

City of Brighton

*500 S. 4th Avenue
Brighton, CO 80601*



Meeting Minutes

Tuesday, March 20, 2018

7:00 PM

Council Chambers

City Council

MAYOR - KENNETH J. KREUTZER

MAYOR PRO-TEM - JW EDWARDS

COUNCIL MEMBERS:

**LYNN BACA, CLINT BLACKHURST, MARK HUMBERT,
MATT JOHNSTON, GREGORY MILLS, MARY ELLEN POLLACK,
KIRBY WALLIN**

1. CALL TO ORDER

Mayor Kreutzer called the meeting to order at 7:00 p.m.

A. Pledge of Allegiance to the American Flag

Councilmember Blackhurst led the recitation of the Pledge of Allegiance to the American Flag.

B. Roll Call

Present: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

2. APPROVAL OF REGULAR AGENDA

Motion by Councilmember Wallin, seconded by Councilmember Humbert, to approve the Regular Agenda as presented. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

3. CONSENT AGENDA

A. Approval of the February 20, 2018 City Council Minutes

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AUTHORIZING THE SUBMITTAL OF A COLORADO DEPARTMENT OF LOCAL AFFAIRS (DOLA) GRANT APPLICATION IN THE AMOUNT NOT TO EXCEED SEVEN HUNDRED THOUSAND DOLLARS (\$700,000.00), FOR THE "BRIGHTON HISTORIC DEPOT REHABILITATION AND ADAPTIVE REUSE" PROJECT; AND AUTHORIZING THE CITY MANAGER TO SIGN THE GRANT APPLICATION AND UPON AWARD THEREOF, TO CONDUCT GOOD FAITH NEGOTIATIONS FOR FINALIZING A REASONABLE GRANT AGREEMENT WITH DOLA FOR CONSIDERATION BY THE CITY COUNCIL

Resolution No: 2018-28

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING AN AMENDMENT TO INTERGOVERNMENTAL AGREEMENT NO. 17-02.01 BETWEEN THE CITY OF BRIGHTON AND URBAN DRAINAGE AND FLOOD CONTROL DISTRICT FOR THE MAINTENANCE OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR BRIGHTON SOUTH OUTFALL AT 27TH AVENUE TO SOUTH PLATTE RIVER; APPROVING THE CITY'S CONTRIBUTION UNDER THE AMENDED IGA IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000); AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT ON BEHALF OF THE CITY

Resolution No: 2018-29

Motion by Mayor Pro Tem Edwards, seconded by Councilmember Blackhurst, to approve the Consent Agenda as presented. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

4. CEREMONIES

**5. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA
(Speakers limited to five minutes)**

6. PUBLIC HEARINGS

7. ORDINANCES FOR INITIAL CONSIDERATION

- A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AMENDING SECTIONS 2-32-40(2) AND 2-36-30(2) OF THE BRIGHTON MUNICIPAL CODE REGARDING THE APPOINTMENT OF MEMBERS TO THE PARK AND RECREATION ADVISORY BOARD AND THE PLANNING COMMISSION; AND SETTING FORTH OTHER DETAILS RELATED THERETO

Mayor Kreutzer read the title of the Ordinance into the record.

City Manager Philip Rodriguez introduced City Attorney Margaret Brubaker.

City Attorney Margaret Brubaker explained that there have been discussions regarding the interview process for Boards and Commissions. For many years, City Council undertook this process and after discussions it was determined that, it would be better to have the members of the boards, commissions and authorities to conduct those interviews. The policy that outlines the process has been revised, but before it can be adopted, two amendments will have to be made to the Municipal Code. The two requirements for the Parks and Recreation Advisory Board and the Planning Commission included a provision that indicated that the City Council members would need to make recommendations for candidacy for those boards. City Council discussed this and concluded that it is no longer necessary. In order to be compliant with the policy, these two amendments have to be made. This is the first reading of the ordinance; the policy will be approved at the next meeting with the final reading of the ordinance.

Mayor Kreutzer asked that the policy be amended to state that all applicants to be sworn into office of their respective Board, Commission or Authority, be sworn in by the City Clerk at the next City Council meeting when City Council approves the appointment.

Motion by Councilmember Humbert, seconded by Councilmember Pollack, to approve the Ordinance amending Sections 2-32-40(2) and 2-36-30(2) of the Brighton Municipal Code regarding the appointment of members to the Park and Recreation Advisory Board and the Planning Commission; and setting forth other details related thereto. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

8. ORDINANCES FOR FINAL CONSIDERATION

- A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A LEASE TRANSACTION INVOLVING CERTAIN CITY-OWNED REAL PROPERTY TO VERIZON WIRELESS, ON THE TERMS AND CONDITIONS OF THAT CERTAIN LAND LEASE AGREEMENT DATED FEBRUARY 6, 2018; AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE LAND LEASE AGREEMENT FOR THE CITY

Mayor Kreutzer read the title of the Ordinance into the record.

City Manager Rodriguez explained that this is the final reading of the ordinance and there have not been any changes since first reading.

Mayor Kreutzer asked if there were any comments from the audience on the final reading of the ordinance, there were none.

Motion by Councilmember Baca, seconded by Councilmember Pollack, to approve Ordinance 2279 approving a lease transaction involving certain city-owned real property to Verizon Wireless, on the terms and conditions of that certain Land Lease Agreement dated February 6, 2018; and authorizing the City Manager or his designee to execute the Land Lease Agreement for the City. Motion passed by the following vote:

Aye: 6 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Humbert, Councilmember Mills, and Councilmember Pollack

No: 3 - Councilmember Blackhurst, Councilmember Johnston, and Councilmember Wallin

9. RESOLUTIONS

City Manager Rodriguez asked that City Council wait to discuss Item 9A and instead consider Item 9B to allow time for Special Counsel to arrive.

- B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THAT CERTAIN PURCHASE AND SALE AGREEMENT (“PSA”) BETWEEN THE CITY AND G & L PROPERTY, LLC (“OWNER” AND “SELLER”), FOR THE PURCHASE AND SALE OF CERTAIN COMMERCIAL PROPERTY AND IMPROVEMENTS LOCATED IN BRIGHTON, AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE THE PSA, AND THE CITY MANAGER OR HIS DESIGNEES TO TAKE SUCH ACTIONS AND EXECUTE SUCH DOCUMENTS AS ARE REASONABLY NECESSARY TO CARRY OUT AND SUCCESSFULLY CLOSE THE TRANSACTION FOR THE CITY**

Mayor Kreutzer read the title of the Resolution into the record.

City Manager Rodriguez introduced BURA Executive Director Ryan Johnson and Housing Authority Executive Director Joseph Espinosa.

BURA Executive Director Ryan Johnson asked for consideration for authorization for the City Manager to execute a Purchase and Sale Agreement between the current owner of the Depot property at 269 East Bridge Street and the City of Brighton. The property owner has been working in good faith with City staff to negotiate this Purchase and Sale Agreement. In 2012 the City Council in adopting a Resolution allowing the Depot building to transition from a restaurant to a bicycle shop, the City was given a first right of refusal if the owner wished to sell the property. The current property owner is desirous of selling this property and approached the City to determine if the City was interested in acquiring the property. Staff has been working with the owner for the past month on this agreement.

Housing Authority Executive Director Joseph Espinosa presented possible updates, landscaping improvements and rehabilitation projects that could help to preserve the historic aspects of the Depot building, create a cohesive look and feel, and have a centralized entrance to a pavilion between the Library, Depot building and the Armory.

Executive Director Johnson explained that the Depot building dates back to early 1900 and was originally located at a different site on railroad property. In the early 1980's the building was relocated to its current location on Bridge Street. Staff would like to consider the Depot property as part of the overall complex, which includes the Armory Performing Arts Center, the Anythink Library and the Depot property.

Executive Director Espinosa explained that the elevation facing Bridge Street was not meant to be the primary elevation of the building and presented possible options for restoring the building back to its original structure by removing the sunroom. Other features could be added to make improvements to the building and added uses like a coffee house or some type of retail that could bring connection to the area from Bridge Street and be welcoming to pedestrians. This could be a good area for a lot of activity in the area.

Executive Director Johnson reported that the property is for sale for \$625,000.00, which is the starting place for formal negotiations. The funding sources include \$312,500.00 from the Lodging Tax fund balance, \$187,500.00 from BURA and \$125,000.00 from the City of Brighton. Staff will be sending a grant application to DOLA in April. The timing is important because the purchase price of the building can be used as a cash match. This option only exists for a short period when applying for a grant like this. The application for DOLA also includes funding for a number of outdoor improvements that are being proposed. The Purchase and Sale Agreement contemplates a timeline that if approved by City Council will allow about five weeks for the City to complete its due diligence and submit any objections by April 30, 2018 based on appraisal reports, environmental studies and inspections. The closing date is set for May 11, 2018. Staff has been negotiating in good faith with the seller to complete the due diligence studies in a speedy fashion. With the City's contribution of \$125,000.00 from the General Fund gives advantage and in many cases can be recouped in the way of a market rate lease. Staff is currently negotiating with a user for the building at this time. Executive Director Johnson answered questions from Council regarding:

- The City selling the property to the owner of the restaurant in 1980.*
- The selling price of the property at that time.*
- The reason the purchase price of the property is unknown.*
- The property belonging to the City and not the railroad when it was sold in 1980.*
- The City breaking its own agreement if all of the stipulations that have been placed on this building in the past are not done right away.*
- The cost of any improvements that must be completed immediately to satisfy the previous stipulations placed on the property.*
- The probability of visitors staying in hotel rooms in the City to satisfy the requirement for receipt of the Lodging Tax funds.*
- The ability to coordinate with the railroad when events are being planned in the area.*
- The amount of work that can be completed for 1.725 million dollars.*
- The ability to halt the process and not create the entire vision as it was presented.*
- An explanation of the work involved for Phase 2 of the project.*
- A tenant being contemplated for the building at this time.*
- The timeframe for the building to be ready for a possible tenant.*
- The ability for the building to be ready for a tenant without the grant funding from DOLA.*
- The feeling of the current recipients of Lodging Tax funds regarding the funding of this project.*
- The possibility of applying for a History Colorado grant.*

Motion by Councilmember Humbert, seconded by Mayor Kreutzer, to approve Resolution 2018-31 approving that certain Purchase and Sale Agreement between the City and G & L Property, LLC ("owner" and "seller"), for the purchase and sale of certain commercial property and improvements located in Brighton, and authorizing and directing the City Manager to execute the PSA, and the City Manager or his designees to take such actions and execute such documents as are reasonably necessary to carry out and successfully close the transaction for the City. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Mills, and Councilmember Wallin

No: 2 - Councilmember Johnston, and Councilmember Pollack

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO APPROVING THE ADAMS COUNTY, COLORADO INTERGOVERNMENTAL AGREEMENT ANIMAL SHELTER/ADOPTION SERVICES (THE "IGA"); FINDING THAT THE FEES SET FORTH IN SAID IGA ARE REASONABLE; AUTHORIZING THE MAYOR TO EXECUTE SAID IGA ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND SETTING FORTH OTHER DETAILS RELATED THERETO

Mayor Kreutzer read the title of the Resolution into the record.

City Manager Rodriguez introduced Chief of Police Paul Southard.

Chief of Police Paul Southard introduced Adams County Animal Shelter Director Stephanie Wilde. Chief Southard reported that the Brighton Animal Shelter is 34 years old and is used as a temporary holding facility for animals that are then transported to other shelters in a short timeframe. The Brighton shelter has been closed since October due to a broken gas line. Since that time, Adams County has provided shelter services for the City. The Brighton Animal Shelter operates seven days per week and requires the equivalent of .8 full time employees to clean, feed, and staff the shelter to greet customers and take payments. On holidays, Animal Control Officers are required to come in for two hours to clean and feed the animals. For the Animal Control Officers to come in for two hours on holidays there is an expense of approximately \$1,000.00 per year. Animal Control Officers are responsible for euthanasia and a veterinarian must be brought in for emergency care of animals. Each Animal Control Officer spends five to seven hours per week transferring animals. In 2017, 578 animals were transferred to other facilities. It is a challenge to find facilities to take animals; in 2017, Every Creature Counts in Fort Lupton closed. This leaves only three facilities to take animals Adams County Animal Shelter, Denver Dumb Friends League and Humane Society of Boulder County.

Over the weeks that the shelter has been closed, the impact of staffing the shelter became apparent. The Animal Control Officers had more time available and staff began to focus on the redeployment of the Animal Control Officers and the Code Enforcement Officers to focus on areas of need in the Police Department. One possibility is known as a 'differential police response', recognizing that not every call for service requires a Police Officer. Some issues could be better handled by someone that is not sworn, thus leaving more Officers available to be on the street. Police Officer availability is impacted by the increased workload so citizens have to wait for services at times. Code Enforcement Officers are also struggling to keep up with the workload of the entire City with only three Officers.

The concept of a Community Service Officer is not new; several other communities use them. The Community Service Officer can handle issues like parking enforcement, abandoned vehicles, code enforcement, animal control, taking complaints of cold theft, found property, lost property reports and assisting Officers with traffic at accident scenes. Staff proposed to create a six-person Community Service Officer unit to work on these issues. Code Enforcement can work more effectively, proactive instead of reactive. Parking complaints will be addressed more effectively and the unit will be able to "team up" on problem areas throughout the City. The current Code Enforcement Officers and Animal Control Officers would be reclassified. The cost to bring the Animal Control Officers to the Code Enforcement Officer grade will cost a total of \$8,674.00 annually.

To help make this happen, the City would utilize the Adams County Animal Shelter. Animals would be transported immediately to the shelter and Adams County would take over care for the animals. Other municipalities using the services of the Adams County Animal Shelter include Thornton, Northglenn, Federal Heights, Bennett and Lochbuie. Adams County has a veterinarian on duty seven days per week, who can vaccinate and provide treatment for animals; a tag machine is located on site for those interested in purchasing tags. Adams County offers low cost microchip and vaccination clinics twice per month. Customers would no longer have to wait for an Animal Control Officer to come to the shelter to pick up their pets. Adams County estimates that the cost for Brighton to use the Animal Shelter will be approximately \$60,000.00 per year based on the usage since October. Adams County will have a new shelter opening in 2019 at 120th Parkway and Henderson Road. Chief of Police Southard and Director Stephanie Wilde answered questions from Council regarding:

- Resource Officers continuing to pick up stray animals.*
- Adams County running two animal shelters after the new one is built.*

- Adams County's policy regarding the length of time animals are kept and the process for someone to retrieve their pets.
- The day the five-day requirement expires if an animal is picked up on a Friday.
- The percentage of the estimated \$60,000.00 per year fee for Brighton is paid by owners reclaiming their pets or adoption fees.
- The approximate fee of \$60,000.00 being high.
- The approximate annual cost to run the Brighton Animal Shelter.
- The cost to the City for the Adams County Shelter services being an additional \$50,000.00.
- A pet owner having to pay at the time they pick up their lost pet or can they be billed later.

Motion by Councilmember Johnston, seconded by Councilmember Mills, to approve Resolution 2018-32 approving the Adams County, Colorado Intergovernmental Agreement Animal Shelter/Adoption Services; finding that the fees set forth in said IGA are reasonable; authorizing the Mayor to execute said IGA on behalf of the City and the City Clerk to attest thereto; and setting forth other details related thereto. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Mayor Kreutzer called for a break at 8:42 p.m.

Mayor Kreutzer reconvened the meeting at 8:51 p.m.

A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING WITH CONDITIONS THE BROMLEY PARK, FILING 102, 1ST AMENDMENT DEVELOPMENT AGREEMENT, FOR APPROXIMATELY 122.377 ACRES OF PROPERTY, GENERALLY LOCATED WITHIN SECTION 1, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, BRIGHTON, COLORADO, AUTHORIZING THE MAYOR TO EXECUTE THE DEVELOPMENT AGREEMENT ON BEHALF OF THE CITY; AND SETTING FORTH OTHER DETAILS RELATED THERETO

Mayor Kreutzer read the title of the Resolution into the record.

City Manager Rodriguez introduced Senior Planner Lauren Simmons.

Senior Planner Lauren Simmons presented the Development Agreement for the 76 Commerce Center development also known as Bromley Park, Filing 102, 1st Amendment. The agreement is with 76 Commerce Center, LLC and the applicant is Paul Hyde. The property is located on the northeast side of Brighton and is approximately 122.377 acres adjacent to the east side of I-76 between Bridge Street and Baseline Road. This project is directly adjacent to the I-76 Frontage Road, East Cherry Creek Valley Treatment Plant (ECCV) and the Burlington Northern Railroad just south of Lochbuie. The property was previously annexed and zoned in 1986 as part of the Bromley Park PUD for industrial uses. The land was vacant and undeveloped until 2005 when the East Cherry Creek Valley Treatment Plant developed on lot 1, block 1. The City Council approved an Economic Development Corporation Incentive Agreement in August 2017. The property is shown as industrial on the PUD Zoning Map and the 2030 Land Use Map indicates the land as industrial land uses. The proposed development is consistent with those designations.

The Development Agreement is for the Bromley Park, Filing 102, 1st Amendment Plat; the site is for six industrial buildings with 1.8 million sq. ft. of warehousing and industrial space. The Development Agreement will address the public infrastructure needed to complete the development. This includes road improvements, utilities, storm water and water dedication. The current Plat will subdivide the property into three lots for development. The lots will share access points on the I-76 Frontage Road with each other and the existing East Cherry Creek Valley Treatment Plant. There are three phases contemplated for the development and the access points are phased to ensure that each building will have two points of access onto the I-76 Frontage Road. The lots in Phase 3 will require an emergency access to Bridge Street to be constructed.

The first item in the Development Agreement is the utilities and water service. This property is located in the South Beebe Draw Metropolitan District in addition to the Bromley Park Metropolitan District No. 6. The site will be connecting to City water and sewer and drain to South Beebe Draw's drainage channel which is on the east portion of the site. The project will also be dedicating 25.17-acre feet of water to the City for the anticipated light industrial uses.

The three access points onto the I-76 Frontage Road will all require associated turn lanes. The access points and turn lanes are all permitted by the Colorado Department of Transportation (CDOT) as this road belongs to CDOT. CDOT has been a referral agency on the plans and has worked with the applicant and the City of Brighton on the design and permitting of those access points and turn lanes. The partially constructed south access point will be shared by ECCV and the emergency access point will go through property currently owned by the South Beebe Draw Metropolitan District.

A Traffic Impact Study (TIS) reviewed the project impact on the Frontage Road and the three intersections along I-76. The Study was reviewed by City staff, CDOT and local referral agencies such as the Town of Lochbuie. The interchange at I-76 and Baseline Road was reviewed as part of the TIS; however, the entirety of the Baseline intersection lies within the jurisdiction of the Town of Lochbuie. CDOT will take the lead on any requirements for improvements to the Baseline interchange. The impact from the Bromley Lane interchange were below the CDOT threshold for interchange improvements; which is approximately 20% impact of traffic. The Developer has agreed to pay their pro-rata share of the costs for the signal, signage, striping and widening and improvements to the intersection of Bromley Lane at the eastbound ramp and the westbound ramp. The pro-rata share is \$18,600.00 for the improvements to the eastbound ramp and \$13,800.00 for the improvements to the westbound ramp. The improvements are also permitted by CDOT. The Bridge Street interchange was also analyzed and there were significant impacts found on the eastbound Frontage Road. The Developer will be designing and installing an all-way stop; this includes signage, striping and any road widening at the east Frontage Road and Bridge Street intersection. Those improvements are subject to permitting by CDOT.

Staff has reviewed this proposal and is recommending approval of the Agreement as drafted. This Agreement is consistent with the Plat that will be approved administratively, meets the review criteria found in the Land Use and Development Code and provides the Developer and property owner with a clear path forward in terms of certain infrastructure improvements required in the timing thereof.

City staff received a letter from Anadarko Land Corporation at 12:39 p.m. today, the mineral interest holder for the property. They were given notice per the 30 days required by the statutes and sent a letter of objection to staff today. A representative from Anadarko indicated she would be attending the meeting to state their objection to the Plat; no one from Anadarko is present. Due to the letter of objection, staff has revised section 1 of the Resolution. Planner Simmons read the recommended amended portion of the Resolution into the record. "Section 1, That the Development Agreement for Bromley Park, Filing 102, First Amendment, attached hereto as Exhibit C, shall not become effective and shall not be recorded unless and until the developer and the Anadarko entities, as more specifically defined in the Anadarko objection letter dated March 20, 2018, enter into a Surface Use Agreement, or other agreement between the developer and the mineral interest estate owner, and a copy forwarded to the Director and the Bromley Park, Filing 102, First Amendment, Plat Amendment is amended as necessary to designate the pipeline which was stated in the letter as RGSI-51-2, and any easements necessitated for said pipeline, and the Plat Amendment is approved by the Community Development Director."

Paul Hyde, Minneapolis, Minnesota. Mr. Hyde has worked in development for twenty years and is excited about this industrial project. This site is a subset of the larger Bromley industrial site consisting of 122 acres. The plan is for a six building industrial park combining bulk warehouse and office warehouse product. This should add over 100 million dollars in new value to this site and at least 500 new jobs to this property. Mr. Hyde is trying to create a new modern industrial product that appeals to both local, regional and international tenants. The first building is a 266,000 sq. ft. bulk warehouse building that takes advantage of the visibility from I-76 and will be the first speculative building in the I-76 corridor. The building can accommodate small tenants from 50,000 sq. ft. up to one tenant. This building will be ideal for a showroom, will-call distribution, light manufacturing, or a variety of uses. Mr. Hyde hopes to have a variety of tenants, which makes a more sustainable project economically to weather different recession cycles. Mr. Hyde feels this is an ideal location for this project. Mr. Hyde is

pleased with the partnership with City staff, this is very important for tenants to feel welcome in the City while getting permits and working with staff. This is an important site because there has been a shift from retail to distribution center buildings and this product could take advantage of that with local and national developers. Last year industrial become the most preferred real estate to be owned. The Denver area serves the entire Rocky Mountain Region. Mr. Hyde invited everyone to a groundbreaking scheduled for April 3, 2018.

City Manager Rodriguez asked if there were any provisions that would allow Council to meet with Special Counsel in an Executive Session in light of the letter received by Anadarko.

Motion by Mayor Pro Tem Edwards, seconded by Councilmember Baca, to go into Executive Session at 9:13 p.m. for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b). Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Mayor Kreutzer reconvened the meeting at 9:36 p.m.

Mayor Kreutzer announced that City Attorney Margaret Brubaker and Special Counsel Matt Sura are working to prepare a Resolution with language to approve this item. City Council will now consider item 10A.

Mayor Kreutzer returned to Item 9A.

City Attorney Brubaker explained that the City received notice from Anadarko and certain of its entities regarding a pipeline in the land owned by the developer. To date, the City has not been able to verify whether that pipeline exists or not. There is not anyone in the audience from Anadarko to speak about their objection. The objection was filed consistent with the requirements of the Statute, so the City needs to consider them. If the City would like to approve the Development Agreement Amendment, Legal Counsel recommends that it be approved conditionally with these recommended conditions:

- 1. That Anadarko Petroleum Corporation shall provide to the City no later than 12:00 p.m. March 23, 2018 a complete legal description and a map to scale of the purported pipeline that is designated in their letter as RGS1-51-2 as described in its objection letter dated March 20, 2018. If it is determined that a pipeline exists, the developer shall amend the Bromley Park, Filing 102, First Amendment Plat accordingly including the designation of all easements necessitated thereby.*
- 2. That Anadarko Petroleum Corporation shall schedule a meeting with the City staff no later than April 3, 2018 to describe its mineral interests in all proposed oil and gas facilities to be located on the subject property and determine if a Surface Use or other Agreement is warranted as required by COGCC Rule 302(c). If it is determined at that meeting that a Surface Use or other Agreement is warranted, The City will not issue any building permit for Phase 3 of the development until said Agreement is finalized and provided to the City.*
- 3. If any of the above conditions is not timely met, the City will proceed to administratively approve the Bromley Park, Filing 102, First Amendment as originally submitted and record the same.*

City Attorney Brubaker explained that Anadarko would have to justify and verify the representations that it made in its objection and if they are warranted, to take the necessary actions to get those addressed. If not, the City can proceed to approve the Plat and the Developer could proceed and develop his property. City Attorney Brubaker, Senior Planner Lauren Simmons, and Streets and Fleet Director Kimberly Dall answered questions from Council regarding:

- The timing, if there is no plan at this time, how much does that put the Developer at risk.*
- Any improvements to the northern edge of the Frontage Road taking place at this time.*
- Flashing lights or messaging to indicate that there will be an all way stop at Bridge Street, east of I-76.*
- The proposed improvements at Bromley Lane being completed prior to the completion of the project.*

- Any other access points from the development other than those planned on the Frontage Road.
- The Bridge Street access being used as a non-emergency access.

Mr. Hyde explained that they have tried to contact Anadarko since August 2017. It is troubling to have this happen on the eve of the hearing. Mr. Hyde is happy with the solution.

Councilmember Humbert asked if condition number 1 could be changed from 12:00 p.m. to 12:00 noon.

Motion by Councilmember Johnston, seconded by Councilmember Humbert, to approve Resolution 2018-30 approving with conditions the Bromley Park, Filing 102, 1st Amendment Development Agreement, for approximately 122.377 acres of property, generally located within section 1, township 1 south, range 66 west of the 6th principal meridian, Brighton, Colorado, authorizing the Mayor to execute the Development Agreement on behalf of the City; and setting forth other details related thereto, as amended. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

10. UTILITIES BUSINESS ITEMS

Resolutions

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, ACCEPTING THE BID OF ASLAN CONSTRUCTION, INC., AND AWARDING THE CONTRACT FOR THE ERGER'S POND AUGMENTATION STATION TO ASLAN CONSTRUCTION, INC. IN AN AMOUNT NOT TO EXCEED FIVE MILLION, SEVEN HUNDRED EIGHTY-SIX THOUSAND, TWO HUNDRED NINETY-TWO DOLLARS (\$5,786,292.00), AUTHORIZING A 2018 BUDGET AMENDMENT IN THE AMOUNT OF FIVE MILLION, SEVEN HUNDRED EIGHTY-SEVEN THOUSAND DOLLARS (\$5,787,000.00); AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO**

Mayor Kreutzer read the title of the Resolution into the record.

City Manager Rodriguez introduced Utilities Director Curt Bauers.

Utilities Director Curt Bauers asked for approval to award a contract for the Erger's Pond Augmentation Station Project. Erger's Pond is the northern most of the Ken Mitchell Reservoir Complex. The Master Plan for Erger's Pond was discussed last October. Erger's Pond is now close to being drained and ready to undertake the various work needed in this cell including a diversion structure, augmentation station, two spillways, and riprap slope lining protection. Erger's Pond holds approximately 1,800-acre feet, which is about 2/3 of what Cell 1 holds. The project will consist of a diversion structure, and a pump station to move water from the river into storage and an augmentation station to pump water out of storage back to the river. Facilities will be built at two locations, one on the west edge, the riverside pump station diversion structure to fill the reservoir, and the augmentation station on the north side. These locations were chosen because of proximity to the river and because of existing water rights decrees. All of the City's South Platte wells intercept alluvial groundwater, which is hydraulically connected to the river. When a well is pumped, water is being taken from the river that is in priority for someone else, therefore the City has to augment that water back to the river in time and in place through the augmentation process, which is regulated by Colorado Water Law. Erger's Pond is a critical piece of the City's infrastructure needed to meet the overall augmentation demands. In an average year, the City is pumping approximately 5,400 acre feet of water and virtually all of that must be returned back to the river. Two new pump stations are needed, one to take water from the river and one at another location to put water back into the river. A critical piece of the project

is a large box culvert on the riverside pump station that will divert water by gravity during periods of free river. Brighton fought hard in water court cases to get a 300 CFS decree to move water into that cell by gravity. Denver will be taking water and re-using it so periods of "free river" will be less frequent and shorter duration than in the past, so the ability to divert 300 CFS by gravity and fill Erger's Pond quickly will be invaluable. A minor re-design was done after meeting with the contractor and they value engineered the design. This complicates the construction, but will save money. A 404 permit is required from the Army Corps of Engineers and has been obtained. United Power has an existing electric line that will have to be relocated on the riverside pump station. There is still 240-acre feet of water that needs to be pumped out before the work can begin. Both of these projects require work in the river so cofferdams will be needed to create a watertight enclosure to allow construction in the river. Staff intended to issue this contract in 2017. The project was bid in mid-November and there were not any bids on January 5, 2018. The contract was then modified to change the bid to a lump-sum bid and it was reposted in January 2018. A pre-bid conference was held in early February 2018 and bids were due on February 21, 2018. Three qualified contractors submitted bids at that time and they were higher than the engineers estimate. The lowest bid was from Aslan Construction at 5.9 million dollars. Staff worked with Aslan to find savings in the design of the project and they were able to reduce the contract to \$5,786,292.00. Because the project was originally budgeted in 2017, the 2018 budget did not include the funds for this project. Historically those monies are rolled over and that has not taken place at this time, therefore this request includes a request for a supplemental appropriation to the 2018 budget in that amount. There is adequate funding in the Fund Balance in the 2017-budgeted money that has gone back to Fund Balance. There is a \$700,000.00 grant for this project through the Colorado Water Conservation Board.

There is also a need in this project for construction oversight, this is industry standard to have the design engineer provide oversight to the contract which helps ensure quality construction that conforms to all aspects of the design. The costs are generally in the 10% to 12% of the construction contract. Staff has worked with the design engineer Burns & McDonnell and found some savings. Staff is requesting award of a Construction Oversight contract to Burns & McDonnell for \$383,446.00.

There is one more associated cost for this project that will be brought back to Council; this is for the power drops to the two locations from United Power. Their cost estimates for those are approximately \$130,000.00. Those will be finalized in the next few weeks.

Staff is requesting award to Aslan Construction and the project should be completed by April 2019 enabling the filling of Erger's Pond quickly after that with spring runoff. This will ensure the delivery of an optimal product as Aslan completed the Cell 1 diversion structure.

Director Bauers answered questions from Council regarding:

- The plan to have a connection between Erger's Pond and Ken Mitchell Lake no longer being necessary.
- The work being done will prevent erosion in the future.
- The spring runoff affecting the construction of the project.
- The ability for another engineering firm to do the same work of this engineering firm.
- This scenario happening in other cities with this type of project.
- Erger's Pond being drained at this time.
- The draining of Erger's Pond being part of the City's augmentation requirements.
- The City being able to remove water from Erger's Pond and "pre-pay" with augmentation.
- The presence of a gate to capture "free river" when available.

Motion by Councilmember Blackhurst, seconded by Mayor Pro Tem Edwards, to approve Resolution 2018-33 acting by and through its Water Activity Enterprise, accepting the bid of Aslan Construction, Inc., and awarding the contract for the Erger's Pond Augmentation Station to Aslan Construction, Inc. in an amount not to exceed \$5,786,292.00, authorizing a 2018 budget amendment in the amount of \$5,787,000.00; and authorizing the Mayor to sign the contract on behalf of the City and the City Clerk to attest thereto. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

- B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, FINDING THAT GOOD CAUSE EXISTS AND THAT IT IS IN THE BEST INTERESTS OF THE CITY TO WAIVE THE FORMAL BID PROCESS FOR THE ERGER'S POND AUGMENTATION STATION CONSTRUCTION OVERSIGHT PROJECT; ACCEPTING THE PROPOSAL OF BURNS & MCDONNELL ENGINEERING COMPANY, INC., AND AWARDING THE CONTRACT FOR THE ERGER'S POND AUGMENTATION STATION CONSTRUCTION OVERSIGHT TO BURNS & MCDONNELL ENGINEERING COMPANY, INC., AS A SOLE SOURCE PROCUREMENT, IN AN AMOUNT NOT TO EXCEED THREE HUNDRED EIGHTY-THREE THOUSAND FOUR HUNDRED FORTY-SIX DOLLARS (\$383,446.00); AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO**

Mayor Kreutzer read the title of the Resolution into the record.

Motion by Councilmember Baca, seconded by Councilmember Humbert, to approve Resolution 2018-34 acting by and through its Water Activity Enterprise, finding that good cause exists and that it is in the best interests of the City to waive the formal bid process for the Erger's Pond Augmentation Station Construction Oversight Project; accepting the proposal of Burns & McDonnell Engineering Company, Inc., and awarding the contract for the Erger's Pond Augmentation Station Construction Oversight to Burns & McDonnell Engineering Company, Inc., as a sole source procurement, in an amount not to exceed \$383,446.00; and authorizing the Mayor to sign the contract on behalf of the City and the City Clerk to attest thereto. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

- C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, ACCEPTING THE PROPOSAL OF VERIS ENVIRONMENTAL, LLC, AND AWARDING THE CONTRACT FOR "AS NEEDED" BIOSOLIDS HAULING AND LAND APPLICATION SERVICES PER PROJECT AT A COST OF THIRTY-FOUR AND 40/100 DOLLARS PER WET TON, AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO**

Mayor Kreutzer read the title of the Resolution into the record.

City Manager Rodriguez introduced Utilities Director Curt Bauers.

Utilities Director Curt Bauers explained that wastewater treatment is the removal of solids and other components from the sewer flow. The product is disinfected and discharged to the river without negatively affecting the water quality in the river. Microorganisms are used to accomplish this; they eat the solids in the wastewater. After they die, they need to be removed and discarded. This product is then treated and the biomass is concentrated. This product then consists of 20% solids and 80% water and is a necessary product of wastewater. The City currently contracts with Veris Environmental for land application, which is the transportation and spreading of those biosolids on EPA permitted fields. The plant, the hauler and the land are all certified and maintained by the EPA. Onsite composting can also be used to dispose of biosolids; this is an unpleasant process for the municipality in terms of odor. The incineration of the product and the composting can be very expensive forms of disposal. Staff received one bid from Veris Environmental at \$34.40 per wet ton. The cost of this service will cost approximately \$375,000.00 over the next five years. This is an increase over the previous bid by Veris

Environmental but that was done in 2012. Staff believes Veris is the least expensive option for treating the biosolids. Other municipalities that have recently renewed contracts are paying similar prices. Staff recommends approval of the contract to Veris Environmental for as needed disposal of biosolids for \$34.40 per wet ton. Director Bauers answered questions from Council regarding:

- The biosolids allowed to be placed on organic farmland.*
- A value to the property where the Biosolids are being disbursed.*
- The ability for the City to recoup some of the value received by the owner of the farmland.*
- The ability of the hauler to sell the biosolids.*

Motion by Mayor Pro Tem Edwards, seconded by Councilmember Humbert, to approve Resolution 2018-35 acting by and through its Water Activity Enterprise, accepting the proposal of Veris Environmental, LLC, and awarding the contract for “as needed” Biosolids Hauling and Land Application Services per project at a cost of \$34.40 per wet ton, and authorizing the Mayor to sign the contract on behalf of the City and the City Clerk to attest thereto. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

11. GENERAL BUSINESS

12. REPORTS

- A. **By the Mayor**
- B. **By Department Heads**
- C. **By the City Attorney**
- D. **By the City Manager**

City Manager Rodriguez introduced Special Counsel Matt Sura.

Matt Sura, Special Counsel for oil and gas updated City Council on the seismic testing that will be taking place in the City over the next two weeks.

13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Councilmember Wallin attended the Lodging Tax Advisory Committee meeting.

14. EXECUTIVE SESSION

Motion by Mayor Pro Tem Edwards, seconded by Councilmember Baca, to go into Executive Session at 10:41 p.m. for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding Storm Drainage and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding the Depot Property. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Mayor Kreutzer reconvened the meeting at 11:39 p.m.

15. ADJOURNMENT

Motion by Councilmember Wallin, seconded by Councilmember Humbert, to adjourn at 11:40 p.m. Motion passed by the following vote:

Aye: 9 - Mayor Kreutzer, Mayor Pro Tem Edwards, Councilmember Baca, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

CITY OF BRIGHTON, COLORADO

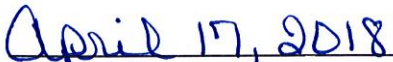


Kenneth J. Kreutzer, Mayor

ATTEST:



Natalie Hoel, City Clerk



Approval Date