

City of Brighton

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



Meeting Minutes

Tuesday, May 18, 2021

6:00 PM

Virtual Meeting

City Council

**MAYOR - GREGORY MILLS
MAYOR PRO TEM - MATT JOHNSTON
COUNCIL MEMBERS:
CLINT BLACKHURST, ADAM CUSHING,
MARK HUMBERT, KRIS JORDINELLI, MARY ELLEN POLLACK,
ANN TADDEO, TIM WATTS**

1. CALL TO ORDER

Mayor Mills called the meeting to order at 6:05 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 Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

2. APPROVAL OF REGULAR AGENDA

Mayor Mills asked that the second Item 10A be changed to 10C.

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

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

3. CONSENT AGENDA

A. Approval of the April 20, 2021 City Council Minutes

B. Approval of the April 27, 2021 City Council Minutes

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING TERENCE LUCERO AS A MEMBER OF THE BRIGHTON HOUSING AUTHORITY TO FILL AN UNEXPIRED TERM TO NOVEMBER 2023

Resolution No: 2021-33

D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING DAVE ROSE AS AN ALTERNATE MEMBER OF THE BRIGHTON HOUSING AUTHORITY TO FILL AN UNEXPIRED TERM TO NOVEMBER 2024

Resolution No: 2021-34

E. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACCEPTING THE PROPOSED CHANGE ORDER FROM NORTHERN COLORADO CONSTRUCTORS, INC. AND APPROVING A CONTRACT AMENDMENT OF VETERANS PARK WATER QUALITY AND TERRAIN ENHANCEMENT PROJECT, PROJECT #17-016, FOR THE ADDITIONAL AMOUNT OF FORTY-NINE THOUSAND NINE HUNDRED EIGHTY DOLLARS (\$49,980.00) FOR A TOTAL CONTRACT VALUE OF FOUR HUNDRED SIXTY-EIGHT THOUSAND TWO HUNDRED THIRTY-FOUR DOLLARS AND FIFTY CENTS (\$468,234.50), AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO SIGN THE CONTRACT AMENDMENT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO

Resolution No: 2021-35

- F. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WASTEWATER ENTERPRISE, APPOINTING CITY OF BRIGHTON CITY MANAGER, JANE BAIS DISESSA, AS THE CITY OF BRIGHTON REPRESENTATIVE ON THE BOARD OF DIRECTORS OF THE METRO WASTEWATER RECLAMATION DISTRICT FOR A TWO-YEAR TERM ENDING JUNE 30, 2023**

Resolution No: 2021-36

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

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

4. CEREMONIES

A. Asian American and Pacific Islander Heritage Month Proclamation

Mayor Mills read the Proclamation into the record.

Motion by Councilmember Humbert, seconded by Councilmember Blackhurst, to approve the Proclamation. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

B. Military Appreciation Month Proclamation

Councilmember Watts read the Proclamation into the record.

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

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

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

P.J. Kite, Brighton. Mr. Kite thanked Council for the work done on Medical Center Drive and for getting the City through the pandemic.

Megan Augustine, Brighton. Ms. Augustine expressed concern regarding the court system, loss of jobs during COVID, the inability to attend funerals and visit family in the hospital during COVID.

6. PUBLIC HEARINGS

7. ORDINANCES FOR INITIAL CONSIDERATION

8. ORDINANCES FOR FINAL CONSIDERATION

9. RESOLUTIONS

10. UTILITIES BUSINESS ITEMS

Ordinances

- A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING TITLE 14 OF THE BRIGHTON MUNICIPAL CODE PERTAINING TO STORM DRAINAGE MAINTENANCE FEES AND CHARGES ASSESSED BY THE CITY OF BRIGHTON; SETTING FORTH EFFECTIVE DATES FOR SAID RATES, FEES AND CHARGES; AND OTHER DETAILS RELATED THERETO (FIRST READING)**

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

City Manager Jane Bais DiSessa introduced Finance Director Maria Ostrom and Utilities Director Brett Sherman.

Finance Director Maria Ostrom presented a proposal to determine if City Council would like to make changes to the Storm Drainage Maintenance Fees and Charges. Stantec was the consultant chosen by Council to complete the rate study. There will not be a change to the residential rate that is currently \$5.50 per month. There will not be a change to the impact fee, this is paid by the developer, they pay \$4,580 per single-family detached home. All other development, largely commercial businesses would be assessed based on the impervious area on their property and would be billed monthly. The rate consultant recommended that Council consider phasing in the increase over a three-year period; 1/3 in the first year, 2/3 in the second year and the full amount in the third year. This also allows staff to educate and prepare the community regarding this fee. At Council direction, staff researched a program to credit eligible properties for owners that have made improvements to their site that offset or mitigate storm drainage issues.

Utilities Director Brett Sherman explained that the purpose of the City's Stormwater Program is to coordinate the implementation and enforcement of stormwater runoff in accordance with the MS4 (Municipal Separate Storm Sewer System) Permit. The goal is to protect the City's natural resources to ensure public safety and ensure compliance with state and federal regulations. Compliance with the MS4 permit prevents pollution in streams so the stormwater going into the river does not pollute the river. The permit allows the City to discharge the storm drainage into streams, lakes and other bodies of water. The Stormwater Program allows the City to do this efficiently and cleanly. The MS4 permit requirements include public outreach and education, construction oversight and inspection to prevent contamination, and oversight of the City's operations to ensure compliance. These measures help to reduce the amount of flooding throughout the City. Impervious surfaces in the City help to transport water into the storm drainage system through catch basins. The water on pervious surfaces like grass around a house, trickles into the groundwater table and is not contributing to the stormwater system. The amount of impervious surface on a property is how municipalities determine the impact to the stormwater system.

Director Ostrom explained that the majority of the accounts in the utility system are single-family homes. The rate consultant used single-family homes to determine the unit of measurement. Whatever the average impervious area is for a single-family home will become the EQR (Equivalent Residential Unit). This is a common way to establish the EQR and helps to determine how commercial, industrial and non-residential properties should be assessed. This rate is currently \$5.50 per month and will remain at that amount. One EQR is the equivalent of 3,164 sq. ft. The impervious area of each non-residential property in the City is measured to determine what each property should pay. Staff is proposing that this fee should be phased in over three years; 1/3 the first year, 2/3 the second year and the full amount in the third year. A property consisting of 87,841 sq. ft., calculated at 27.7626 EQR's would pay \$152.69 per month in the third year. The fee being proposed is mid-range with what other municipalities are charging.

Director Sherman presented the credit program for eligible properties. This credit is for property owners that have taken extensive measures to take care of the runoff on their property. If the property owner can demonstrate that these improvements are working to the City's satisfaction they can apply

for the credit. This credit is good for three years, the property owner can then apply for a renewal. The reduction can be up to 65% for non-residential properties. The credit components consist of discharge quality, quantity and self-maintenance.

Director Ostrom explained that the rate for EQR for non-residential properties would be \$1.83 the first year, \$3.67 the second year and \$5.50 the third year. This will be effective for bills dated January 2022 or later.

Director Ostrom, Director Sherman, Acting City Attorney McClelland and City Manager Bais DiSessa answered questions from Council regarding:

- The credit program run in three year increments in perpetuity or will it move to a full fee.
- The issue with the water not draining in the presented model.
- There being another plan for the areas not covered by the North Outfall improvements.
- The additional funds from commercial properties being used to upgrade resources and for maintenance and clean-up of water.
- A plan to clean the South Outfall.
- An Economic Development aspect that has been considered with these changes.
- The amount the bills would be increased and the current calculation.
- The amount being compared to other cities being the total increase after three years.
- The length of time other cities have charted these fees.
- The reason Commerce City is not listed.
- The assessment for Commerce City coming from South Adams.
- The reason industrial users are not included in this.
- The possibility that a small business may only pay \$5.00 to \$15.00 more per month.
- The possibility that a business could pay double what they are paying now.
- There being concern for churches and not small businesses.
- The ability to assess fees by the size of the business based on the number of employees.
- Arrangements being made for churches that have made storm water improvements on their property.

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

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING TITLE 13 OF THE BRIGHTON MUNICIPAL CODE PERTAINING TO WATER DEDICATION AND PLANT INVESTMENT FEES ASSESSED BY THE CITY OF BRIGHTON; SETTING FORTH EFFECTIVE DATES FOR SAID DEDICATION AND FEES; AND OTHER DETAILS RELATED THERETO (FIRST READING)

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

City Manager Bais DiSessa introduced Assistant Director of Utilities Brad Dallam.

Assistant Director of Utilities Brad Dallam presented the Water Dedication and Plant Investment Fees. The last update of the water dedication was in 1984. White Sands presented this item to Council on October 27, 2020 and again on March 23, 2021. Based on the study, White Sands recommended that the City require .04 of an acre foot of water per household, this is in line with the comparison of other municipalities. The comparison for multi-family is for .27 acre feet per unit, this is mid-range with other municipalities. For all other properties, the developer will provide a professional engineers report with expected water usage. This information will be verified by staff and the amount to be dedicated will be determined. Any school coming into the City would provide a report from an engineer detailing the amount of use for the facility. Staff would compare this to other schools and would make a recommendation to City Council to determine the dedication. City staff prefers to have water rights

instead of fees, but there are existing agreements that allow the payment of fees. Staff is trying to get the amount of money to offset the current market value of the water rights. A single-family lot is presently approximately \$11,000 per unit, this would go to \$27,842 for five lots per acre. A multi-family is \$11,783. The current Code is \$11,000 for the first unit and \$5,653 for each additional unit. All other developments use \$59,239 per acre as a basis for the fee. The proposed Ordinance effective January 1, 2022 would allow any developer to adjust their annual budget. The water dedication would match the amount needed to support the development and the fee-in-lieu for the developers should reflect the actual market cost so it is equitable for the developer and the existing residents.

Assistant Director of Utilities Brad Dallam, Utilities Director Brett Sherman, City Manager Jane Bais DiSessa and Acting City Attorney Lena McClelland answered questions from Council regarding:

- Concern regarding the effect on low income housing.*
- An amendment being proposed to the existing Ordinance.*
- The preference of staff to get water shares and not a fee-in-lieu.*
- The ability for staff to demand water shares.*
- The options to bring any changes forward at final reading.*
- Final reading of the Ordinance including any changes made tonight.*
- Staff knowing that a developer possesses water rights.*
- It being legal to set a fee-in-lieu of water over the going rate.*
- The contractual obligations for a fee-in-lieu that the City previously entered into.*
- The City's fee being so low the developer will not buy water.*
- The date this item would be brought back to City Council with changes.*
- The need to assess the fees regularly.*

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Jordinelli, to approve the Ordinance. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

Mayor Mills called for a break at 8:26 p.m.

Mayor Mills reconvened the meeting at 8:37 p.m.

Resolutions

- C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING THE AGREEMENT BETWEEN THE CITY OF BRIGHTON AND THE BRIGHTON DITCH COMPANY AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY AND TO UNDERTAKE SUCH TASKS AS MAY BE REQUIRED TO IMPLEMENT THE PROVISIONS OF THE AGREEMENT ON BEHALF OF THE CITY**

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

City Manager Bais DiSessa introduced Water Resources Engineer Austin Creswell.

Water Resources Engineer Austin Creswell presented the Agreement with the Brighton Ditch Company. The diversion structure on the river is how the City moves water into and out of the Ken Mitchell Cell 1 reservoir. Across the river is the Brighton Ditch diversion structure and dam that raises the water levels so they can get better flow through their ditch. Between their dam and the City's diversion structure is a berm. A lot of damage was caused by a flood in 2015. The City's diversion structure was completely washed out and the Brighton Ditch also sustained a lot of damage. Some temporary repairs were done, the river bank and diversion structure were rebuilt with the intention of making more permanent repairs in the future. The City of Brighton and Brighton Ditch have been in discussions recently to make improvements that would prevent damage in a future flood. Staff would

like to construct a more permanent bank stabilization with a high-flow channel to safely pass floods. The City and Brighton Ditch would like to work together for a common solution that would benefit both parties. Due to the dam, sedimentation is a problem for Brighton's diversion structure. Staff would like to add engineered structures that will improve the flow and sediment transport through this area to maintain a water pool in the area to divert water when needed. This agreement would allow both entities to work together to apply for grant funding with the Colorado Water Conservation Board. The grant would be for the design and construction of the needed improvements. There are no determined costs at this time, just the agreement for the City and Brighton Ditch to work together. Staff would return to Council when costs are available to get approval for design and construction.

Motion by Councilmember Jordinelli, seconded by Councilmember Watts, to approve Resolution 2021-37. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

11. GENERAL BUSINESS

A. Review of COVID Statistics

Assistant City Manager Michael Martinez presented the updated COVID statistics.

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Pollack, to rescind the face covering mandate from City buildings, to rescind the Emergency Declaration, and to return to in-person City Council meetings on June 1, 2021. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

12. REPORTS

A. By the Mayor

Mayor Mills attended the Brighton Economic Development Corporation meeting and the Adams County Regional Economic Partnership meeting.

B. By Department Heads

C. By the City Attorney

D. By the City Manager

City Manager Bais DiSessa announced that Representative Jason Crow has recommended federal funding for the I-76 and Bridge Street Interchange project

13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Councilmember Cushing met with Housing Authority Executive Director Joseph Espinosa.

Councilmember Humbert reported that Kuner Row is up for historic designation.

Councilmember Jordinelli attended the Cultural Arts Commission meeting and reported that PBS will air a show about the Historic Buddhist Temple.

Councilmember Taddeo met with Housing Authority Executive Director Joseph Espinosa and attended the Arbor Day event.

Councilmember Watts participated in the Taste of Brighton and reported that Flix and Kicks begins on June 17th and Summerfest is June 5th.

14. EXECUTIVE SESSION

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Watts, to go into Executive Session at 9:16 p.m. for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving; any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees regarding City Attorney Recruitment. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

Mayor Mills reconvened the meeting at 10:30 p.m.

15. ADJOURNMENT

Mayor Mills adjourned the meeting at 10:31 p.m.

CITY OF BRIGHTON, COLORADO

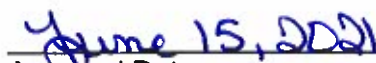


Gregory Mills, Mayor

ATTEST:



Natalie Hoel, City Clerk



Approval Date