



Legislation Text

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City of Brighton

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



Meeting Minutes - Draft

Tuesday, February 21, 2017

7:00 PM

Amended

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 7:02 p.m.

A. Pledge of Allegiance to the American Flag.

Local Boy Scouts led the recitation of the Pledge of Allegiance to the American Flag.

B. Roll Call.

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

Not Present: 1 - Councilmember Edwards

2. CONSENT AGENDA

A. Approval of the January 17, 2017 City Council Minutes

B. Approval of the January 24, 2017 City Council Minutes

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO APPROVING AN AGREEMENT AMONG THE CITY OF NORTHGLENN, RALSTON HOUSE, THE CITIES OF WESTMINSTER, THORNTON, FEDERAL HEIGHTS, BRIGHTON, COMMERCE CITY AND AURORA, THE CITY AND COUNTY OF BROOMFIELD AND THE COUNTY OF ADAMS REGARDING CONSTRUCTION AND CONSTRUCTION MANAGEMENT OF THE NORTHGLENN RALSTON HOUSE (“THE PHASE 2 AGREEMENT”); APPROVING THE CITY’S CONTRIBUTION UNDER THE IGA IN AN AMOUNT NOT TO EXCEED SEVENTY-SEVEN THOUSAND NINE HUNDRED TEN DOLLARS (\$77,910); AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY; AND SETTING FORTH OTHER DETAILS RELATED THERETO

Resolution No: 2017-18

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

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

Absent: 1 - Councilmember Edwards

3. APPROVAL OF REGULAR AGENDA

Acting City Manager Clint Blackhurst asked that the Regular Agenda be amended to remove 575 Bush Street from the Executive Session.

Motion by Councilmember Wallin, seconded by Councilmember Bell, to approve the Regular Agenda as amended. Motion passed by the following vote:

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

Absent: 1 - Councilmember Edwards

4. CEREMONIES

A.Introduction of New Employees by Administrative Services Director Karen Borkowski Surine

Administrative Services Director Karen Borkowski Surine introduced Allison Belsterling, Youth Recreation Specialist, Charles Finn, Recreation Facilities Coordinator and Willie Dozier, Desktop Support Engineer and gave a brief history of their backgrounds.

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)**

Karen Fishler informed City Council of her non-profit, The Gifting Angels. This program helps less fortunate children in the community. Ms. Fishler about a public event she would like to have in April.

6. PUBLIC HEARINGS

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE APPLICATION FOR VESTED PROPERTY RIGHTS FOR THE BROMLEY FARMS PUD TO DECEMBER 6, 2018 WITH CONDITIONS AS SET FORTH HEREIN. THE APPROXIMATE 135.14 ACRE PROPERTY KNOWN AS THE BROMLEY FARMS SUBDIVISION IS GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF BROMLEY LANE AND CHAMBERS ROAD, AND IS FURTHER DESCRIBED AS A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO**

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

Mayor McLean opened the public hearing at 7:14 p.m. and City Clerk Natalie Hoel verified the required postings and publications (February 1, 2017 in the Brighton Standard Blade) for this public hearing were completed.

Acting City Manager Clint Blackhurst introduced Associate Planner Mike Tylka.

Associate Planner Mike Tylka explained that this request is to extend the Vested Property Rights for the Bromley Farms PUD and this action will keep the zoning as it currently is. The owner is Thomas Hartley and he is represented by Stephen Robinson. The PUD covers approximately 135 acres and the property is located south of Bromley Lane, east of Chamber Road, north of Indigo Trails, and west of the undeveloped Case Farms subdivision. The property was part of the Hishinuma Annexation in 2001 and the Hishinuma Farms PUD in 2004. The accompanying plat did not lay out individual lots, but large tracts that remain untouched. In 2011, the current Bromley Farms PUD was first approved and assigned a six (6) year vesting period. That is double what a typical vesting period is called for in the Land Use and Development Code. This was granted due to the uncertain economic climate at that time. The current request is to extend that PUD and its vesting for an additional two (2) years until December, 2018.

The PUD has six (6) planning areas where each has a different land use designation. The PUD sets development standards such as minimum lot size and density ranges for each planning area. This is a residential PUD which does allocate areas for parks and open space. The PUD has proportions of higher density residential development along major roadways and access points and lower density single-family development in other areas.

The PUD includes development standards and also includes typical and conceptual plans for utilities and drainage, these [standards and plans] are usually not this detailed in a PUD. The PUD borders city limits on three (3) of its four (4) sides and is surrounded by residential, agricultural and recreational uses. The Comprehensive Plan shows this area split among high-density residential, low-density residential and parks and open space. This PUD aligns with the Future Land Use Map. The PUD is in general conformance with the Land Use and Development Code.

Staff analysis finds that there are a few concerns with the PUD document as it currently exists. Since initial approval of the PUD the City has approved a new Master Transportation Plan and new State drainage laws have passed that must be adhered to. As these items in the PUD are listed as 'typical or conceptual', staff wants to clarify and put on the record that anything listed as such, should not be used in future development as they do not adhere to those new standards and laws.

The first and third recommended staff conditions reflect these issues. Staff is also preparing to update the Zoning Code within the next two (2) years that will alter PUD's and zoning districts, generally. The second recommended staff condition that the area become platted within that period to go in line with the zoning and PUD's currently on record.

With conditions that mitigate staff's concerns, the Planning Commission recommended approval of the vesting request at the January 24, 2017 meeting. Staff is proposing to expand the number of conditions from the two (2) that were presented at Planning Commission to three (3) for clarification purposes.

On February 1, 2017 signs were posted on the property, notice was mailed to property owners and notice was published in the newspaper in accordance with the Land Use and Development Code. Staff received a few general inquiries regarding the hearing.

Staff finds that the request is suitable for approval with the findings that were presented. The goal of the staff recommended conditions are to allow for the property to be platted in a timely manner according to all applicable City and State standards.

Staff recommends approval of a two (2) year extension of Vested Property Rights for the Bromley Farms PUD set to expire on December 6, 2018 with the following three (3) conditions:

- 1. That all ensuing development of the Property subject to the Bromley Farms PUD shall meet all applicable City standards in effect at the time of such development, including, without limitations, those related to transportation, drainage, and utilities.*
- 2. That no further extension of the vested property rights for the Bromley Farms PUD will be accepted or considered by the City unless and until a final plat for the Property is finalized on or before December 6, 2018 which conforms to the Bromley Farms PUD in its entirety.*

3. That sheets 8, 12, 13, and 14 of the PUD are no longer valid and, as such, shall not be considered applicable or satisfactory as to any development of the Property subject to the Bromley Farms PUD.

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

Stephen Robinson, 145 West Swallow Road, Fort Collins, Colorado 80525. Mr. Robinson represents Tom Hartley and stated that the applicant agrees with the conditions stated by staff.

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

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

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

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

Mayor McLean asked if there were questions from City Council.

Councilmember Kniss asked if the pages that are no longer applicable refer to parking and utilities. Planner Tylka reported that they refer to utilities, drainage and transportation.

Councilmember Baca asked that if the vesting is extended and the land sells, does the zoning go with the land. Planner Tylka explained that the applicant's original intent was to ensure that anyone that purchased or developed the land in the next two (2) years, the vesting would be guaranteed for the current zoning. Councilmember Baca asked for an explanation of the advantages of a PUD for a neighborhood, is there a time limit and what are the zoning restrictions? Planner Tylka explained that when a PUD application is received, staff is looking for standards that are above and beyond the current zone district requirements. Those standards would be outlined in the PUD and anything else would revert to the City Code. Community Development Director Holly Prather explained that with the Planned Unit Development zone district, the applicant is choosing to not utilize the City's Land Use and Development Code which sets forth standards for zone districts. Instead, they are crafting their own zone district standards including setbacks, dimensional standards, allowed and prohibited uses, establishing where roadways will be constructed and can also use alternate street cross sections. This allows them some flexibility in that they are not using the [zone district standards in the] City's Code, but the City is expecting the applicant to go above and beyond the City's standards. Often times the developer will use the PUD and the City will get additional parks and open space, or having those parks built earlier than typically required. There can also be additional architectural standards in the PUD including landscaping and fencing so the overall aesthetics of the neighborhood are better.

Councilmember Baca asked if the PUD will stay in effect forever. Director Prather explained that in the 1990's the Land Use and Development Code was amended to add a section called Vested Property Rights. An applicant can apply for vested property rights for a PUD, the Final Plat Document, Development Agreement or the Site Specific Development Plan final step. A lot of time and money is spent creating the PUD so the applicant wants to preserve the ability to move forward with the plans. The applicant will ask for a certain vesting time, the standard is three (3) years. The economy, the size of the property, the needed infrastructure in the area, the need for a Metro District and the number of units are all considered when determining the amount of time that will be needed. In these instances, the applicant could request additional time beyond the three (3) years. In the past the City has done thirty (30) or forty (40) year vesting periods, but that is not done anymore. The six (6) year vesting that was originally requested was appropriate at that time. The Transportation Master Plan and the Comprehensive Plan have both been updated and the Land Use and Development Code will be updated so staff feels that a two (2) year extension is appropriate. Staff hopes that with the update to the Land Use and Development Code, developers will not go the route of a PUD. This will help administratively to not have so many zoning PUD's throughout the City.

Mayor McLean closed the public hearing at 7:30 p.m.

Motion by Councilmember Bell, seconded by Mayor Pro Tem Kreutzer, to approve Resolution

2017-19 approving the application for vested property rights for the Bromley Farms PUD to December 6, 2018 with conditions as set forth herein. The approximate 135.14 acre property known as the Bromley Farms Subdivision is generally located at the southeast corner of the intersection of Bromley Lane and Chambers Road as amended to add December 6, 2018 to the second page of the Resolution. Motion passed by the following vote:

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

Absent: 1 - Councilmember Edwards

7. ORDINANCES FOR FINAL CONSIDERATION

- A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, REZONING AN APPROXIMATELY 1.89 ACRE AREA OF LAND GENERALLY LOCATED IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, KNOWN AS MOUNT VIEW PARK, 2ND FILING, LOTS 1 & 2 FROM THE ADAMS COUNTY ZONING DESIGNATION OF A-1 (AGRICULTURAL), TO A CITY OF BRIGHTON ZONING DESIGNATION OF O (OPEN SPACE AND PARKS), AS MORE PARTICULARLY SET FORTH HEREIN; AND SETTING FORTH OTHER DETAILS RELATED THERETO**

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

Acting City Manager Blackhurst reported that there have not been any changes 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 Humbert, seconded by Councilmember Kniss, to approve Ordinance 2251 rezoning an approximately 1.89 acre area of land generally located in the south half of Section 9, township 1 south, range 66 west of the 6th principal meridian, known as Mount View Park, 2nd Filing, Lots 1 & 2 from the Adams County zoning designation of A-1 (Agricultural), to a City of Brighton zoning designation of O (Open Space and Parks). Motion passed by the following vote:

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

Absent: 1 - Councilmember Edwards

8. RESOLUTIONS

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE HOMESTEAD DEVELOPMENT AGREEMENT, 2ND AMENDMENT FOR APPROXIMATELY 119.106 ACRES OF PROPERTY, GENERALLY LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, BRIGHTON, COLORADO, AUTHORIZING THE MAYOR TO EXECUTE THE DEVELOPMENT AGREEMENT AMENDMENT ON BEHALF OF THE CITY; AND SETTING FORTH OTHER DETAILS RELATED THERETO**

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

Acting City Manager Blackhurst introduced Associate Planner Josh Tetzlaff.

Associate Planner Josh Tetzlaff explained that this Development Agreement Amendment is for the project on Baseline Road, north of 50th Avenue. The Homestead Subdivision is a residential subdivision consisting of approximately one hundred (100) lots. The applicant, Joel Farkas, submitted a Final Plat Minor application to re-plat a portion of the subdivision which triggered staff to review the original Development Agreement. The Agreement Amendment is a result of City staff and the applicant ensuring that the Agreement will continue to operate as intended with a portion of the subdivision being re-platted.

The property was annexed into the City in 1991. In 2004 the Homestead Subdivision was approved and the zoning was changed to RE (Rural Estate). Homestead was originally split into four (4) phases. The review process for the Final Plat Minor Amendment is complete and the applicant has submitted mylars to the City for signing and recording. This was done administratively per Section 17-40-210 of the Land Use and Development Code.

Because the Final Plat Minor Amendment will ultimately change the number of lots within the subdivision, staff reviewed the Development Agreement, specifically three (3) portions of the Agreement involving infrastructure construction triggers. The first trigger involved when the park would be constructed. There was not an actual trigger set in the original Agreement stating when construction would begin on the park, just that a park should be built. With this Amendment, staff and the applicant agreed that the park would be constructed prior to the 61st building permit which would constitute the completion of Phase 2 of this subdivision. The second trigger involved Baseline Road. Staff has acknowledged that much of the improvements to Baseline have been completed by the developer to this point. The only portion left for Baseline Road is to landscape the medians. Staff and the applicant have agreed that the landscaping will be completed prior to the 61st building permit. The third trigger is the extension of 50th Avenue north of Baseline Road. In the original Agreement this was to be completed at the 130th building permit which was the last building permit in the subdivision. With this Amendment there are only ninety-one (91) buildable lots. The applicant agreed with staff that this connection would be important for the residents to access the subdivision so it will be constructed prior to any building permits being pulled for Phase 3, this will be the 62nd building permit. Because the developer east of Homestead is building at the same time, staff recommended that the applicant work with that developer to ensure that both the City of Brighton and the Town of Lochbuie can get a quality, timely design that works for both subdivisions. Staff recommends approval of this Development Agreement Amendment. Planner Tetzlaff answered questions from Council regarding:

- Other improvements happening at 50th Street and Baseline Road.
- Bike paths being planned for the area as 50th Avenue develops.
- The single lot for oil and gas development in Phase 4 fitting in the neighborhood.
- The location of the construction for the pad for the oil and gas development taking place in the northeast corner of the property.
- The oil and gas activity being completed prior to the homes being built in the area.
- The City or the developer being responsible for the construction of the bike paths.

Motion by Councilmember Kniss, seconded by Mayor Pro Tem Kreutzer, to approve Resolution 2017-20 approving the Homestead Development Agreement, 2nd Amendment for approximately 119.106 acres of property, generally located within the southeast quarter of Section 34, township 1 north, range 66 west of the 6th principal meridian, Brighton, Colorado, authorizing the Mayor to execute the Development Agreement Amendment on behalf of the City. Motion passed by the following vote:

Aye: 7 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Baca, Councilmember Bell, Councilmember Humbert, Councilmember Kniss, and Councilmember Pollack

No: 1 - Councilmember Wallin

Absent: 1 - Councilmember Edwards

9. UTILITIES BUSINESS ITEMS

Resolutions

- A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ENTERPRISE, ACCEPTING THE BID OF ROCKY MOUNTAIN WATERWORKS, LLC., AND AWARDING THE CONTRACT FOR THE SOUTH 4TH AVENUE OUTFALL REPLACEMENT PROJECT #93132, IN AN AMOUNT NOT TO EXCEED TWO HUNDRED SIXTY NINE THOUSAND SIX HUNDRED NINETY NINE DOLLARS (\$269,699.00), AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO, AND AUTHORIZING THE CITY MANAGER TO APPROVE CHANGES TO THE CONTRACT AMOUNT UP TO TEN PERCENT (10%) OF THE ORIGINAL CONTRACT AMOUNT**

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

Acting City Manager Blackhurst introduced Utilities Director Curt Bauers.

Utilities Director Curt Bauers requested to award the contract to improve the Bromley Lane branch of the City's South Stormwater Outfall. That portion of the storm flow discharges just short of the existing outfall channel resulting in a significant volume of stagnation. Until that stagnant water builds up to a high enough level to surcharge back into the outfall the water just stagnates there. This project will eliminate that stagnation and should also result in significantly improved water quality at Well 26. The project is just south of the Intertape Polymer building. Thirteen (13) responses were received to the RFP and the lowest most responsive and responsible bid came from Rocky Mountain Waterworks in the amount of \$269,699.00. Staff is recommending that change orders up to \$26,970.00, 10% of the contract, be authorized for the Acting City Manager's approval as deemed necessary. Sufficient money was included in the 2017 Budget for the project and the 10% contingency. Director Bauers answered questions from Council regarding:

- The estimated cost of the project.*

Motion by Councilmember Humbert, seconded by Councilmember Baca, to approve Resolution 2017-21 acting by and through its Water Enterprise, accepting the bid of Rocky Mountain Waterworks, LLC., and awarding the contract for the South 4th Avenue Outfall Replacement Project #93132, in an amount not to exceed \$269,699.00, and authorizing the Mayor to sign the contract on behalf of the City and authorizing the City Manager to approve changes to the contract up to 10% of the original contract amount. Motion passed by the following vote:

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

Absent: 1 - Councilmember Edwards

10. GENERAL BUSINESS

11. REPORTS

- A. By the Mayor.**

Mayor McLean attended the Chamber luncheon and the ACC meeting. City Council is invited to a reception on March 15th at the Boys and Girls Club.

B. By Department Heads.

C. By the City Attorney.

D. By the City Manager.

12. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Councilmember Pollack attended the State of the City and thanked staff for their work on the event.

Councilmember Wallin attended the CML Executive Board meeting.

Mayor Pro Tem Kreutzer attended the Chamber luncheon, the State of the City, the Sister Cities Dinner and Auction, and the CML Policy Committee meeting.

Councilmember Kniss attended the LINK Board meeting, the Sister Cities dinner and the State of the City. The Legacy Foundation is accepting applications for scholarships.

Councilmember Humbert reported on the Boys and Girls Club and a BURA press release.

Councilmember Bell attended the 85 Coalition meeting.

Councilmember Baca attended the DRCOG meeting.

13. EXECUTIVE SESSION

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Humbert, to go into Executive Session at 8:12 p.m. for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding City Manager Hiring Process and for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding Land Acquisition and Water Rights. Motion passed by the following vote:

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

Absent: 1 - Councilmember Edwards

Mayor McLean reconvened the meeting at 8:56 p.m.

14. ADJOURNMENT

Motion by Councilmember Wallin, seconded by Councilmember Pollack, to adjourn at 8:57 p.m. Motion passed by the following vote:

Aye: 9 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Baca, Councilmember Bell, Councilmember Edwards, Councilmember Humbert, Councilmember Kniss, Councilmember Pollack, and Councilmember Wallin

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

Approval Date