods for 30 days or more, so the prohibition does not apply; assured Council that staff spoke with the County Public Health Department in respect to the operation of the Farmer's Market and they are permitted to operate, much like a grocery store and updated Council on local agency efforts to assist PCT hikers with guidance and transportation off the mountain.

Councilmember Jackowski thanked the meeting's participants and staff; said safeguarding the health of the community is of the utmost concern; thanked the hospital staff for their hard work and gave a brief overview on the status of confirmed cases in Big Bear Valley; would like to proceed with caution but would like to establish and coordinate a plan that balances both community health and economic stimulation while being mindful of all the community stakeholders.

Councilmember Jahn also thanked Frank and staff for their communicative efforts; said he wouldn't be surprised if the number of positive cases of COVID-19 increase after the testing is concluded, reminded everyone to stay patient and stated we will all get thru this situation together.

At the hour of 12:59 p.m., Councilmember Jahn left the meeting.

Mayor Herrick emphasized the importance of the antibody test and addressed the theory that COVID-19 has been lingering longer than expected; encouraged residents to complete the 2020 Census questionnaire; discussed the COVID-19 testing scheduled for April 17.

Stephen Deitsch, City Attorney, informed Council on the process to facilitate the testing including the execution of two agreements, one with the County of San Bernardino and the other with Snow Summit to allow the City temporary use of their parking lot.

Frank A. Rush, Jr. explained some of the details related to the COVID-19 local testing process including the online appointments, expenses the City has incurred to facilitate the testing site; said he expects the number of positive cases to increase after the results are made public but does not perceive a great increase; acknowledged the idea of rolling back restrictions and said he would like to share some of those ideas with Council at a later meeting; assured Council and the public that our Zoom meeting capacity will be increased for future meetings; sought guidance on how and what to communicate to vacation rental home owners regarding the timeframe of when they may be able to begin accepting reservations.

Erica Stephenson, City Clerk, read aloud the following comments submitted via Zoom.

Brent Fidler: Provided his idea regarding the County reducing property taxes during the timeframe of the shutdown, since he believes a portion of those taxes are used for schools and roads, which aren't being used right now; he was hoping the City could support him with this idea.

Michael Rotman: Thanked Frank Rush and the City staff for all of their recent communication.

Judy Lynn Enriquez: Thanked everyone and wanted additional information regarding Airbnb communications relating to future online booking timeframes.

Brent Fidler: Questioned why if the Farmers Market can operate using social distancing then why can't private home renters safely implement the same procedures.

Kerry Nugent, private home rental owner: Requested a specific date that she use to block out her private home rental reservations.

Steve Deitsch, City Attorney, replied to Mike Rotman's comment regarding property taxes and confirmed that the County approved an extension of property tax payments and informed the public that property taxes are not within the jurisdictional authority of the City.

ADJOURNMENT

There being no further business to come before the Council at this session, Mayor Herrick adjourned the meeting at 1:13 p.m.


Erica Stephenson, City Clerk