



CITY OF BIG BEAR LAKE *California*

Special Meeting Minutes – May 21, 2020

A Special Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Rick Herrick at 4:00 p.m., Thursday, May 21, 2020, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

OPEN SESSION

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
Erica Stephenson, City Clerk

1. DISCUSSION/ACTION ITEMS

1.1 IMPACT OF COVID-19 RESTRICTIONS ON BIG BEAR LAKE BUSINESSES AND RESIDENTS

City Council will consider the impact of COVID-19 restrictions imposed by the Governor, in both the short-term and the long-term, will consider strategies to mitigate these impacts, and may take action to mitigate these impacts.

Frank A. Rush, Jr., City Manager, reviewed the key facts in regards to the COVID-19 Pandemic in respect to Big Bear Lake including the reopening plan comprised by the Pandemic Response Plan Committee; provided a brief overview and estimated timeline related to the County's efforts in securing a variance from the state to accelerate the reopening of San Bernardino County and reviewed the key changes that their proposed variance would bring to the County and Big Bear Lake; updated Council on the City's strategies in regards to opening the community including the request to implement our own plan that was sent to Governor Newsom and introduced the proposed draft statement indicating that the City chooses to no longer enforce Governor Newsom's orders as currently structured.

Stephen Deitsch, City Attorney, added that there was a lot of thought put into the proposed statement and that the statement is as far as the City can go without placing the City in any legally precarious situation and jeopardizing the City's position with the state; indicated that no City has an obligation to enforce the Governor's orders or the County's orders but stated there are risks

involved if the City were to take action contrary to the Governor's order, but assured Council that the proposed statement does not do that.

Councilmember Jackowski asked what actions the state has already taken against cities or counties that have implemented their own plan or did not follow the state's orders. Stephen Deitsch indicated that he is not aware of any action taken yet by the state in respect to counties or cities that may have pushed the envelope, but also added he isn't aware of any cities that have decided to reopen businesses sooner than the Governor's orders allow.

Councilmember Caretto thanked the City Manager and City Attorney for drafting the statement; said he believes it's appropriate after 10 weeks to move forward in this regard; questioned why the City does not plan to enforce the City's previously adopted reopening plan if/when the statement is adopted; sought clarifications on where to refer residents with complaints about businesses reopening; stressed the importance of notifying the public that the City will not be enforcing its own plan until approved by the Governor; said he supports the statement. Frank A. Rush, Jr. clarified that the City will not be enforcing the City's reopening plan, but will be strongly encouraging businesses to adhere to it going forward; explained if the City were to enforce the unapproved plan, it would place the City in a position of greater risk in respect to legal, financial and intergovernmental matters; confirmed that if the Governor were to approve the City's submitted plan then the City would begin enforcing it at that time; verified that residents with COVID-19 related complaints about specific business operations are to be directed to the Governor's office and/or Public Health Officials; assured Council the City will include verbiage in the next newsletter in regards to not enforcing the City's reopening plan until it is approved by the Governor.

Councilmember Jahn said he was glad to see the statement included a warning alerting businesses of the possible state license risks associated with opening up their business.

Mayor Pro Tem Putz wanted to clarify the City's statement simply states that the City is not responsible for enforcing and doesn't plan on enforcing the Governor's current orders, and by releasing this statement the City is not reopening the City or defying the Governor's orders; said the City is trying to be supportive of everyone while making efforts to minimize the risk to the City; the City is encouraging residents and businesses to consider their own individual circumstances/risks associated with COVID-19 and operating their businesses (including possible state license issues) and take appropriate precautions relating to their personal situations; said he thinks the City is trending in the right direction and is hopeful the Governor approves the City's reopening plan and the County's variance application; encouraged everyone to take appropriate precautions; thanked the City Manager and City Attorney for their tireless efforts.

Mayor Herrick commented that School Districts were given permission to implement their own opening plans and reviewed the County's latest meetings with respect to reopening the County; said he believes that releasing

this statement is a smart move at this time; suggested that everyone in the community should set a positive example and wear face coverings and hopes everyone will take it upon themselves to wear them; is in support of the statement as he believes it is a strong statement; indicated that he would like to see more flexibility in respect to the target date of implementing the City's reopening plan once permission is granted by the Governor and San Bernardino County.

Councilmember Jackowski said he fully supports requiring everyone to wear face coverings while in groups or out in public as it sets a good example; Councilmember Caretto said he thinks the idea of wearing face coverings for the time being is a good idea but expressed concerns regarding the City only suggesting the community wear face coverings, but not enforcing it, he doesn't think that would be useful and if the City wants everyone to wear face coverings he believes it should be stated in a City policy. Mayor Pro Tem Putz commented on the amount of time the committee put in to drafting the plan and believes it to a good compilation of best practices, including strongly recommending frequent hand washing and encouraging face coverings be worn; suggested that the Council authorize the statement and then adjust accordingly, in the future as needed, based upon the community's response to the suggested best practices. Councilmember Jahn echoed Councilmember Caretto's comments in reference to the need to enforce the wearing of face masks as opposed to just recommending facemasks be worn and asked how the City can enforce face coverings. Stephen Deitsch, City Attorney, assured Council that they have every right to prioritize wearing face coverings by including the enforcement of wearing face masks in the proposed statement and asked they be specific with their direction; reviewed the different scenarios of how reporting businesses not wearing masks can lead to citations being issued; Mayor Herrick clarified his requests to set good examples by wearing face coverings and indicated that Council can adjust accordingly based upon the community's response; said he understands the discomfort of wearing a mask but said he is willing to sacrifice comfort and wear a mask for the comfort of those surrounding him. Mayor Pro Tem Putz sought additional clarification on the Mayor's final statement and Mayor Herrick noted that he doesn't want to alter the statement, but is willing to alter the plan if necessary. Councilmember Caretto said the Council should go forward with the statement as written and the reopening plan and commented that a special meeting can be set if it is needed to revisit the discussion regarding masks.

Council and staff discussion regarding the timeframe of implementing the City's plan and delegating that decision to the City Manager. Mayor Herrick suggested that delegating the timing of implementing the reopening plan to the City Manager will allow more flexibility and allow the City to move more nimbly. Frank A. Rush, Jr. indicated that he would be happy to implement the plan if the Council did decide to have him do so but asserted that a special meeting can easily be set with only a 24 hour noticing period needed. Councilmember Jahn noted that he intended the City Manager to implement the plan when he made a motion to approve the plan at the last Council meeting and that he still supports that motion. Councilmember Jackowski said

he believes Council should be responsible for initiating the start of the City's reopening plan and not delegate that responsibility to the City Manager.

Mayor Herrick opened up Public Comment.

Bob Ybarra, resident of Sugarloaf: Said he has concerns about face coverings; thinks food handlers should be mandated to wear face coverings at all times; is concerned that if the locals don't wear face coverings then we can't expect visitors to wear them; said businesses need to do more to ensure the safety of the locals; would like to see the electronic message boards around the City to read "must wear face coverings".

Bob Pool, Board President of Visit Big Bear: Appreciates the Council's efforts to reopening the City safely and said Visit Big Bear supports the draft statement.

Mike Barrett, Owner of Big Bear Bar and Grill: Stressed the importance of opening up the community and urged Council to move forward for the benefit of the entire community; said the Constitution is in question not just the town's income.

Ellen Clarke, Executive Director of the Big Bear Chamber of Commerce: Thanked Council, the Committee members and the City Manager; said the Chamber would love to see businesses open and believes asking the community and business owners to take personal responsibility for reopening is admirable but is unsure of the levels of cooperation the City will get; informed Council that the Chamber will be launching a campaign to businesses making sure they understand that the safety of employees and customers relies on them taking personal responsibility; would like to see a revision in the proposal of how to properly wear face coverings.

Matt Scriven, business owner and resident of Big Bear Lake: concerned about the face mask issue and thinks if it's not mandatory then it will create confusion and animosity in the Village; would like face coverings to be mandatory.

Mayor Pro Tem Putz said he agrees with the idea of consistent requirement for face coverings and suggested the Council revisit the implementation date of the reopening plan and the mandating of masks at another meeting because enforcing actions can possibly put the City at a legal risk; and asked that the City Manager and City Attorney further discuss the notion of enforcement.

Mayor Herrick and Mayor Pro Tem Putz sought clarification on the City's right to be more restrictive than state requirements; suggesting that the Council be role models and Stephen Deitsch, City Attorney, confirmed that the City can be more restrictive than the Governor's orders and indicated that mandating/enforcing face coverings would be separate than the proposed statement and the Council is free to do that, without any significant legal consequences.

Councilmember Caretto said he thinks it is appropriate for the City Manager to articulate the desire for the City to act responsibly; said he is also concerned with food handlers not wearing face coverings; said the City may need to revisit the issue after the weekend. Frank A. Rush, Jr., City Manager,

indicated that he is not familiar with the County's regulations in regards to requiring food handlers to wear masks but indicated that the City's plan, if and when it can be implemented, requires the wearing of face coverings and assured Council he will continue to encourage people to wear face coverings.

Mayor Herrick said that a special meeting should be considered after the weekend to discuss the possibility of making face coverings mandatory but would like to see how the weekend goes; discussed suggestions for rewording the electronic message boards to convey a stronger message of reminding visitors to wear face coverings.

Frank A. Rush, Jr., City Manager, confirmed that Governor Newsom's guidance requires restaurant workers to wear face coverings.

Motion made by Councilmember Jackowski to approve the proposed statement as prepared by the City Manager and the City Attorney.

Mayor Herrick opened up Public Comment again.

Alyssa Barlow, business owner: Appreciates the effort by the City Council to not enforce the Governor's orders and hopes the Council continues to move in that direction; commented that the county and state are not requiring face coverings and Big Bear Lake should allow the community to make their own decisions in regards to wearing them; asked about the option to make the City a sanctuary City for businesses.

Erica Stephenson, City Clerk, asked Stephen Deitsch, City Attorney if she can read aloud a public comment by someone who wishes to remain anonymous. Stephen Deitsch said that is up to the Mayor and Council's discretion.

Erica Stephenson read aloud the following comment from an anonymous sender: "Since the statement, as written, does not address enforcement of the County plan, will the City enforce the County plan or guidelines? Should non-enforcement of the County plan be added to the statement?"

Mayor Herrick confirmed that the County does not have a plan but Frank A. Rush, Jr., commented that if and when the County does draft a plan the City will certainly brief Council on it.

Mayor Pro Tem Putz asked the City Attorney about the ramifications regarding people making anonymous electronic comments and how does that align with the City's efforts to hold a transparent government meeting. Stephen Deitsch responded that is was within the Council's discretion to allow the anonymous comment but needs to review the Brown Act regarding the specific requirements relating to the publics' obligation to identify themselves when they make a comment at an "in person" public meeting.

Councilmember Caretto seconded Councilmember Jackowski's motion to adopt the statement as prepared by the City Manager and the City Attorney.

Said motion was approved by the following vote:

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

ADJOURNMENT

There being no further business to come before the Council at this session, Mayor Herrick adjourned the meeting at 5:24 p.m.


Erica Stephenson, City Clerk