



## Legislation Details (With Text)

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## City of Brighton

500 S. 4th Avenue  
Brighton, CO 80601



## Meeting Minutes - Draft

**Tuesday, February 6, 2018**

**7:00 PM**

## Council Chambers

### City Council

**MAYOR - KENNETH J. KREUTZER**

**MAYOR PRO-TEM - JW EDWARDS**

**COUNCIL MEMBERS:**

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

#### **1. CALL TO ORDER**

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

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

*Mayor Kreutzer led the recitation of the Pledge of Allegiance to the American Flag.*

##### **B. Roll Call.**

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

#### **2. APPROVAL OF REGULAR AGENDA**

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

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

#### **3. CONSENT AGENDA**

##### **A. Approval of the January 2, 2018 Outgoing City Council Minutes**

##### **B. Approval of the January 2, 2018 Incoming City Council Minutes**

##### **C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON,**

COLORADO, ACCEPTING THE PROPOSAL OF FEHR & PEERS, AND AWARDING THE CONTRACT FOR THE VISION ZERO AND SCHOOL ZONE SAFETY ACTION PLAN, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SIX THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$106,680.00) TO FEHR & PEERS; AUTHORIZING A 2018 GENERAL FUND BUDGET AMENDMENT IN THE AMOUNT OF ONE HUNDRED SIX THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$106,680.00); AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO

Resolution No: 2018-16

**D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING COUNCILMEMBER GREGORY MILLS AS AN ALTERNATE TO THE NATA BOARD**

Resolution No: 2018-17

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

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

**4. CEREMONIES**

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

**6. PUBLIC HEARINGS**

**A. AN ORDINANCE OF THE CITY OF BRIGHTON CITY COUNCIL, APPROVING THE REZONING OF AN APPROXIMATELY 14.18 ACRE AREA OF LAND GENERALLY LOCATED IN THE NORTHWEST QUARTER OF SECTION 14, 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 BP (BUSINESS PARK) TO A ZONING DESIGNATION OF C-3 (GENERAL RETAIL AND SERVICES)**

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

*Mayor Kreutzer opened the public hearing at 7:04 p.m. and City Clerk Natalie Hoel verified the required postings and publications (January 17, 2018 in the Brighton Standard Blade) for this public hearing were completed.*

*City Manager Philip Rodriguez introduced Associate Planner Mike Tylka.*

*Associate Planner Mike Tylka presented the request to rezone the property known as the Bromley Interchange Subdivision. The applicant and owner of half of the subject property is Mick Leigh, Leigh Enterprises. Kum & Go, KG Store 939, LLC is the owner of the other half of the property. The property is located southeast of I-76 and south of Bromley Lane. This request includes three (3) parcels totaling 14.18 acres of land. Lot 1 is owned by KG Store 939, LLC and is where the new Kum and Go is being constructed. Lot 2 of the subdivision is owned by Leigh Enterprises and is currently vacant. The other property owned by Leigh Enterprises is*

completely under an easement by South Beebe Metropolitan District for a regional drainage facility. The request is to change the zoning of the three-parcel development from BP (Business Park) to C-3 (General Retail and Services). Kum and Go has provided its consent to the re-zoning request. The surrounding users to the north are industrial, commercial developments within the City limits, to the west are commercial users within the City limits, to the south, and east there are large lot residential properties in unincorporated Adams County.

The subject property was annexed as part of the Bromley Hill annexation in 2007. At that time the entire 14.1 acres of developable land was zoned (BP) Business Park. Shortly thereafter, the South Beebe Metro District removed 6.018 acres from the developable land as they placed a drainage easement and the regional drainage infrastructure on that land. This left just over eight acres to develop as a business park. In 2006, the current owner was approached by Kum and Go to develop just over five of those acres. The Business Park zone district is designated to be for multiple lots that act as a single business park with a common design where supporting users are allowed with primary users. In the Business Park zone district, the supporting uses are only allowed with a primary use on another parcel. As such, the current use on Lot 1, the Kum and Go gas station and convenience store was required to obtain a conditional use permit in order to operate as that use, on that site, as that supporting use. Lot 2 is currently undeveloped and is limited by the current zoning as a use being a primary use such as a professional or medical office or light manufacturing facility. Mr. Leigh would like to open up Lot 2 to a wider variety of users. Staff agrees with the determination by the owner and by the market conditions that the remaining 2.8 acres will continue to struggle to find a primary user as identified in the Business Park zone district given its size. All three lots need to be rezoned so there is not a non-conforming Business Park zone district.

The Comprehensive Plan designates this area as appropriate for Employment-Commercial and the C-3 zone district is listed as an appropriate designation within that district. The Code states that the C-3 district is intended for general retail and services that provide the broadest scope of compatible services and products for both the general and traveling public. It further outlines that these areas should be along major arterials or at major intersections. This site meets those criteria. The Land Use and Development Code criteria requires that the request complies with the Comprehensive Plan and other Master Plans of the City. The rezoning will comply with the Comprehensive Plan which indicates that the property be designated as Employment-Commercial. The request must comply with the requirements of the Land Use and Development Code and the zone district. The subject property complies with the Land Use and Development Code. The request meets the requirements for C-3 in terms of setbacks, lot size, etc., and the development will be completed accordingly. The request must provide consistency with the purpose and intent of the Land Use and Development Code. The rezoning will facilitate orderly growth in the expansion of the City and will allow the property owner to market the property to a greater number of users. The request must provide compatibility with the surrounding areas is harmonious with the neighborhood and is not detrimental to the immediate area, the future development of the area or, the health, safety, and welfare of the inhabitants of the City. The zoning designation of C-3 allows the lot to be developed by a greater variety of users that can be thought of to support the Brighton residents and workers. The area already contains a mix of commercial and industrial users as demonstrated, and the nearby-unincorporated County large lot residential areas to the southeast are separated by a railroad track and sizable easement that acts as a buffer.

Public notice was provided in accordance with the Land Use and Development Code on January 19, 2018 and no formal comments have been received. The Planning Commission voted to recommend approval of the request as presented on January 19, 2018. Staff recommends approval of the request.

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

Michael Leigh, 515 Daylight Court, Brighton. Mr. Leigh thanked staff for their help during this process. Mr. Leigh reported that there are up to thirty trains that pass close to this property each day. This is not the appropriate site for a daycare, medical site or business park; he has tried to find those users for this property. There is currently a five acre undeveloped site on the Transwest property on Bromley Lane that is currently zoned commercial. A zone change was approved for the intersection of Eagle Boulevard to a commercial zone. This is the last remaining Business Park zoned piece of property on the eastern edge of the City. Mr. Leigh hopes that the zone change will help to attract new businesses and create new jobs into the area. Mr. Leigh reported that the utilities are already in the area, he has obtained a site location permit from the City, the storm infrastructure has been completed, the South Beebe Metro District approval letters have been approved and the lot has been accepted into the Metro District, the water shares have been paid for, so the lot is build

ready. The road to access the property is a private road with an access agreement between Lot 2 and Kum & Go; this also serves as an easement for South Beebe to maintain the six-acre drainage easement. Mr. Leigh asked for Council's approval of the zoning request.

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

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

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

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

Mayor Kreutzer asked if there were questions from City Council.

Councilmember Blackhurst asked why there is a request to rezone a retention pond. Planner Tylka explained that the Business Park zone district is meant to act as multiple parcels acting together so if the piece in the middle is the only parcel rezoned, this would create a non-conforming use on Lot 1. The drainage pond would not be able to develop as a business park. Councilmember Blackhurst asked if there was a possibility that sometime in the future it could be vacated as a drainage area and could then be used and developed. Mr. Leigh explained that the infrastructure supports the City's storm system so it would be a non-buildable lot.

Councilmember Baca asked if the conditional use permit was presented to City Council in 2016. Planner Tylka stated that it was. Councilmember Baca asked if the conditional use was to change Lot 1 from Business Park to Commercial. Planner Tylka explained that it was just for Lot 1 to allow the supporting use prior to the primary use being developed. Councilmember Baca stated that it makes sense to have Lot 2 have the same zoning as Lot 1, but does not understand why this was not all brought forward at the same time. Mr. Leigh explained that when the property was subdivided and developed from a vacant fourteen-acre parcel with Kum & Go as the Lot 1 primary user, Kum & Go did not want the entire parcel. At that time, staff requested that under the subdivision agreement, the property be separated into those parcels. The vacant South Beebe easement for the drainage channel remained a separate parcel unto itself, because at that time if it had been included in the plat, Mr. Leigh would have had to provide water shares to the City for a six-acre drainage parcel. When water shares were obtained for the subdivision and development agreement, it only encompassed Lots 1 and 2. Staff recommended that instead of going for the subdivision agreement and a zone change at that time, the conditional use for Kum & Go was done under the Business Park zoning standards so it would be a nice project at I-76 and Bromley Lane. Councilmember Baca asked if water shares were received for Lots 1 and 2. Planner Tylka stated that they were.

Mayor Kreutzer closed the public hearing at 7:21 p.m.

**Motion by Councilmember Humbert, seconded by Councilmember Johnston, to approve the Ordinance approving the rezoning of an approximately 14.18 acre area of land generally located in the northwest quarter of section 14, township 1 south, range 66 west of the 6<sup>th</sup> principal meridian, City of Brighton, County of Adams, State of Colorado, from a zoning designation of BP (Business Park) to a zoning designation of C-3 (General Retail and Services). Motion passed by the following vote:**

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

**B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO REPEALING AND REENACTING SPECIFIED SECTIONS OF THE BRIGHTON MUNICIPAL CODE RELATED TO MOBILE VENDORS; AND, SETTING FORTH DETAILS IN RELATION THERETO (FIRST READING)**

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

Mayor Kreutzer opened the public hearing at 7:22 p.m. and City Clerk Natalie Hoel verified the required

postings and publications (January 17, 2018 in the Brighton Standard Blade) for this public hearing were completed.

City Manager Philip Rodriguez introduced Associate Planner Josh Tetzlaff.

Associate Planner Josh Tetzlaff presented the Code amendment for the existing Mobile Vending regulations to include all outdoor vending. This is a request from City Council earlier in the year to review the Mobile Vending Regulations to ensure they are meeting the needs of the City and its citizens. The existing regulations were approved in 2004 and at that time, mobile vending was a smaller business than it is now. The regulations were written to treat all vendors the same regardless of location. Since that time, outdoor vending has grown in popularity whether in food or other areas. Staff has received calls wishing to start outdoor vending businesses, but due to the existing Code have been unable to.

After reviewing several Colorado cities vending regulations, as well as cities across the country, staff worked with internal and external agencies to put together these vending regulations. Staff met with the downtown business owners to get their input regarding the amendment to the Code. This was presented to the Planning Commission on December 12, 2017 and at that time, the Planning Commission voted to approve the regulations after a discussion regarding what is allowed and not allowed under the proposed regulations.

The proposed Code amendment would open up outdoor vending to most of the City, but would regulate depending on location. The most noticeable difference would be whether the vendor wants to vend from a public right-of-way, which is most often seen as vending from the street, versus vending from a private property. Another difference to the regulations is based on whether the vending would occur in residential areas, commercial and industrial areas, or downtown. The proposed Code amendment is highly restrictive in residential areas and is intended to support vendors such as ice cream carts. In commercial and industrial areas, the proposed Code amendment allows for more vending. In the downtown zoning areas, there are special restrictions to help preserve the existing downtown investment.

Staff is also proposing minor modifications to two other sections of the Code. A change to Chapter 5 involves changing a definition on a business license to reference outdoor vending instead of mobile vending. The other modification is to Chapter 17 and is a short reference to the sale of items from temporary stands. Staff is proposing to remove this language in Chapter 17 entirely so that all outdoor vending regulations are found in one place in the Code, making it easy for both regulators and those looking to vend.

Notice of the hearing was published in the Brighton Blade on January 17, 2018. Staff has not received any formal comments regarding this Code amendment. Staff recommends approval of the Code amendment.

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

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

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

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

Mayor Kreutzer asked if there were questions from City Council.

Councilmember Johnston asked for a summary of the Planning Commission discussion and asked if there were any "no" votes. Planner Tetzlaff reported that the discussion touched on mobile vending at a private residence, loud music allowed from vending vehicles in a residential area, and explained that the vote was approved unanimously.

Councilmember Humbert asked what was taken away from the Downtown Partnership meeting. Planner Tetzlaff explained that the planned amendment to the Code was still in the conceptual stage at that time but there was not any pushback at that meeting. Many of the downtown businesses were excited about the changes in hopes that it would bring more visitors to the downtown area.

Mayor Kreutzer asked for a definition of "School District land" since a vendor must obtain written permission to be there. Planner Tetzlaff explained that the idea is that a vendor would have to get permission to be on any

property adjacent to or on property owned by the School District. This will prevent a vendor from selling food at a football game when the school has a concession stand. A vendor would need permission from the City to sell food at a park.

Councilmember Wallin referenced Section 5-98-50 regarding the distance vending must be from a park without needing a permit and vending in the Downtown zone district. Councilmember Wallin expressed his understanding that the Downtown Partnership was in favor of vendors that are associated with a business in order to take up the valuable space in front of the business. If a vendor is set up in a residential zone, the food must be prepared at another location, not cooked on the street, but a vendor in the downtown area could cook their food onsite. Planner Tetzlaff stated that is correct. There are two different sections in the Code, if someone is vending from the street a license is required. The food cannot be prepared onsite if on the street in a residential area. In other areas, the food can be prepared onsite. Food can be prepared onsite if on private property in a residential area. Councilmember Wallin asked if a resident hired a food truck for a private party, the food could be prepared onsite if they were on your property. Planner Tetzlaff stated that was correct.

Councilmember Pollack asked what the cost is for a food-vending license. Planner Tetzlaff explained that the permit fee has not been determined. The cost will not be an impediment for the vendor, but will cover administrative costs.

Councilmember Johnston asked if the twelve-business day requirement for the permit is enough time for staff to review and issue the permit. Planner Tetzlaff explained that this is a reasonable timeline for the applicant and for staff to thoroughly review and process the permit.

Mayor Kreutzer closed the public hearing at 7:38 p.m.

**Motion by Mayor Pro Tem Edwards, seconded by Councilmember Blackhurst, to approve the Ordinance repealing and reenacting specified sections of the Brighton Municipal Code related to mobile vendors; and, setting forth details in relation thereto. Motion passed by the following vote:**

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

## **7. CONSOLIDATED ITEMS FOR SEQUENTIAL REVIEW**

### **A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING WITH CONDITIONS AS SET FORTH HEREIN, A CONDITIONAL USE FOR THE VERIZON WIRELESS TOWER ON BASELINE ROAD, A COMMERCIAL MOBILE RADIO SERVICE FACILITY, GENERALLY LOCATED IN TRACT W, BRIGHTON EAST FARMS FILING NO 1, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, AND SETTING FORTH DETAILS IN RELATION THERETO**

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

*Mayor Kreutzer opened the public hearing at 7:40 p.m. and City Clerk Natalie Hoel verified the required postings and publications (January 17, 2018 in the Brighton Standard Blade) for this public hearing were completed.*

*City Manager Philip Rodriguez introduced Associate Planner Josh Tetzlaff.*

*Associate Planner Josh Tetzlaff explained that the next two items are for the Verizon Wireless tower on city-owned property, approximately 4.6 acres on the southeast corner of Baseline Road and Tower Road. One application is for a portion of land that the Verizon Wireless tower will be leasing and the other application is for a Conditional Use to allow the construction of a cell tower and the accompanying equipment on the portion of land that will be leased. At this stage in the process, the property has been annexed into the city and given*

a zoning designation and has been platted. The applicant is now requesting a use that is 'conditional', which means the use, may or may not be compatible with the land requested. City Council is tasked with determining if this use works on this property.

The property was annexed into the City in 1985 as part of the Bromley Park annexation and is currently zoned as part of the Bromley Park PUD, designated for public land. The city-owned property is being used as a water storage facility. Brighton East Farms is located to the south and east and Jacobs Run is located to the north. West of the property is un-annexed land that is currently being used as a large lot subdivision.

The applicant has been working with staff on the Conditional Use application and on the lease. Verizon Wireless would lease approximately 450 sq. ft. of land in the northeast corner of the property. The lease has a 3% escalator each year to track the lease rate with inflation, and the lease would be for five years with extensions built in to the lease agreement.

The tower has been designed to look exactly like the existing siren tower currently located on the site. The applicant will move the siren equipment on the existing tower to the new tower so the City is not required to purchase any new equipment. The applicant will also run any high-speed fiber on the site for the City. The site is already fenced and screened so no additional fencing or screening will be necessary. The new tower will be placed in the same general location as the existing tower, which will remain until the new tower is in place.

City Council should consider the following criteria when considering the conditional use:

1. The conditional use complies with the requirements of these regulations and with the zone district in which it is to be located;  
The proposed cell tower does comply with the regulations of the Bromley Park PUD and public land use designation. The tower will be a total of 75 ft., which is approximately the same height as the existing tower and it meets all of the setback requirements for cell towers.
2. The conditional use provides consistency with the purpose and intent of these regulations;  
The purpose and intent of the conditional use regulations is to allow uses that may be compatible with the surrounding uses in the zone district and conditions or restrictions can be placed on that use if they are deemed necessary to make that use more compatible. This proposed cell tower, with its similar location and color scheme, can meet the purpose and intent of the conditional use provisions and should be compatible with the regulations.
3. The conditional use provides compatibility with the surrounding areas, is harmonious with the character of the neighborhood, is not detrimental to the immediate area, is not detrimental to the future development of the area, and is not detrimental to the health, safety, or welfare of the inhabitants of the City;  
The new monopole will house an existing siren and is within an area already fenced by the City. These two actions are being done to provide compatibility to the surrounding neighborhood. In terms of future development, when Brighton continues to build out, both with homes and businesses, quality cellular reception is a must that both businesses and citizens look for when relocating to an area. This cell tower will provide much needed reception to users in northeast Brighton to help residents of Brighton East Farms, Jacobs Run, Homestead, Brighton Crossing, and many others, as well as helping the commercial areas along Bridge Street and Baseline Road. Having quality cell phone reception will also help attract high quality users to the recently approved industrial area known as 76 Commerce Center and the more established industrial area known as Bromley Industrial Park. In terms of health, safety and welfare, quality cell phone reception is becoming more important than ever. As households remove their landlines, also known as 'cord cutting', being able to call for emergency services such as fire, police or ambulance, requires good cell reception. If an emergency takes place and a household has neither a landline nor cell phone reception, this could be a scary situation.
4. The conditional use complies with the Comprehensive Plan and other master plans of the City;  
The proposed cell tower does comply with the Comprehensive Plan for the area. On this property being used for utilities by the City, the applicant is providing a new pole for the City and is extending high-speed fiber to the property for the City.
5. Does the conditional use require restrictions or conditions upon approval;  
Staff believes the restrictions Council should consider include the construction hours of work and operation.
6. The following should be considered in addition to any other criteria deemed relevant to the particular use requested:



- *Hours of operation*  
Staff believes Council should consider restricting hours of construction and maintenance to 7:00 am to 7:00 pm, seven days per week. This is very similar to any other business building in Brighton.
- *Street and road capacity*
- *Off-street parking*
- *Fencing, screening and landscaping*  
Staff believes that no additional fencing or screening is needed due to lighting already being in the enclosed area.
- *Building bulk, height, setback, location, and external appearance*
- *Usable open space*
- *Signs and lighting*
- *Noise, vibration, air pollution, or similar environmental considerations*

The rest of the impacts mentioned do not apply to this project since after construction there will not be any employees working on the site on a day-to-day basis.

Notice of the public hearing was sent to all property owners within 300' of the project as required by Code. Notification signs were posted on the property, on the City website and published in the Brighton Standard Blade. Staff received a few calls regarding the project and answered those questions. No formal comments were received.

Due to the lease being favorable for the City and the applicant bringing a needed cellular reception to the northeast part of the City, staff recommends approval of the Lease Agreement with the following conditions:

1. The developer shall complete a conditional use permit with the City of Brighton and the conditional use permit shall be approved by the City of Brighton City Council by Resolution prior to any building permits being issued.

Due to meeting the review criteria for the conditional use staff recommends approval of the conditional use with the following conditions:

1. Construction and maintenance of the new monopole, and the accompanying equipment, shall take place only between the hours of 7:00 am and 7:00 pm on the days of Monday through Sunday.
2. Verizon Wireless and its successors and assigns, shall install the cell tower and related equipment consistent with the specifications set forth in Exhibit A, attached hereto as by this reference made a part hereof.
3. Verizon Wireless shall provide to the City a 24/7 contact number.
4. Verizon Wireless shall remedy any damages within a reasonable time.
5. Verizon Wireless shall finalize and execute a Land Lease Agreement with the City for the Project; said Lease Agreement shall be approved by a duly adopted ordinance of the City Council of the City prior to and as a condition precedent to the City's issuance of any building permits for the Project.
6. The terms and conditions set forth in the Land Lease Agreement are incorporated into this Conditional Use approval as if set forth in their entirety herein.

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

Alicia Wood, Black and Veatch, 4600 South Syracuse, Denver, 80237. Ms. Wood thanked City staff for their help with this project.

Councilmember Johnston stated that he was contacted multiple times by his neighbors regarding this project and did discuss these issues but told those people that he would make any decision based on testimony presented at the public hearing.

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

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

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

Wanda Manley, 651 Branding Iron Court, Brighton. Ms. Manley explained that this cell tower would be in her backyard. The siren and water tank are located there and she was aware of that when she moved in a year ago. Ms. Manley expressed her concern regarding the cell tower and the electromagnetic emissions. Ms. Manley would like more research done before this tower is placed in her backyard.

Chris Townsend, 691 Branding Iron Court, Brighton, Mr. Townsend did research online and found that there is evidence that the towers are not the safest thing and also found that within 400 meters there is increased chances of health risks. Mr. Townsend stated there are articles about cell towers being removed from fire stations and schools because of health impacts to members. The Cell Com Act of 1996 states that a determination cannot be made for health or safety reasons. Mr. Townsend lives 48 yards from the existing tower, he is not going to live this close to a cell tower, and he is concerned because if he sells his home, the cell tower can negatively affect the value of his property.

Mayor Kreutzer asked if the applicant would like to address any of these issues.

Kevin Brown, Radio Frequency Engineer for Verizon Wireless. Mr. Brown explained that they follow the FCC guidelines. The FCC works with multiple agencies including the EPA, CDC, and the American Cancer Research Center to determine the level of emissions that can be transmitted from the antennas. Those emissions are strictly monitored so they are in compliance and in most cases are well below the emission standards of the FCC. The tower emissions will be within the FCC regulations so there will not be any issues or chances that Verizon will lose their license.

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

Mayor Kreutzer asked if there were questions from City Council.

Councilmember Blackhurst asked that something be placed in the lease to ensure that a secondary antenna could not be added later to the pole that would make it larger than it is proposed to be at this time. Councilmember Blackhurst asked if the pole could be moved to the northwest corner of the property to give a little more distance from the homes. Planner Tetzlaff explained that the applicant worked with the Utilities Department to find the best location for the cell tower. Utilities Director Curt Bauers reported that other locations on the site could be considered. The tower must be maintained a certain distance from the existing water storage tank and any future proposed tank locations. Ms. Wood reported that the applicant and staff evaluated the entire parcel to find a location. It was determined that the northwest corner had flooding issues and the southern portion was planned for future development. The applicant was trying to keep consistent with the existing pole location and not impede any future development.

Councilmember Wallin asked what the allowable distance is according to FCC requirements. Mr. Brown explained that a study was completed and the distance for this pole was under compliance, but he does not know the required distance, there are several factors when determining the proper distance. Councilmember Wallin would like the information from the study since this is a critical answer. Mr. Brown explained that the biggest area of concern is if the home is within a certain proximity in front of the antennas. Councilmember Wallin asked if they were omnidirectional and Mr. Brown reported that they are not. Councilmember Wallin asked what direction they are facing. Mr. Brown explained one is going north; one is going southwest and the other southeast. A big concern is if a person is standing in front of the antenna at eye level. This site will be built at 75', so this will typically be above most of the households and the outlying clutter so the antenna are not accessible for someone to stand in front of. Councilmember Wallin asked if there are any locations installed at eye level. Mr. Brown explained that they are not because of emission concerns. Councilmember Wallin expressed his concern that this is located so close to residents and he would like to see some other options for the location of the tower on the property.

Councilmember Johnston is concerned with the emissions from the cell tower and asked if the city is 100% sure that Council can make this decision without seeing multiple studies. The Comprehensive Plan does reference the safety and well-being of the residents. If it is determined that it is safe, if the perception is there that it is unsafe, could that hurt home values. Planner Tetzlaff reported that he could not speak 100% to anything. The conditional use review criteria is set out for Council and it is up to each individual Councilperson how they view that criteria does, or does not meet a project. Planner Tetzlaff indicated that he cannot speak to the issue of home values. Staff reviews projects by the regulations set forth in the Code and gives as much information to Council for their consideration of the item as they can. There are pros and cons for the towers,

emissions may be a concern, but there is also a concern that as more people 'cut cords', there is a need for reliable cell service for health, safety and welfare. The applicant and the Utilities Department worked together to find a location on this site. They may be able to analyze the site and determine a different location. Staff has reviewed this application to the best of their abilities and given Council the best information they have. For Brighton as a whole and for the northeast part of the City, having better cell reception would be better for the City. Councilmember Johnston pointed out that the letter to the citizens regarding this project had grammar and spelling errors and asked that information to residents go out as best as we can. Councilmember Johnston asked if the applicant could meet with staff to find better options for the location of this tower. Ms. Wood asked if Councilmember Johnston is referring to this parcel or other parcels. Councilmember Johnston said this parcel or other parcels. Ms. Wood explained that they could be open to that, but an extensive amount of time and work with the City has brought the project to this point and every entity was on board with the location. The applicant explored this parcel extensively with City staff to find the best location for the tower. Ms. Wood reported that they could start over with the Utilities Department to look again at the parcel for a different location. Ms. Wood explained that she does not have any statistics or studies regarding property values, but realtors are saying that the number one search criteria when buying a new home is to check their cell phone coverage. The statistics for 'cord cutters' has gone from 20% in 2014 to over 50%. In speaking with professionals in this area, good cell service is beneficial. Reliable cell service is also important for emergency services. This location was chosen for a tower because there is a lack of capacity and coverage in this area. This location was the best that could be done with the City of Brighton for coverage in this area. Other parcels were looked at in the area and there was very little response if any from the other property owners. Verizon has a mandate to maintain service and has to build their coverage in this area. This application has been in process for over a year.

Councilmember Humbert asked if this is the first opportunity the neighbors have had to speak with Verizon. Planner Tetzlaff explained that the conditional use process requires a single public hearing that is taking place now. Applicants can go out and speak with neighbors, but there is not a requirement in the Code. Staff cannot require some applicants to complete this process and not others.

City Manager Philip Rodriguez explained that this is the time for residents to formally speak about the application, but in the notices to residents regarding public hearings, the applicants name and phone number are included so residents can contact the applicant.

Mayor Kreutzer stated that cell phones have changed the landscape and there are cell towers everywhere. There is one located 100' from his home. The warning siren was turned into a cell tower and the only change is that the neighbors feel there is a better standard of living because of the improved cell service. Mayor Kreutzer received a call from a citizen that will be building a home in the area, asked about the hearing, and asked if there will be any health concerns with the tower being placed in the area. Mayor Kreutzer encouraged the citizen to attend this meeting and stated that his quality of life has not changed since a cell tower was placed in his neighborhood. There are towers located everywhere, including one at the football field at Brighton High School.

Mayor Pro Tem Edwards explained that there are no good locations for cell towers. This can also be said for sewer plants, and feed lots. Every day we are confronted with hazards and the worst may be driving and texting. Most people, including many children have cell phones, and eventually there will not be any landlines. The number one priority for real estate is cell service and this seems to be a fact. If there were an emergency, it would be very important to have cell service to call 911. Coming from the mortgage industry, Mayor Pro Tem Edwards never had an appraiser note on the appraisal that the house was located next to a cell tower. If the tower is 75' in the air and is a directional tower, the emissions should be over the current neighborhood and not affect any of the neighbors. Mr. Brown stated this is correct, the antennas work on a line of site so if they are above the houses, and there is a much more effective coverage area. Mayor Pro Tem Edwards stated that it is inevitable that cell phones are here to stay. There are inconveniences, just like microwave ovens that are used every day and we have accepted that.

Councilmember Baca agrees with Councilmember Blackhurst that any additional antennas be restricted from being added to the pole. It was a good efficiency of use to use the same pole as the emergency siren. There is already noise pollution with the siren, there are other emissions and the water tank is in the area. A person buying a home will buy at market value whether or not there is a pole near the home. There is a concern for the residents in the area that do not have coverage and need to contact 911; this is a life, safety and health issue. City Council is restricted from researching this information and can only consider what is presented

during the public hearing.

Councilmember Johnston expressed concern that City Council has not heard any science on two issues, the FCC recommendation on the distance requirements for the tower and does the tower cause emissions. Councilmember Johnston wants those questions answered prior to making a decision.

Councilmember Blackhurst agrees that better cell coverage is necessary for everyone, but it seems to be a win/win situation to request that the tower be moved to the northwest quadrant of the property. Councilmember Blackhurst applauds the applicant for using the existing siren pole.

Councilmember Baca asked that if the tower were moved and the location is downhill from the current site, could the tower be made taller to compensate for the difference in elevation. Planner Tetzlaff reported that in the Public Land zoning designation, the height for a cell tower could be 75' regardless of the topography of the land. Councilmember Baca asked if there are issues with performance, could Council put a restriction on the use to make the tower taller. Planner Tetzlaff explained that to go against the Code would require the application to go through a variance process, which is determined by the Board of Adjustment.

City Manager Rodriguez asked if there is an opportunity to bring back the answers to the questions that were asked at the second reading of the Ordinance. City Attorney Brubaker explained that the Conditional Use is approved by a Resolution with only one reading, but the public hearing could be continued for City Council to obtain further information. Planner Tetzlaff reminded City Council that the public hearing has to be continued to a date certain.

Councilmember Wallin asked if thirty days would be enough time to get the answers to questions asked by City Council. Planner Tetzlaff explained that staff would do what is necessary to be prepared by the date determined by City Council. City Manager Rodriguez suggested that a continuation of the public hearing to a date of March 6, 2018 would be acceptable to staff. Planner Tetzlaff asked that the motion be specific regarding the continuation so staff will be prepared with all answers when the item is brought back to Council.

**Motion by Councilmember Wallin, seconded by Councilmember Baca, to continue the public hearing to March 6, 2018 so Council can be made aware of the study of distance by FCC regulation and for staff and the applicant to explore possibilities of site location further away from residents. Motion passed by the following vote:**

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

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

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

**Motion by Councilmember Wallin, seconded by Councilmember Johnston, to continue the Ordinance to March 6, 2018. Motion passed by the following vote:**

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

**8. ORDINANCES FOR INITIAL CONSIDERATION**

## 9. ORDINANCES FOR FINAL CONSIDERATION

*Mayor Kreutzer called for a break at 8:45 p.m.*

*Mayor Kreutzer reconvened the meeting at 8:54 p.m.*

**A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON APPROVING THE PRAIRIE CENTER MIXED-USE PUD (PLANNED UNIT DEVELOPMENT) ZONING AMENDMENT REQUEST FOR AN APPROXIMATELY 12.3 ACRE PROPERTY, GENERALLY LOCATED IN THE NORTHWEST QUARTER, SECTION 21, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, BRIGHTON, COLORADO**

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

*City Manager Philip Rodriguez reported that this is the final reading of the Ordinance and there have not been any changes since first reading.*

**Motion by Councilmember Humbert, seconded by Councilmember Pollack, to approve Ordinance 2275 approving the Prairie Center Mixed-Use PUD (Planned Unit Development) Zoning Amendment request for an approximately 12.3 acre property, generally located in the northwest quarter, section 21, township 1 south, range 66 west of the 6<sup>th</sup> principal meridian, Brighton, Colorado. Motion passed by the following vote:**

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

## 10. RESOLUTIONS

## 11. UTILITIES BUSINESS ITEMS

## 12. GENERAL BUSINESS

### A. City Council Briefings

#### **Parks and Recreation**

*Parks and Recreation Director Gary Wardle gave City Council a brief overview of the Parks and Recreation Department including the duties and responsibilities of the three (3) divisions, Administration, Recreational Services and Parks, Open Space and Cemetery.*

#### **Police Department**

*Chief of Police, Paul Southard gave City Council a brief overview of the Police Department including their duties and responsibilities.*

## 13. REPORTS

### A. By the Mayor

*Mayor Kreutzer attended the Adams County Mayor's Luncheon, the ADCOG Executive Committee breakfast, the Adams County Economic Development orientation, the Colorado Chamber of Commerce Gubernatorial Hopeful luncheon, North Metro Chamber gala, Brighton Chamber gala, and the Saving Places conference. The Sister Cities dinner and auction is Saturday night, and CML will be hosting the Resources and Skills for*

*Elected Officials on March 21, 2018.*

**B. By Department Heads**

**C. By the City Attorney**

**D. By the City Manager**

*City Manager Philip Rodriguez reported that staff will be bringing some potential opportunities, especially regarding the Police Department to Council soon and expressed his gratitude to our law enforcement and encouraged everyone to thank our officers.*

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

*Mayor Pro Tem Edwards attended the Adams County Dinner, the Brighton Chamber Gala, and the North Metro Chamber Gala. The Eagle View Adult Center Spaghetti Luncheon will take place on March 1, 2018.*

*Councilmember Johnston will be attending the CML meeting next week.*

*Councilmember Baca attended the NATA meeting, the Adams County Economic Development Orientation and the DRCOG meeting.*

*Councilmember Mills attended the Chamber Gala's, the ADCOG Dinner, the School District 27J joint meeting and the NATA meeting.*

*Councilmember Blackhurst attended the Legacy Foundation meeting, the Youth Commission meeting and the Fulton Ditch Annual meeting.*

*Councilmember Pollack will attend the Parks and Recreation Advisory Board meeting.*

*Councilmember Wallin attended the Brighton Cultural Arts Commission meeting and the Youth Commission meeting. The Brighton Youth Commission attended the Cherry Creek Diversity conference and will attend the Building an Inclusive Community meeting at the Armory.*

**15. EXECUTIVE SESSION**

**16. ADJOURNMENT**

**Motion by Councilmember Humbert, seconded by Councilmember Johnston, to adjourn at 10:18 p.m. Motion passed by the following vote:**

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

**CITY OF BRIGHTON, COLORADO**

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Kenneth J. Kreutzer, Mayor

**ATTEST:**

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Natalie Hoel, City Clerk

\_\_\_\_\_  
Approval Date