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City of Brighton

500 S. 4th Avenue  
Brighton, CO 80601



Meeting Minutes - Draft

Tuesday, September 5, 2017

7:00 PM

## Council Chambers

### City Council

**MAYOR - RICHARD N MCLEAN**  
**MAYOR PRO-TEM - KEN KREUTZER**  
**COUNCIL MEMBERS:**  
**LYNN BACA, REX BELL, JW EDWARDS**  
**MARK HUMBERT, JOAN KNISS,**  
**MARY ELLEN POLLACK, KIRBY WALLIN**

#### 1. CALL TO ORDER

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

##### A. Pledge of Allegiance to the American Flag.

*Eagle Scout Nathan Farina led the recitation of the Pledge of Allegiance to the American Flag.*

##### B. Roll Call.

**Present:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Not Present:** 1 - Councilmember Baca

#### 2. CONSENT AGENDA

##### A. Approval of the August 1, 2017 City Council Minutes

**Motion by Councilmember Bell, seconded by Councilmember Kniss, to approve the Consent Agenda as presented. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

#### 3. APPROVAL OF REGULAR AGENDA

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

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

#### **4. CEREMONIES**

##### **A. Recognition of Eagle Scout Nathan Farina**

*Mayor McLean recognized Eagle Scout Nathan Farina.*

##### **B. National Ovarian Cancer Awareness Month Proclamation**

*Mayor Pro Tem Kreutzer read the Proclamation into the record.*

**Motion by Councilmember Edwards, seconded by Councilmember Pollack, to approve the Proclamation. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

##### **C. Recognition of City of Brighton Summer Interns**

*Youth Services Coordinator Tawnya Russell introduced the members of the Growing Grads Summer Intern Program.*

*Mayor McLean and City Council thanked them for their service to the City of Brighton.*

##### **D. Introduction of New Employees by Chief of Police Paul Southard**

*Chief of Police Paul Southard introduced new Police Officers Jose Romo-Espinosa, Xavier Lastra, Mark Kubic, Lou Guida, Travis Fleming, and Joshua Justis and gave a brief history of their background.*

*Mayor McLean and City Council welcomed the new employees to the City of Brighton.*

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

*Orlo Petersen, 16207 East 144<sup>th</sup> Avenue, Brighton. Mr. Petersen presented City Council with a handout and expressed his concern after being contacted by an attorney representing Colorado Homes asking Mr. Petersen and his neighbors to vacate a portion of their land for the construction of 19<sup>th</sup> Avenue from 144<sup>th</sup> Avenue to Bellflower Drive.*

*Shereen Fink, 14551 Akron Street, Brighton and Serafina Garza, 628 East Bridge Street, Brighton. Ms. Fink and Ms. Garza announced a benefit for the business owners that suffered such a loss during the June 2<sup>nd</sup> fire on North Main Street at Jordinelli's on September 16, 2017 from 12:00 p.m. to 5:00 p.m.*

#### **6. PUBLIC HEARINGS**

#### **7. ORDINANCES FOR INITIAL CONSIDERATION**

##### **A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, VACATING**

**AN EASEMENT, SITUATED IN THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, ADAMS COUNTY, COLORADO**

*Mayor McLean read the title of the Ordinance into the record.*

*Assistant City Manager of Development Chontel Trujillo introduced Senior Planner Lauren Simmons.*

*Senior Planner Lauren Simmons presented the vacation of the Orchard Church northern drainage easement. The applicant and property owner is the Orchard Church. Recently the Final Plat for the Orchard Church was approved by City Council. At that time, the City was working on the drainage plan for this Property and was also working on the Stormwater Master Plan. At that time, staff was not sure where the regional drainage easement would be located, either on the north or south portion of the Orchard Church property. Since that has now been settled, the Orchard Church is now asking for the vacation of the northern, or unused drainage easement. The easement is 84' wide and has no infrastructure in the easement, and the property is currently zoned R-2. The City will use the drainage easement on the southern edge of the property that has already been dedicated. When the City negotiated the Development Agreement there were terms in the Development Agreement that stated the City would vacate the unused easement. Staff recommends approval of this request.*

**Motion by Councilmember Bell, seconded by Councilmember Humbert, to approve the Ordinance vacating an easement, situated in the south half of the southwest quarter of Section 36, township 1 south, range 67 west of the 6<sup>th</sup> principal meridian, City of Brighton, Adams County, Colorado. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**8. ORDINANCES FOR FINAL CONSIDERATION**

**A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO REPEALING SPECIFIED SECTIONS OF THE BRIGHTON LAND USE AND DEVELOPMENT CODE RELATED TO POLITICAL SIGNS; AND, SETTING FORTH DETAILS IN RELATION THERETO**

*Mayor McLean read the title of the Ordinance into the record.*

*Associate Planner Mike Tylka announced that there have not been any changes to the Ordinance since first reading.*

*Mayor McLean asked if there were any comments from the audience on the second reading of the Ordinance, there were none.*

**Motion by Councilmember Kniss, seconded by Councilmember Humbert, to approve Ordinance 2265 repealing specified sections of the Brighton Land Use and Development Code related to political signs; and, setting forth details in relation thereto. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**9. RESOLUTIONS**

**A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, CONSENTING TO AN ADJUSTMENT OF THE COMBINED MILL LEVY AUTHORIZED BY THE SERVICE PLANS FOR PRAIRIE CENTER METROPOLITAN DISTRICTS NOS. 2, 3, 4, 5, 6, 7, 8, 9 AND 10**

*Mayor McLean read the title of the Resolution into the record.*

*Assistant City Manager of Operations Chontel Trujillo introduced Special Counsel Sally Tasker.*

*Special Counsel Sally Tasker, Butler Snow, Denver. Ms. Tasker explained that in 2006 City Council approved Service Plans for the Prairie Center Metro Districts in connection with the Prairie Center Development and they have since issued some bonds. This year, in connection with the issuance of refunding bonds they discovered a mistake in their Service Plans that is inconsistent with the Model Service Plan that was recently approved by the Council. The Model Service Plan sets mill levy limits that a district can impose for debt service and operation and maintenance. The Model Service Plan provides 50 mills for debt service and 60 combined mills (i.e., debt service and O&M). Prairie Center did 50 mills for debt service and 60 mills for combined. The Model Service Plans allows for adjustments as the assessment ratios are adjusted for calculating assessed value, according to the Gallagher Amendment. Since this mistake was made and Prairie Center did not include this in the combined mill levy, the debt service mill levy goes up under their bonds and there is not enough mill levy left to do operation and maintenance. Prairie Center is asking for Council to consent to them rectifying this mistake. Special Counsel spoke with Kathy Kanda and she indicated this was inadvertent. Staff feels this is a reasonable request and it would avoid unintended consequences. Staff recommends approval of the request.*

**Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Edwards, to approve Resolution 2017-96 consenting to an adjustment of the combined mill levy authorized by the service plans for Prairie Center Metropolitan Districts Nos. 2, 3, 4, 5, 6, 7, 8, 9 and 10. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**B. A RESOLUTION SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY AT THE REGULAR ELECTION TO BE HELD ON NOVEMBER 7, 2017 A BALLOT ISSUE AND TITLE CONCERNING AN INCREASE IN THE CITY'S USE TAX**

*Mayor McLean read the title of the Resolution into the record.*

*Assistant City Manager of Operations Chontel Trujillo introduced Assistant Finance Director Janet Tennant.*

*Assistant Finance Director Janet Tennant presented a Resolution submitting a ballot issue for November 7, 2017 concerning the City's Use tax. The City is growing and in order to provide the services that are expected and expand services in the future the City is exploring additional revenue sources. Expanding the existing Use tax will not only bring in much needed revenue but also put the City in a comparable position with other cities in the Metro Area. The cost to provide services is outpacing current revenue streams and continues to create constraints on the budget. These services include public safety, streets maintenance and improvement, parks and recreation, code enforcement, general services and internal support services. General Use tax is imposed on the use, storage, or consumption of tangible personal property or taxable services like supplies, fixtures, furniture or equipment not applicable to inventory when the City's sales tax has not been collected by the seller. The current Use tax rate is 3.75% (limited to construction materials and motor vehicles) and is paid directly to the City on the sales and Use tax return. The Use tax protects Brighton sellers when out of city retailers make sales to Brighton businesses without collecting sales tax. The use tax that Brighton currently applies is strictly prohibited to construction and building materials and motor vehicle registration. The new use*

tax, which would go into effect January 1, 2018, will impact new businesses that purchase new equipment, furnishings, fixtures, machinery and other personal property. Existing businesses would be subject to use tax on these kinds of purchases in 2018.

**Motion by Councilmember Bell, seconded by Councilmember Edwards, to approve Resolution 2017-97 submitting to the registered electors of the City at the Regular Election to be held on November 7, 2017 a ballot issue and title concerning an increase in the City's use tax. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO CERTIFYING THE BALLOT CONTENT FOR THE COORDINATED MAIL BALLOT ELECTION TO BE HELD ON NOVEMBER 7, 2017; AND SETTING FORTH OTHER DETAILS RELATED THERETO**

*Mayor McLean read the title of the Resolution into the record.*

*Assistant City Manager of Operations Chontel Trujillo introduced City Clerk Natalie Hoel.*

*City Clerk Natalie Hoel explained that this Resolution will set the ballot order for Mayor and Councilmember candidates and approve the ballot content for the use tax question for the November 7, 2017 Coordinated Election with Adams and Weld Counties.*

**Motion by Councilmember Humbert, seconded by Councilmember Kniss, to approve Resolution 2017-98 certifying the ballot content for the Coordinated Mail Ballot Election to be held on November 7, 2017; and setting forth other details related thereto. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**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, AUTHORIZING THE PURCHASE OF THREE (3) SHARES OF FULTON IRRIGATING DITCH COMPANY FROM ARCUS SOUTHGATE LLC (SELLER) FOR THE TOTAL NOT TO EXCEED SUM OF EIGHTY ONE THOUSAND DOLLARS (\$81,000.00); APPROVING A SUPPLEMENTAL APPROPRIATION FROM THE WATER ENTERPRISE FUND IN THE AMOUNT OF EIGHTY ONE THOUSAND DOLLARS (\$81,000.00); AND AUTHORIZING THE ACTING CITY MANAGER TO UNDERTAKE SUCH TASKS AND EXECUTE SUCH DOCUMENTS AS MAY BE REQUIRED TO CONSUMMATE THE PURCHASE ON BEHALF OF THE CITY**

*Mayor McLean read the title of the Resolution into the record.*

*Utilities Director Curt Bauers explained that this item is related to the purchase of small amounts of water rights from property developers which were in excess of their water dedication requirements based on their projected demands of their developments. This purchase is for three (3) shares of Fulton Irrigating Ditch Company which was equal to just more than 4.5 acre feet of water for a total of \$81,000.00. Because these purchases were not anticipated, staff is requesting a supplemental budget appropriation from the Water Enterprise Fund restricted for water acquisitions in the amount of \$81,000.00 and authorization to execute closing on this purchase.*

**Motion by Councilmember Kniss, seconded by Councilmember Bell, to approve Resolution 2017-99 acting by and through its Water Activity Enterprise, authorizing the purchase of three (3) shares of Fulton Irrigating Ditch Company from Arcus Southgate LLC (seller) for the total not to exceed sum of \$81,000.00; approving a supplemental appropriation from the Water Enterprise Fund in the amount of \$81,000.00; and authorizing the Acting City Manager to undertake such tasks and execute such documents as may be required to consummate the purchase on behalf of the City. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, AUTHORIZING THE PURCHASE OF THREE AND 79/100 (3.79) SHARES OF BURLINGTON DITCH, RESERVOIR AND LAND COMPANY (“BURLINGTON SHARES”) AND THREE AND 79/100 (3.79) SHARES OF BRIGHTON LATERAL DITCH COMPANY (“LATERAL SHARES”) FROM ORCHARD CHURCH (SELLER) FOR THE TOTAL NOT TO EXCEED SUM OF NINETY FOUR THOUSAND, SEVEN HUNDRED AND FIFTY DOLLARS (\$94,750.00); APPROVING A SUPPLEMENTAL APPROPRIATION FROM THE WATER ENTERPRISE FUND IN THE AMOUNT OF NINETY FOUR THOUSAND, SEVEN HUNDRED AND FIFTY DOLLARS; AND AUTHORIZING THE ACTING CITY MANAGER TO UNDERTAKE SUCH TASKS AND EXECUTE SUCH DOCUMENTS AS MAY BE REQUIRED TO CONSUMMATE THE PURCHASE ON BEHALF OF THE CITY**

*Mayor McLean read the title of the Resolution into the record.*

*Utilities Director Curt Bauers explained that the Orchard Church acquired a package of water rights. After meeting their dedication requirements for the Orchard Church Development, they had an excess of 3.79 shares of the Burlington Ditch Reservoir Land Company. Together with the equivalent 3.97 shares of the Brighton Lateral Company which is the carrier ditch for the conveyance of that water. The request is for the approval of \$94,750.00 as a supplemental appropriation to the 2017 budget from the Water Enterprise Fund restricted for water acquisitions and for authorization to move forward with this purchase.*

**Motion by Councilmember Wallin, seconded by Councilmember Edwards, to approve Resolution 2017-100 acting by and through its Water Activity Enterprise, authorizing the purchase of 3.79 shares of Burlington Ditch, Reservoir and Land Company (“Burlington Shares”) and 3.79 shares of Brighton Lateral Ditch Company (“Lateral Shares”) from Orchard Church (seller) for the total not to exceed sum of \$94,750.00; approving a supplemental appropriation from the Water Enterprise Fund in the amount of \$94,750.00; and authorizing the Acting City Manager to undertake such tasks and execute such documents as may be required to consummate the purchase on behalf of the City. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

Absent: 1 - Councilmember Baca

**11. GENERAL BUSINESS**

**12. REPORTS**

**A. By the Mayor.**

*Mayor McLean announced that there will be a car show at Eagle View Adult Center on Saturday.*

**B. By Department Heads.**

**C. By the City Attorney.**

**D. By the City Manager.**

**13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS**

*Mayor Pro Tem Kreutzer attended the ribbon cutting for Big Choice Brewery and called the Brighton High School and Prairie View High School football game.*

*Councilmember Kniss announced that the new Eye for Art Show reception will take place on September 29<sup>th</sup> with the pARTy bus traveling from the Armory to Main Street Gallery and City Hall. The Legacy Foundation will have a fundraiser at Lulu's Farm on Saturday, the grand opening of the new Fire Station will take place on Saturday, the Boys and Girls Club 10<sup>th</sup> Anniversary takes place on Saturday as well as the Chili Fest.*

*Councilmember Humbert announced that the Barr Lake Birding Festival will take place on Saturday, a masquerade ball for high school students at the Recreation Center and Heritage Day at the County.*

**14. EXECUTIVE SESSION**

**15. ADJOURNMENT**

**Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Humbert, to adjourn at 8:13 p.m. Motion passed by the following vote:**

**Aye:** 8 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

**Absent:** 1 - Councilmember Baca

**CITY OF BRIGHTON, COLORADO**

\_\_\_\_\_  
Richard N. McLean, Mayor

**ATTEST:**

\_\_\_\_\_  
Natalie Hoel, City Clerk

Approval Date