



Legislation Text

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## City Attorney

### STAFF REPORT

**Reference:** Ordinance to approve the leasing of City-owned mineral rights in Sections 3 (Adams County) and 34 (Weld County) to Petro Operating

**To:** Mayor Richard N. McLean and Members of City Council  
**Through:** Clint Blackhurst, Acting City Manager

Study Session Date: \_\_\_\_\_

£ City Attorney Approval \_\_\_\_\_

£ Finance Director Approval: \_\_\_\_\_

Regular Council Agenda Date: \_\_\_\_\_

£ City Manager Approval: \_\_\_\_\_

**Prepared By:** Matthew Sura Esq., Oil and Gas Special Counsel

**Date Prepared:** March 14, 2017

### PURPOSE

Consider an ordinance to lease City-owned minerals in Sections 3 Township 1 South, Range 66 West (Adams County) and Section 34 Township 1 North, Range 66 West to Petro-Operating Company, LLC. Ordinance will allow the Mayor to execute the lease on behalf of the City and the Acting City Manager to execute other documents and take other actions necessary for the implementation of the leases.

### BACKGROUND

1. The City owns an estimated 1,400 acres of surface lands within and near the City of Brighton. For most of these lands, the City owns at least some portion of the mineral rights.
2. In March 2015, the City passed amendments to its Municipal Code that would facilitate the development of oil and gas resources within the City of Brighton, while mitigating potential impacts to the City's groundwater resources as well as potential land use conflicts between such development and other land uses.
3. It has always been the objective of the City of Brighton to be open to leasing of its minerals and responsible development of resources, once the amendments to the City Code were in place.

4. The oil and gas industry is having good success in drilling and developing oil and gas wells in and around Brighton.
5. Over a year ago, Brighton received an offer from Petro Operating Company, LLC (“Petro Operating”) to lease City-owned minerals in Sections 3 Township 1 South, Range 66 West (Adams County) and in Section 34 Township 1 North, Range 66 West of the 6<sup>th</sup> P.M. (Weld County),
6. City staff met with Petro Operating to better understand its development plans. Over the next year, Petro Operating submitted an application to the City of Brighton and negotiated a Memorandum of Understanding as allowed under Brighton Code Section 17-64. The City of Brighton and Petro Operating entered into the Memorandum of Understanding on March 1<sup>st</sup>, 2017 and received permits to conduct oil and gas operations within the city limits of Brighton.
7. After several rounds of negotiations, Petro Operating has offered a 20% royalty rate and \$3,000 / acre bonus payment.
8. The total acreage requested is 36.1607 net mineral acres for a bonus payment of \$108,482.10. Details are below.

**Township 1 South, Range 66 West of the 6<sup>th</sup> P.M. Section 3: Part N/2, SW/4**

Gross Acres:           **37.57**  
Percentage Owned: **Varied**  
Net Acres:           **19.1607**  
Consideration:       **\$57,482.10**

**Township 1 North, Range 66 West of the 6<sup>th</sup> P.M. Section 34: Part SE/4**

Gross Acres:           **17**  
Percentage Owned: **100%**  
Net Acres:           **17**  
Consideration:       **\$51,000**

**TOTAL OF 36.1607 NET MINERAL ACRES**

**TOTAL OF \$108,482.10 BONUS PAYMENT**

9. The leases that have been negotiated are fair to the City. The lease terms are above the average rate in the area and the leases were written to ensure that there will be no drilling on the City property (no-surface occupancy).
10. The surface location chosen by Petro Operating to access the leased minerals should not adversely impact City residents.

**FINANCIAL IMPACT**

1. The fiscal impact to the City will be positive. The City owns 36.1607 net mineral acres in the two sections and will receive \$3,000 / acre totaling \$108,482.10 for the bonus payment alone.
2. The royalty rate is 20% which should bring a good return to the City, depending on the number of wells drilled and the production from those wells. The production will likely be greatest in the first three years, and then will start declining rapidly.

**OPTIONS FOR CITY COUNCIL CONSIDERATION**

The Council may take any of the following actions:

1. Pass the ordinance by finding that entering into the leases is in the best interests of the City and authorize actions of the Mayor and Acting City Manager to execute and implement the leases.
2. Reject the proposed Ordinance
3. Postpone consideration of the proposed ordinance

### **STAFF RECOMMENDATION**

Staff recommends approval of the attached ordinance. The Staff believes that it is in the best interests of the City to prevent its minerals from being forced pooled by entering into a lease agreement. Staff finds the terms of the lease fair and acceptable.

### **ATTACHMENTS**

- Proposed lease between the City of Brighton and Petro Operating
- Order of Payment for acreage requested for lease
- City of Brighton leasing policy