

City of Brighton

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



Meeting Minutes

Tuesday, January 21, 2020

7:00 PM

Council Chambers

City Council

MAYOR - GREGORY MILLS

MAYOR PRO TEM - MATT JOHNSTON

COUNCIL MEMBERS:

**CLINT BLACKHURST, ADAM CUSHING, MARK HUMBERT,
KRIS JORDINELLI, MARY ELLEN POLLACK, TIM WATTS**

1. CALL TO ORDER

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

A. Pledge of Allegiance to the American Flag

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

B. Roll Call

Present: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Not Present: 1 - Councilmember Pollack

2. APPROVAL OF REGULAR AGENDA

Motion by Councilmember Humbert, seconded by Mayor Pro Tem Johnston, to approve the Regular Agenda as presented. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

3. CONSENT AGENDA**A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING OFFICIAL REPRESENTATIVES AND ALTERNATES OF THE CITY COUNCIL TO CERTAIN BOARDS AND COMMISSIONS**

Resolution No: 2020-03

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, RATIFYING THE MAYORAL APPOINTMENTS TO THE CITY OF BRIGHTON YOUTH COMMISSION FOR TERMS ENDING IN MAY OF 2022

Enactment No: 2020-04

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, REAPPOINTING CHRIS MASLANIK AS A WARD 3 MEMBER OF THE PLANNING COMMISSION WITH A TERM TO JANUARY 2024

Resolution No: 2020-05

D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, REAPPOINTING WILLIAM LECK AS A WARD 4 MEMBER OF THE PLANNING COMMISSION WITH A TERM TO JANUARY 2024

Resolution No: 2020-06

E. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING SAGE NAUMANN AS A MEMBER OF THE BRIGHTON HISTORIC PRESERVATION COMMISSION WITH A TERM TO JUNE 2023

Resolution No: 2020-07

- F. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, REAPPOINTING ADAM KNISS AS A MEMBER OF THE DISTRICT PLAN COMMISSION WITH A TERM TO JANUARY 2024**

Resolution No: 2020-08

- G. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AUTHORIZING THE SUBMITTAL OF AN ACTIVE GRANT APPLICATION TO ADAMS COUNTY FOR THE AICHELMAN PROPERTY – PHASE 1 PROJECT AND AUTHORIZING THE ACTING CITY MANAGER TO SIGN AND EXECUTE THE APPLICATION**

Resolution No: 2020-09

Motion by Councilmember Blackhurst, seconded by Councilmember Watts, to approve the Consent Agenda as presented. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

4. CEREMONIES

- A. **Swear in Brighton Youth Commission and Youth Corps of Volunteers Members**

City Clerk Natalie Hoel swore in the new Brighton Youth Commission Members and the Youth Corps of Volunteers Members.

- B. **Swear in City Council Members to Various Boards and Commissions**

City Clerk Natalie Hoel swore in the City Council to their positions on various Boards and Commissions appointed by Resolution 2020-03. (The Brighton Municipal Code requires them to take an oath in order to undertake the duties required by the various Boards and Commissions.)

- C. **Check Presentation to the Senior Advisory Board**

Assistant Director of Recreation and Valerie Rodriguez presented the check from the 2019 Turkey Trot to the Senior Advisory Board.

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

John Strider, Brighton. Mr. Strider asked about Item 6B and how the property would be managed and how this would affect the property values of residents in the area.

Michael Boutwell, Brighton. Mr. Boutwell spoke about the intersection of 144th Avenue and Sable Boulevard and the need to have a unified City Council.

6. PUBLIC HEARINGS

- A. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE REZONING OF AN APPROXIMATELY 0.275 ACRE AREA OF LAND, TO BE KNOWN AS THE 25 N. 8TH AVENUE ZONE CHANGE, GENERALLY LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, FROM A ZONING DESIGNATION OF RESTRICTED RETAIL AND SERVICES (C-2) TO A ZONING DESIGNATION OF SINGLE-TO-EIGHT-FAMILY RESIDENTIAL (R-2)**

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

Mayor Mills opened the public hearing at 7:27 p.m. and City Clerk Natalie Hoel verified the required postings and publications (January 1, 2020 in the Brighton Standard Blade) for this public hearing were completed.

Acting City Manager Marv Falconburg introduced Assistant Planner Sean Pesek.

Assistant Planner Sean Pesek presented the zone change request for the property at 25 North 18th Avenue. Kristin Peppel is representing the applicant Dianne Leary and the owner is Lawrence T. Gobble. The property is located east of Downtown, directly north of Bridge Street and west of 8th Avenue. The request is to change the zoning designation from C-2 (Restricted Retail and Services) to Single-to-Eight-Family Residential (R-2).

The application was reviewed by staff using the previous Land Use and Development Code since it was submitted prior to January 1, 2020. The property was first platted as part of the Home Addition to Brighton Subdivision in 1919 and was then included within the original City boundaries as part of the City annexation passed in 1950. The property was zoned C-2 in 1976 as part of Ordinance 905, which divided the City into zoning districts. City records do not indicate that a commercial use was ever approved for this property and there are not any commercial uses operating on this property. There is currently a single-family detached residence and accessory dwelling unit at this location.

The Comprehensive Plan designates this area as appropriate for commercial; this is not consistent with the current use of the property. Therefore, an amendment to the Future Land Use Map would be required in the future. This proposal does adhere to the Policy 6.1 of the Distinctive Neighborhoods Principle 6, which is intended to create and maintain inviting, safe and walkable streetscapes. The zoning designation of R-2 eliminates the possibility of any auto-oriented business from operating on the site. The zoning criteria in the Land Use and Development Code Section 7-8-80 are as follows:

- Complies with the Comprehensive Plan and other master plans of the City.
- Complies with the requirements of the Land Use and Development Code and with the zone district.
- Provides consistency with the purpose and intent of the Land Use and Development Code.
- Provides compatibility with surrounding areas is harmonious with the character of the neighborhood and is not detrimental to the immediate area, the future development of the area, or the health, safety, or welfare of the inhabitants of the City.

Staff finds that the proposal meets the review criteria and that the zoning classification would bring the property into compliance with the existing R-2 properties directly north and to the west and would create a uniform separation between the residential uses and the commercial uses to the south. Public notice was provided in accordance with the Land Use and Development Code. On January 1, 2020, notice was published in the Brighton Standard Blade and a sign was posted on the property. On December 31, 2020, written notice was mailed to property owners within 300 ft. of the property. Staff has not received any formal comment. Staff recommends approval of the zone change as it is in conformance with the purpose of the Comprehensive Plan and the Land Use and Development Code.

Mayor Mills asked if the applicant would like to add anything to the presentation.

Kristen Peppel, representative for the applicant explained that her grandfather Lawrence T. Gobble is the property owner. The home was built by Clifford and Grace Gobble in 1955, a mother-in-law suite was added, and they lived in the home until they passed. At that time, the home was willed to Lawrence T. Gobble. Mr. Gobble rented the home to his son-in-law and his wife; they have rented the home for thirty years. Lawrence Gobble is eighty-seven years old and wants to sell the property to his son-in-law and keep the property in the family. Mr. Gobble's daughter, Dianne Leary is a real estate agent and offered to help with the transaction. It was discovered at that time that the property was zoned C-2. With the C-2 designation if the property is destroyed beyond 50% the home could not be rebuilt. Given this, a mortgage loan and insurance on the home cannot be obtained. In addition, within the C-2 designation for property, one would have to put down 20% of the asking price as a down payment. These barriers have now made it impossible for Mr. Gobble to sell his home to his son-in-law and keep the property in the family. The family is hoping that the rezoning will be approved so they can purchase the home and live there as they have for thirty years.

Mayor Mills asked if anyone in the audience had questions for the applicant, there was none.

Mayor Mills asked if anyone in the audience wished to speak on behalf of the request.

T'Nell Page, Brighton. Ms. Page is in favor of this application.

Michael Boutwell, Brighton. Mr. Boutwell does not see a problem with this application.

Mayor Mills asked if anyone in the audience wished to speak against the request, there was none.

Mayor Mills asked if any correspondence had been received, there was none.

Mayor Mills closed the public hearing at 7:39 p.m.

Mayor Mills asked if there were questions from City Council.

Planner Pesek and Community Development Director Holly Prather answered questions from Council regarding:

- The possibility that this may happen to another property owner.
- There being any other properties in the City like this.

Motion by Councilmember Blackhurst, seconded by Councilmember Watts, to approve the Ordinance. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE REZONING OF PORTIONS OF THE BROMLEY PARK PLANNED UNIT DEVELOPMENT 2ND AND 16TH AMENDMENTS TO THE BROMLEY PARK PLANNED UNIT DEVELOPMENT 24TH AMENDMENT FOR THE APPROXIMATELY 63.62-ACRE PROPERTY GENERALLY LOCATED TO THE IMMEDIATE NORTHEAST OF THE INTERSECTION OF SOUTH 40TH AVENUE AND SOUTHERN STREET AND FOR TWENTY THREE LOTS GENERALLY LOCATED TO THE SOUTHEAST OF THE INTERSECTION OF SOUTH 45TH AVENUE AND BRIDGE STREET IN BRIGHTON, COLORADO. THE BROMLEY PARK PLANNED UNIT DEVELOPMENT 24TH AMENDMENT IS GENERALLY LOCATED IN SECTION 10, TOWNSHIP 1 SOUTH, RANGE 66 WEST, OF THE 6TH PRINCIPAL MERIDIAN, ALL IN THE CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO (FIRST READING)

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

Mayor Mills opened the public hearing at 7:43 p.m. and City Clerk Natalie Hoel verified the required postings and publications (January 1, 2020 in the Brighton Standard Blade) for this public hearing were completed.

Acting City Manager Falconburg introduced Senior Planner Mike Tylka and Community Development Director Holly Prather.

Community Development Director Holly Prather addressed a comment that was brought up under the public invited to speak on items not on the agenda portion of the agenda. Director Prather clarified that the applicant is proposing with the Bromley Park PUD Amendment a request that their properties generally west of the water tower and south of Bridge Street be changed from a multi-family

designation under the Bromley Park PUD to a single-family detached classification. The developer is asking to take down the density and intensity of what could be done on the property and take it to what is more fitting for the surrounding properties, which is single-family detached. The developer is also asking to modify some of the cross-sections that are contained within the Bromley Park PUD to be more in line with the current standards since this PUD was approved in the 1980's. They are also asking for a modification so that some of the detached garages could be larger. This would make the garages 900 sq. ft. instead of the standard 600 sq. ft. These changes are being requested by the developer.

The developer is not asking to be allowed to sell their lots to a builder for a rental product. Generally, the purpose of zoning is to regulate the use of the land and the physical improvements to the land. Zoning powers are given to municipalities via the State Statutes to regulate the use of the land. Council may not dictate whether the land is owner or renter occupied as the use of the land has not changed; it is still being used for residential purposes. Director Prather reminded Council that it is not within their purview of zoning authority or the application that is being considered to deny the application because they have sold lots to a builder doing a for rent product. The Federal Fair Housing Act makes it illegal to discriminate in the sale, lease or rental of housing, or to make housing unavailable because of race, color, religion, sex, handicap, familial status or national religion. There is a legal doctrine known as the Disparate Impact under the Fair Housing Act, which states that a policy may be considered discriminatory if it has a disproportionate adverse impact against any group based on race, national origin, color, religion, sex, familial status or disability when there is no legitimate non-discriminatory need for the policy. Disparate impact theory safeguards the right for a fair shot for everyone in terms of housing. Where you live determines where you work, how you get there, access to healthcare, and the school your child would attend. Unfortunately, policies and practices still exist that intentionally or unintentionally keep some people in housing they can afford simply because of who they are. Everyone benefits from a housing market free from discrimination with a full participation of all Americans.

A case could easily be made that a City deciding to prohibit rental housing that would be made more affordable to working class people, could have the effect of excluding people of a race or color in that region and if the City could not show a valid reason for this policy, or if a more fair and effective alternative is available, then the courts would undoubtedly set the policy aside under the disparate impact approach. The application being considered tonight cannot be denied based on the fact that the developer has sold the lots to a company that wants to have rental properties. Director Prather did speak to a representative from the builder of the rental product and they have purchased lots in the Brighton Crossing Filing No. 3 Subdivision. They will be constructing the homes based on plans from Brookfield so they will match existing homes in the neighborhood. The company conducts extensive background checks and reviews income to ensure the renters can afford the units. They also have a subsidiary where a property management company manages all of the properties. This should address any concerns regarding a decrease in property values for neighboring homes. These homes are their investment and they want to be sure that they fit into the neighborhood just as any other single-family detached home.

Senior Planner Mike Tylka presented the Bromley Park PUD 24th Amendment Zone Change. The proposed PUD is for approximately 63 acres located to the northeast of the intersection of South 40th Avenue and Southern Street and will be referred to as the Brighton Crossing 6 property. The Brighton Crossing 3 property is to the southeast of the intersection of 45th Avenue and Bridge Street. The Brighton Crossing 6 property is currently in the process of being platted and is zoned under the Bromley Park PUD 2nd Amendment as residential multi-family. The Brighton Crossing 3 properties are platted as part of the Brighton Crossing 3 Residential Subdivision and are zoned as part of the Bromley Park PUD 16th Amendment as a mixture of single-family detached and attached.

A plat and development agreement will need to be approved before site development can occur in the Brighton Crossing 6 property. The Planning Commission has seen a preliminary plat for the Brighton Crossing 6 property and a final plat and development agreement will be coming before this Council in the near future. The developer believes that the Brighton Crossing 6 property is most marketable for single-family detached residential use. They are therefore, asking to amend the PUD to allow this type of land use instead of multi-family residential. The developer would additionally like to use internal curb and street sections that have been shown to work in other neighborhoods; this would be a deviation from the existing PUD.

In the Brighton Crossing 3 properties, the developer has found a market for those wanting three car garages and does believe the subject twenty-three lots have the space to accommodate larger detached garages. These would be end units with larger lots to accommodate the structures. The property to the north is residential, the water tower site, Fire Station 52 and undeveloped commercial land. To the south, there is open space, warehousing, and residential uses zoned as open space and parks, the Kmart Distribution Center PUD and the Bromley Park PUD Amendment 4. There are residential uses to the east zoned as part of the Bromley Park PUD Amendments 8 and 16. To the west are residential uses zoned as part of the Pheasant Ridge PUD.

This application was reviewed by staff using the previous Land Use and Development Code as it was submitted prior to the effective date of January 1, 2020. The properties were annexed in 1986 as part of the original Bromley Park Annexation. The Land Use portion of the Comprehensive Plan has designated the subject areas as appropriate for low-density residential use. A single-family detached residential subdivision is an appropriate use in said district and the amendment will bring the Brighton Crossing 6 property into closer conformance with the Comprehensive Plan as it will eliminate the residential multi-family designation for the area and replace it with one of lower allowable density. The Streets and Fleet Division of Public Works has reviewed the proposed PUD and feel that the cross sections are more preferable than those in the existing PUD. Twenty-three subject lots are being proposed to change from a 600 sq. ft. garage to a 900 sq. ft. garage.

The review criteria in the Land Use and Development Code Section 17-19-110(d)(4) describes the requirements for a PUD. A PUD plan and classification to a PUD District may be recommended for approval only if the Planning Commission finds that all of the following criteria have been met:

- a. The PUD addresses a unique situation, confers a substantial benefit to the City or incorporates creative site design, and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable standards.*

The PUD Amendment is seeking to change the land use designation in the earlier code and puts standards into place above those in the earlier PUD's. The amendments would allow for that lower density product, street and curb sections more oriented to neighborhoods, and the detached structures being more in line with standards set in other zone districts such as R-1 that typically would allow 900 sq. ft. garages.

- b. The PUD complies with the Comprehensive Plan and all applicable use, development and design standards.*

The PUD does comply with the Comprehensive Plan.

- c. The PUD District and PUD Final Development Plan shall comply with all applicable PUD use and development standards set forth in in this Section.*

Civil drawings and future development will be reviewed to the standards in the PUD Amendment if approved. If not approved, the Brighton Crossing 6 property consisting of 63 acres and is currently zoned for higher density development could develop as such. Staff finds that lower density in that area is more consistent with the surrounding area.

- d. The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features.*

The PUD provides the cross sections that will integrate the neighborhood into the greater system. The proposed new designation of single-family residential use will be more compatible with the immediate surrounding areas than multi-family as it will generate less vehicle trips per day than the current allowed denser use.

- e. To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community.*

Staff feels that the proposed PUD Amendment in reducing the density and creating more manageable street and curb sections is in alignment with this. Regarding the Brighton Crossing 3 properties, the amendment addresses the market desire without compromising the intent of the square footage standards in single-family residential zoning districts.

- f. Sufficient public safety, transportation, educational and utility facilities and services are available to serve the subject property.

The proposed PUD amendment in reducing the density will create less of a demand on those above-mentioned items and further aligns the property to the Comprehensive Plan.

- g. The proposed phasing plan for development of the PUD is rational in terms of available infrastructure capacity, marketing, and financing.

The PUD does not lay out a phasing plan. A development-phasing proposal will be included in the future development agreement in terms of infrastructure, lot and take down.

- h. The same development could not be accomplished through the use of other techniques, variances or minor modifications.

The proposed PUD allows Brookfield to develop the property in a consistent manner as the other subject areas to the Bromley Park PUD Amendments.

- i. The applicant has submitted a schedule of development and agrees to the schedule subject to the revocation and withdrawal clauses of this Section.

The applicant has submitted necessary materials and the zone change request is compatible with the nine review criteria for a PUD. A preliminary plat was reviewed and approved by the Planning Commission.

All public notice was provided in accordance with the Land Use and Development Code. Staff has not received any formal written comments but has received general inquiries. The Development Review Committee has reviewed this project and recommends approval. The Planning Commission considered the request on December 12, 2019 and recommended approval unanimously. Staff recommends approval of the PUD Amendment as it is in general conformance with the Comprehensive Plan and in accordance with the Land Use and Development Code.

Mayor Mills asked if the applicant would like to add anything to the presentation, he did not.

Jennifer Kite, Brighton. Ms. Kite expressed concern that this beautiful open space would be more homes. It is not sustainable to have this many people moving to the City. This causes an increase in housing costs and overcrowding in the schools. Ms. Kite would like to see less residential growth and more growth that is commercial.

Mayor Mills asked if anyone in the audience wished to speak on behalf of the request, there was none.

Mayor Mills asked if anyone in the audience wished to speak against the request.

Marie Schaefer, Brighton. Ms. Schaefer expressed concern that there are three structures already built behind her house and that there have been a number of complaints about the management of the rental properties. Ms. Schaefer is concerned that the rental properties will not be taken care of and this would affect her property value.

Michael Boutwell, Brighton. Mr. Boutwell expressed concern regarding the growth in the City and the need to keep more open space in the City.

Timothy Demore, Brighton. Mr. Demore expressed concern regarding the units that are being constructed and objects to the larger garages being proposed and feels that the multi-family zoning should remain, as this is a needed product in the area.

Francisco Alba, Brighton. Mr. Alba enjoys the small town atmosphere of Brighton and asked what would happen if the builder files for bankruptcy, who would maintain the property, if there is a current lawsuit, why this decision could not be put off until later and who would be paying for the upgrades to the infrastructure to Brighton Crossing. Mr. Alba asked Council to wait to make a decision until more information can be provided.

Chris Maslanik, Brighton. Mr. Maslanik asked if this matter being considered impact any further land area that is currently zoned. Are there any further land implications based on this request? Property values being tied to the occupants of a neighborhood. Property values being determined by the size of the property and whether the building meets the City's standards and the type of dwelling. Planner Tylka explained that it does not affect any area that is outside of any that is currently zoned. The impact of this PUD would be on areas and properties that are already zoned in the City. Property values are not something that the Community Development staff would deal with. Director Prather explained that she is not a real estate agent or appraiser but understands that when lenders and appraisers look at a property, they are looking at the value of the homes sold in the neighborhood. Whether or not the structures in the neighborhood are homeowner or renter occupied is not typically something that is looked at. The citizens seem to be concerned that if the homes were occupied by renters would the homes be kept up as a typical homeowner would. It seems like a good idea to have a management company to do the upkeep on the homes. Some people would like to live in a neighborhood with space, but do not want the upkeep of a yard, this would allow them to do this with an affordable product.

T'Nell Page, Brighton. Ms. Page asked what the cost difference would be between the newly zoned building vs. a multi-family unit? The cost would most likely be higher with a single-family home, so could the builder keep the cost down while not compromising the quality of the homes. There could be homeowners in the area that would have to sell their homes because the taxes would go up with a new development in the area.

Mayor Mills asked if the applicant would like to clarify any comments, he did not.

Mayor Mills closed the public hearing at 8:27 p.m.

Mayor Mills asked if there were questions from City Council.

Director Prather, Planner Tylka and City Attorney Jack Bajorek answered questions from Council regarding:

- There being an HOA if the development goes from multi-family to single-family.*
- There being a Metro District attached to this development.*
- The rental company being under investigation in a lawsuit.*
- There being any further land implications.*
- The legal reason Council could use to continue this item.*
- Building taking place in the area at this time.*
- The ability for the developer to begin building homes when this process has not been completed.*
- The same issues could happen with a Master Plan that happen with a PUD.*
- This being zoned PUD in 1985, 35 years ago.*
- The developer having the leverage to do whatever they want.*
- Clarification that the zoning has been approved and they want to change the zoning.*
- The proposal being approved by the DRC, the Planning Commission and staff.*
- The proposal being in compliance with the Comprehensive Plan.*
- The percentage of the rental properties being built in the neighborhood.*
- The neighborhood of rentals deterring homeowners.*
- Clarification that the proposal would change the zoning from multi-family to single-family.*
- Clarification that the proposal would change some lots from a two-car garage to a three-car garage.*
- The ability to separate the issues and approve only one item.*
- Council being able to make the decision to allow rental properties in the area.*
- The builder continuing to build homes with 600 sq. ft. garages if Council does not approve the 900 sq. ft. garages.*
- The ability to get more information on this item if it is approved at first reading.*

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Watts, to continue the Ordinance to February 4, 2020. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

Mayor Mills called for a break at 9:00 p.m.

Mayor Mills reconvened the meeting at 9:10 p.m.

7. CONSOLIDATED ITEMS FOR SEQUENTIAL REVIEW

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, MAKING CERTAIN FINDINGS OF FACT REGARDING THE PROPOSED ANNEXATION OF AN APPROXIMATE 20.00 ACRES OF CONTIGUOUS LAND, KNOWN AS THE MARRONE TRUCKING ANNEXATION, IN THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 1 SOUTH, RANGE 66 WEST, OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO**

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

Mayor Mills opened the public hearing at 9:11 p.m. and City Clerk Natalie Hoel verified the required postings and publications (December 11, 18, 25, 2019 and January 1, 2020 in the Brighton Standard Blade) for this public hearing were completed.

Acting City Manager Falconburg introduced Senior Planner Mike Tylka.

Senior Planner Mike Tylka presented the Marrone Trucking Annexation. The applicant is Sarah Laverty, EnviroFinance Group and the owners are members of the Marrone family. The approximately 20-acre property is generally located to the east of Fulton Avenue, approximately ¼ mile south of Bromley Lane. In order to proceed with annexation of the property, Council must conduct a public hearing, approve a Resolution of eligibility and complete the first reading of the Annexation Ordinance. Annexation is regulated by the Colorado Revised Statutes. The process is as follows:

- 1. A petition is accepted by City Council via a substantial compliance Resolution.*
- 2. A findings of fact via an annexation eligibility Resolution.*
- 3. The first reading of an annexation Ordinance with a public hearing.*
- 4. The second reading of an annexation Ordinance where an Annexation Agreement may be considered at the meeting and approved via Resolution.*

A petition for annexation was accepted by City Council on December 3, 2019 and found that the petition was in substantial compliance with the applicable laws of the State of Colorado. Via that Resolution, City Council set the public hearing for January 21, 2020. Council must now hold that public hearing and make a determination on a Resolution for annexation eligibility and on the first reading of the annexation Ordinance. The old Land Use and Development Code will be used to review this application.

The property is currently zoned I-1 through Adams County, which is an Industrial 1 district. The property is approximately 81% contiguous with the existing Brighton City limits. Annexation is the first step in the land development process. A separate application to rezone the property to a City zone district will be presented to Council at the next hearing. If approved at first reading, an Annexation Agreement will be brought before Council for approval at the next regular meeting in addition to the final reading of the annexation Ordinance. In the future, a plat and development agreement will be brought to Council for consideration.

The review criteria is made up of the Comprehensive Plan, the Land Use and Development Code and the Colorado Revised Statutes. The Comprehensive Plan designates this area as appropriate for industrial use. The property is within the City's growth boundary and there is adequate infrastructure to serve the property. Per the Land Use and Development Code Section 17-8-40, all annexations shall be reviewed for compliance with the following criteria. However, annexation is a discretionary legislative act. The City shall never be compelled to annex, unless otherwise required by state law, even if all these approval criteria have been satisfied.

- a. The annexation is in compliance with the Municipal Annexation Act, Section 31-12-101 et seq., Colorado Revised Statutes;*
- b. The annexation is in accordance with the Comprehensive Plan and other master plans of the City and the best interests of the City would be served by annexation of such property;*
- c. The property is capable of being integrated into the City and development in compliance with all applicable provisions of the Brighton Municipal Code;*
- d. Municipal and governmental services and facilities will be extended to such areas which form a part of the whole City;*
- e. At the time any development of the area proposed to be annexed is completed, there will be capacity to adequately serve residents of such area with all necessary utilities and facilities; and*
- f. The annexation will encourage well-ordered development of the City.*

City Council must determine whether the Annexation complies with the following statutory requirements set forth in the Colorado Revised Statutes:

Staff finds that the application is in line with the requirements set forth in Section 31-12-104.

Staff finds that the application is in line with the requirements set forth in Section 31-12-105.

The required notices were done in accordance with the requirements set forth in Section 31-12-108.

The report was done in accordance with the requirements set forth in Section 31-12-108.5.

The public hearing is being conducted in accordance with the requirements set forth in Section 31-12-109.

If the Resolution setting forth findings of fact is approved the requirements set forth in Section 31-12-110 will be met.

Staff finds that the annexation does comply with C.R.S. Sections 31-12-104 through 110. The property is 81.27% contiguous with the City of Brighton city limits, so the "community of interest" provision is presumed. The property is set to be urbanized and is capable of integration within the City of Brighton. Utility lines are adjacent to the property. Publication and notification of the public hearing have been provided to all applicable entities as required by C.R.S. Section 31-12-108.5. Staff finds that the request for annexation complies with the necessary provisions and requirements of the Municipal Annexation Act C.R.S. Section 31-12-101 and that the request for annexation complies with the Comprehensive Plan.

Mayor Mills asked if the applicant would like to add anything to the presentation.

Sarah Laverty with EnviroFinance Group is helping the Marrone family through the process. Marrone Trucking is a long-standing family business and have been active for approximately sixty years in Adams County. They sold their land a few years ago and have been looking for land in Brighton and have since found this 20-acre property. The company operates between eight to twelve trucks that leave the site empty between 5:00 a.m. and 7:00 a.m. and return empty between 3:00 p.m. and 5:00 p.m. The hauling is done offsite and there is no expectation that there will be any operations onsite. The goal is to have a small office and a shop on the site to work on their equipment. This operation should take up about five of the twenty acres. There are no plans for development of the southern portion of the property at this time. The southern portion of the property is currently being farmed and that will remain this way for the near future.

Mayor Mills asked if anyone in the audience had questions for the applicant, there was none.

Mayor Mills asked if anyone in the audience wished to speak on behalf of the request, there was none.

Mayor Mills asked if anyone in the audience wished to speak against the request, there was none.

Mayor Mills asked if any correspondence had been received, there was none.

Mayor Mills asked if there were questions from City Council.

Councilmember Watts asked how many trucks would be onsite. Vincent Marrone, Brighton. Mr. Marrone explained that they have a fleet of eleven trucks.

Councilmember Blackhurst asked what the motivation is for annexation into the City. Mr. Marrone explained that they were told they had to annex because of an existing IGA with Adams County. Councilmember Blackhurst asked if they would be applying for a water tap and Mr. Marrone stated that they would. Councilmember Blackhurst asked for the number of employees at the company. Mr. Marrone reported that there are fourteen employees.

Mayor Mills closed the public hearing at 9:28 p.m.

City Attorney Bajorek explained that the Resolution is only finding that the property is eligible for annexation. Those findings can be found to exist and Council could still choose not to annex the property.

Motion by Councilmember Blackhurst, seconded by Councilmember Humbert, to approve Resolution 2020-10. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ANNEXING TO THE CITY OF BRIGHTON APPROXIMATELY 20.00 ACRES OF CONTIGUOUS LAND, IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 18, TOWNSHIP 1 SOUTH, RANGE 66 WEST, OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO; KNOWN AS THE MARRONE TRUCKING ANNEXATION (PUBLIC HEARING, FIRST READING)

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

Mayor Mills opened the public hearing at 9:30 p.m. and City Clerk Natalie Hoel verified the required postings and publications (December 11, 18, 25, 2019 and January 1, 2020 in the Brighton Standard Blade) for this public hearing were completed.

Mayor Mills asked if the applicant would like to add anything to the presentation, she did not.

Mayor Mills asked if anyone in the audience had questions for the applicant, there was none.

Mayor Mills asked if anyone in the audience wished to speak on behalf of the request, there was none.

Mayor Mills asked if anyone in the audience wished to speak against the request, there was none.

Mayor Mills asked if any correspondence had been received, there was none.

Mayor Mills asked if there were questions from City Council, there was none.

Mayor Mills closed the public hearing at 9:32 p.m.

Motion by Councilmember Humbert, seconded by Councilmember Cushing, to approve the Ordinance. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

C. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE REZONING OF AN APPROXIMATELY 20.00 ACRE AREA OF LAND, TO BE KNOWN AS THE MARRONE TRUCKING FACILITY, GENERALLY LOCATED IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, FROM A ZONING DESIGNATION OF ADAMS COUNTY INDUSTRIAL-1 TO ZONING DESIGNATION OF LIGHT INDUSTRIAL (I-1) (PUBLIC HEARING, FIRST READING)

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

Mayor Mills opened the public hearing at 9:33 p.m. and City Clerk Natalie Hoel verified the required postings and publications (January 1, 2020 in the Brighton Standard Blade) for this public hearing were completed.

Senior Planner Mike Tylka presented the zone change request for the Marrone Trucking Facility. The applicant is Sarah Lavery with EnviroFinance Group and the owner is Kenneth Marrone. The property is located east of Fulton Avenue and approximately ¼ mile south of Bromley Lane. The property is currently zoned Adams County I-1. The applicant has submitted an annexation petition and it is being run through the concurrent process with the zone change. The owners are looking to annex the property to connect to City facilities and per an IGA with Adams County. Per State Statute, land annexed to the City must have a zoning designation; the applicant is requesting a zoning designation change to City of Brighton I-1 (Light Industrial) zoning designation. A plat and development agreement will be required before development can occur on the site. The zone district would set the use standards and other requirements as the process moves forward for development of the lot.

The review of this application is being done with the old Land Use and Development Code. The land is currently in use for agricultural purposes and the owner wants to develop the northern 1/3 of the property. It is important to consider the rezoning for the entire scope of uses that could be allowed with the desired zone district, not just this planned use. The property is surrounded by agricultural and industrial uses to the north, agricultural uses to the south, developed industrial to the east and a developed I-1 user to the west. This land is within the City's growth boundary and is designated by the Comprehensive Plan as industrial. The use of the property for light industrial uses is allowed under the I-1 zoning designation and are consistent with the Comprehensive Plan. Primary uses in the light industrial designation include but are not limited to light and heavy manufacturing, processing, assembly, large distribution warehouses, and truck terminals. Secondary uses in this designation are storage, warehousing, and public facilities. This designation states that industrial users with large employment bases should be adjacent to rail, major corridors served by transit, and/or infrastructure that supports heavy truck traffic. This property is adjacent to Fulton which is a designated collector street in the City adopted Master Transportation Plan, is in close proximity to the major transit roadways like Highway 85, Bromley Lane, South 4th Avenue and Sable Boulevard. Staff finds that the proposal meets all of the required components.

The Land Use and Development Code criteria states that the I-1 district is a general industrial and restricted commercial district intended to accommodate a variety of compatible business, warehouse, wholesale, offices and most manufacturing, processing, assembly and storage of materials and products as well as allowing services and facilities for industries and their employees. Land within this category must have access to parking, loading, fencing and storage areas. Council should use the criteria outlined in Section 17-8-80 when considering this item. The criteria is as follows:

- Complies with the comprehensive Plan and other master plans of the City.*
- Complies with the requirements of the Land Use and Development Code and with the zone district.*

- Provides consistency with the purpose and intent of the Land Use and Development Code.
- Provides compatibility with surrounding areas, is harmonious with the character of the neighborhood and is not detrimental to the immediate area, the future development of the area, or the health, safety, or welfare of the inhabitants of the City.

The zoning designation of I-1 allows the lot to be opened up to be developed within the City for a variety of users that could provide employment opportunities and service to local industry and business. The area already contains a mix of commercial and industrial users adjacent to agriculture. The parcel to the immediate south is restricted in regards to future development, as it has been placed in a conservation easement for agricultural use. The area has seen industrial uses next to agricultural uses for years. The City's design standards will ensure that the development of the property is carried out in a manner that provides proper screening and buffering to those non-residential neighbors.

All required public notice was provided in accordance with the Land Use and Development Code. Planning staff has not received any formal comments or general inquiries on this project. The Development Review Committee has reviewed this project and recommends approval. The Planning Commission considered this request on December 12, 2019 and recommended approval unanimously. Staff finds that the zone change meets the review criteria as set forth in Section 17-8-80 of the Land Use and Development Code and is in accordance with the Comprehensive Plan and therefore recommends approval of the zone change for the property from Adams County I-1 to the City of Brighton (Light Industrial) I-1.

Mayor Mills asked if the applicant would like to add anything to the presentation, she did not.

Mayor Mills asked if anyone in the audience had questions for the applicant, there was none.

Mayor Mills asked if anyone in the audience wished to speak on behalf of the request, there was none.

Mayor Mills asked if anyone in the audience wished to speak against the request, there was none.

Mayor Mills asked if any correspondence had been received, there was none.

Mayor Mills asked if there were questions from City Council, there was none.

Mayor Mills closed the public hearing at 9:43 p.m.

Motion by Councilmember Humbert, seconded by Councilmember Cushing, to approve the Ordinance. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

8. ORDINANCES FOR INITIAL CONSIDERATION

9. RESOLUTIONS

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, CALLING FOR A SPECIAL MAIL BALLOT MUNICIPAL ELECTION FOR WARD 2, TO BE HELD ON APRIL 28, 2020; APPOINTING THE BRIGHTON CITY CLERK AS THE DESIGNATED ELECTION OFFICIAL; SPECIFYING THE AUTHORITY OF THE CITY CLERK REGARDING THE CONDUCT OF THE ELECTION; AND SETTING FORTH OTHER DETAILS RELATED THERETO**

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

Acting City Manager Falconburg introduced City Clerk Natalie Hoel.

City Clerk Natalie Hoel reported that on December 17, 2019, Ward 2 Councilmember Gregory Mills was sworn in as Mayor to fill a vacancy, which created a vacancy in Ward 2. The City of Brighton Charter, Section 4.8 (D)(3) allows for City Council to call for a Special Election to fill the vacated seat for the remainder of the unexpired term. This Resolution would call for a Special Election on April 28, 2020 to fill the Ward 2 vacancy. City Attorney Jack Bajorek and City Clerk Hoel answered questions from Council regarding:

- The need for a run-off election.*
- The timeline to pick up a nomination petition packet.*

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Watts, to approve Resolution 2020-11. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BRIGHTON AND THE ADAMS COUNTY SHERIFF'S OFFICE FOR THE PROVISION OF LAW ENFORCEMENT AND ADMINISTRATIVE PERSONNEL, AUTHORIZING THE CITY MANAGER TO EXECUTE SAID IGA ON BEHALF OF THE CITY, AND TO UNDERTAKE SUCH TASKS AND EXECUTE SUCH DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT SAID IGA ON BEHALF OF THE CITY

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

Acting City Manager Falconburg introduced Chief of Police Paul Southard.

Chief of Police Paul Southard explained that this process has been in place since 2017. This IGA is for NCIC/CCIC terminal guarding. The Adams County Sheriff's Office has provided this coverage for over twenty years and in 2017, the City and ADCO Sheriff's Office entered into an IGA for NCIC/CCIC terminal coverage. This service is provided overnight from 10:00 p.m. to 6:00 a.m. NCIC and CCIC rules require a ten-minute response to request confirmation, so coverage has to be provided when there is not staff at the Police Department to provide coverage. The ADCO Sheriff's Office would continue to provide coverage overnight in 2020 for \$33,658; this amount has been approved in the 2020 budget. Without this coverage, the City would have to hire personnel to provide coverage at an estimated cost of \$105,000 per year. Chief Southard answered questions from Council regarding:

- An Adams County employee being dedicated to the City of Brighton.*
- The ability to approve an IGA for more than one year.*
- A change in the IGA in the future.*
- The ability for Adams County to change the cost throughout the year.*
- The amount being what was quoted last year.*

Motion by Councilmember Watts, seconded by Councilmember Blackhurst, to approve Resolution 2020-12. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

10. UTILITIES BUSINESS ITEMS

Resolutions

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACCEPTING THE BID OF EFI-SOLUTIONS AND AWARDING THE CONTRACT FOR NON-POTABLE RESERVOIR PUMP STATION, PROJECT #19-036, TO EFI-SOLUTIONS IN THE AMOUNT NOT TO EXCEED \$895,243.00, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO**

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

Acting City Manager Falconburg introduced Utilities Engineer Roy Gallea.

Utilities Engineer Roy Gallea presented the Resolution for the Non-Potable Pond Pump Station. In September 2019, staff presented the item to approve the design of the non-potable pond east of the Oasis Water Park. This station pumps water across to Southern Street then down Southern Street to Carmichael Park. This water feeds the Memorial Parkway, Benedict Park, the baseball fields and youth center, and Carmichael Park. This pump station failed a few years ago and the City has been using the potable system to get the watering done. The pump station has a twenty-two week lead-time for manufacturing. The design is not completed, so this Resolution is strictly for purchase. The construction will come back to City Council for approval after the design is completed. While the pump house is being constructed, staff will bid out the construction portion of the project so the pump station will be online before the 2021 irrigation season. The pump system will be a skid system with five pumps and will be housed in a pre-fab building. This project is important because some of the parks are currently using potable water and the demand for potable water is just below demand on peak irrigation days. Staff is trying to reduce any load on the potable system. Expansion of the non-potable system is critical to ensuring residents have enough potable water for non-irrigation uses. The formal bid process resulted in two bids. Staff determined that EFI with a cost of \$895,243 is the most responsible, responsive and cost effective bid in order to get the new pumps online by the 2021 irrigation season. This bid includes five stainless steel pumps in a 44 ft. x 12 ft. building. Staff recommends approval of the contract. Utilities Engineer Gallea and Assistant Director of Utilities Brad Dallam answered questions from Council regarding:

- The process that will be used in 2020.*
- The new pump station increasing the capacity of the non-potable system.*
- The ability for 27J School to use this system.*
- The discrepancy of 1.2 million dollars in the bids received.*
- The ability to set timers to water at appropriate times in the summer.*
- The amount of the winning bid.*

Motion by Councilmember Blackhurst, seconded by Councilmember Cushing, to approve Resolution 2020-13. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

11. GENERAL BUSINESS**12. REPORTS****A. By the Mayor**

Mayor Mills attended the BURA meeting, a Facebook Live event, the State of the State Address, the Mayors Caucus meeting, and the Fairview High School addition groundbreaking. There is an ADCOG dinner in Broomfield tomorrow.

B. By Department Heads

Chief of Police Paul Southard reported on an incident when an elderly female was approached by a male posing as a police officer. Staff is working to get this information into the media to keep citizens safe.

C. By the City Attorney**D. By the City Manager****13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS**

Councilmember Humbert attended the Historic Preservation Commission meeting.

Mayor Pro Tem Johnston attended the EDC Tour of a Sports Complex.

Councilmember Blackhurst attended the Legacy Foundation meeting.

Councilmember Cushing attended the DRCOG meeting.

14. EXECUTIVE SESSION

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Watts, to go into Executive Session at 10:18 p.m. 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. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Watts, and Mayor Pro Tem Johnston

Absent: 1 - Councilmember Pollack

Mayor Mills reconvened the meeting at 10:58 p.m.

15. ADJOURNMENT

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Blackhurst, to adjourn at 10:59 p.m. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, and Councilmember Watts

Absent: 1 - Councilmember Pollack

CITY OF BRIGHTON, COLORADO



Gregory Mills, Mayor

ATTEST:

Natalie Hoel
Natalie Hoel, City Clerk

February 18, 2020
Approval Date