



Legislation Text

File #: ID-351-17, Version: 1

City of Brighton

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



Meeting Minutes - Draft

Tuesday, November 21, 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. Presentation of Flags by Boy Scout Troop 109

B. Pledge of Allegiance to the American Flag.

Boy Scout Troop 109 led the recitation of the Pledge of Allegiance to the American Flag.

C. Roll Call.

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

Not Present: 2 - Councilmember Edwards, and Councilmember Wallin

2. CONSENT AGENDA

A. Approval of the October 3, 2017 City Council Minutes

Motion by Councilmember Humbert, seconded by Mayor Pro Tem Kreutzer, to approve the October 3, 2017 City Council Minutes. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

B. Approval of the October 17, 2017 City Council Minutes

Councilmember Humbert asked that Item 2B be moved to Item 10B.

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING LARRY WARNER AS A NON-RESIDENT MEMBER OF THE BRIGHTON HOUSING AUTHORITY TO FILL AN UNEXPIRED TERM TO NOVEMBER, 2018

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

Motion by Councilmember Kniss, seconded by Mayor Pro Tem Kreutzer, to approve Resolution 2017-124. Motion passed by the following vote:

Aye: 6 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Humbert, Councilmember Kniss, and Councilmember Pollack

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

Abstain: 1 - Councilmember Baca

D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, RE-APPOINTING FIDEL BALDERAS AS AN AT-LARGE MEMBER OF THE BRIGHTON PLANNING COMMISSION WITH A TERM TO JANUARY, 2022

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

Motion by Councilmember Bell, seconded by Councilmember Humbert, to approve Resolution 2017-125. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

E. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, RE-APPOINTING TODD BRUMMOND AS A MEMBER OF THE LODGING TAX ADVISORY COMMITTEE WITH A TERM TO DECEMBER, 2020

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

Motion by Councilmember Baca, seconded by Councilmember Humbert, to approve Resolution 2017-126. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

F. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, RE-APPOINTING HUGH FRAZIER AS A WARD 2 MEMBER OF THE PARKS AND RECREATION ADVISORY BOARD WITH A TERM TO JANUARY, 2022

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

Motion by Councilmember Kniss, seconded by Councilmember Humbert, to approve Resolution 2017-127. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

G. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING CHELSEA BIRDSALL AS AN AT-LARGE MEMBER OF THE BRIGHTON PARKS AND RECREATION ADVISORY BOARD AND BIKE BRIGHTON SUB-COMMITTEE WITH A TERM TO JANUARY, 2022

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

Motion by Councilmember Humbert, seconded by Mayor Pro Tem Kreutzer, to approve Resolution 2017-128. Motion passed by the following vote:

Aye: 6 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Bell, Councilmember Humbert, Councilmember Kniss, and Councilmember Pollack

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

Abstain: 1 - Councilmember Baca

3. APPROVAL OF REGULAR AGENDA

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Bell, to approve the Regular Agenda as presented. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

4. CEREMONIES

A. Small Business Saturday Proclamation

Mayor McLean read the Proclamation into the record and presented it to Naomi Colwell, Brighton Chamber of Commerce President.

Motion by Councilmember Baca, seconded by Councilmember Humbert, to approve the Proclamation. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

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

Alan Trudell, 12303 East 115th Avenue, Brighton. Mr. Trudell expressed concern regarding traffic enforcement on Peoria Street in Fuller Estates. There are several semi-trucks in the neighborhood and there are residents that run trucks out of their homes in a residential area. Mr. Trudell is also concerned with the lack of cooperation from the Brighton Police Department regarding this issue.

6. CONSOLIDATED ITEMS FOR SEQUENTIAL REVIEW

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO APPROVING A FRANCHISE AGREEMENT WITH COMCAST CABLE COMMUNICATIONS, LLC, GRANTING TO COMCAST CABLE COMMUNICATIONS, LLC A NON-EXCLUSIVE RIGHT TO SELL, FURNISH AND DISTRIBUTE CABLE SERVICES WITHIN THE CITY OF BRIGHTON; A NON-EXCLUSIVE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND

INTO, WITHIN AND THROUGH THE CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE CABLE SERVICES ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; SPECIFYING THAT THE FRANCHISE SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR A TERM OF TEN (10) YEARS THEREAFTER; SETTING A FRANCHISE FEE OF 5% OF THE GROSS REVENUES OF COMCAST CABLE COMMUNICATIONS, LLC; PROVIDING FOR A SURCHARGE THEREFORE; PROVIDING FOR THE COLLECTION OF 'PEG' FEES TO SUPPORT THE CITY'S PEG OPERATIONS; AUTHORIZING THE MAYOR TO EXECUTE THE FRANCHISE AGREEMENT FOR AND ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND, SETTING FORTH OTHER DETAILS RELATED THERETO (PUBLIC HEARING)(FINAL READING)

Mayor McLean read the title of 6A, 6B and 6C into the record.

Mayor McLean opened the public hearing at 7:25 p.m. and City Clerk Natalie Hoel verified the required postings and publications (September 27, October 4, and October 11, 2017 in the Brighton Standard Blade) for this public hearing were completed.

City Manager Philip Rodriguez introduced Information Technology and Innovation Director Jeromy King.

Information Technology and Innovation Director Jeromy King explained that this is the final reading of the Cable Franchise Agreement. In order to provide cable services the cable companies have to use public rights-of-way to install their cable equipment and facilities throughout the City. The Franchise Agreement between the City and the cable operator includes terms, build out requirements and compensation for the use of the rights-of-way protects the rights and interests of the Brighton residents and the cable subscribers. The City entered into an [Franchise] Agreement with AT&T Cable Services, now Comcast, on January 24, 2002 by Ordinance 1728, this Agreement expired in January, 2017. The City adopted Resolution 2016-138 in December, 2016 which extended the Franchise Agreement to allow for sufficient time to complete the negotiation process. City staff, the City Attorney and outside legal counsel worked to complete the renewal of the Franchise Agreement. The new Franchise Agreement will expire in 2027. In return for the non-exclusive right to use portions of the City's public rights-of-way, Comcast will remit franchise fees in the amount of 5% of gross revenues to the City. This is the same amount as in the previous Franchise Agreement. Comcast will also collect \$0.50 per subscriber for public education and government access fees to support the City's PEG operations. This fee has not changed since the previous Franchise Agreement. The Franchise Agreement allows the City to activate an HD channel for the PEG operation 120 days from the execution of the Franchise Agreement. The Agreement also allows for a one time grant of \$12,500.00 for the purchase of a server and related equipment for streaming PEG content.

Notice of the public hearing was published in the Brighton Standard Blade on September 27, October 4, and October 11, 2017. First reading of the Ordinance to approve the Franchise Agreement and first reading of the Ordinance to repeal Article 5-28 of the Brighton Municipal Code took place on October 17, 2017. The public hearing, final reading of both Ordinances and approval of the Resolution to adopt the Customer Services Standards is taking place tonight. Final publication of the Ordinances will take place on November 29, 2017 in the Brighton Standard Blade and the Ordinances will be effective five (5) days after publication.

There is no direct financial cost associated with the Franchise Agreement. The exact amount of the franchise fee revenues received by the City are dependent upon the gross revenues of Comcast. Staff recommends approval of the Cable Franchise Agreement with Comcast.

Mayor McLean asked if the applicant representative from Comcast would like to add anything to the presentation, he did not.

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 Baca asked how commonplace these types of agreements are with municipalities and how this agreement compares to others in the area. Brandon Dittman with Kissinger & Fellman (special legal counsel for the City) explained that a Franchise Agreement allows an entity to use the City's right-of-way in order to provide their services to customers. In exchange for that these companies provide the City a percentage of their gross revenues. Cable companies pay 5% of the cable service in the City of Brighton, this number is set by federal law. This is a non-exclusive franchise so any other competitive carriers could also do business in Brighton. This agreement includes an HD channel, this is not always included in the franchise agreements nationally, and so this is a good deal for Brighton. Another benefit is the one time grant of \$12,500.00 to the City to purchase equipment that will allow Brighton to stream City Council meetings and other meetings on the internet. This is a service provided because a customer cannot watch meetings on demand. The amount of the grants differ based on population size.

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

City Attorney Brubaker asked that the title of the Resolution be corrected to say "gross" and not "net" revenues.

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Bell, to approve Ordinance 2270 approving a Franchise Agreement with Comcast Cable Communications, LLC, granting to Comcast Cable Communications, LLC a non-exclusive right-to-sell, furnish and distribute cable services within the City of Brighton; a non-exclusive right to acquire, construct, install, locate, maintain, operate and extend into, within and through the City all facilities reasonably necessary to furnish, sell and distribute cable services all in accordance with the terms and conditions of the Franchise Agreement; specifying that the franchise shall be effective upon the effective date of this Ordinance and for a term of ten (10) years thereafter; setting a franchise fee of 5% of the gross revenues of Comcast Cable Communications, LLC; providing for a surcharge therefore; providing for the collection of 'PEG' fees to support the City's PEG operations; authorizing the Mayor to execute the Franchise Agreement for and on behalf of the City and the City Clerk to attest thereto as amended. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ADOPTING THE CITY OF BRIGHTON CABLE TELEVISION CUSTOMER SERVICE STANDARDS

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

Motion by Councilmember Kniss, seconded by Councilmember Humbert, to approve Resolution 2017-129 adopting the City of Brighton Cable Television Customer Service Standards. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

C. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO REPEALING ARTICLE 5-28 CABLE TELEVISION SYSTEM OF THE BRIGHTON MUNICIPAL CODE; AND SETTING FORTH OTHER DETAILS RELATED THERETO (FINAL READING)

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

Brandon Dittman answered questions from Council regarding:

- *The Comcast Franchise Agreement replacing this portion of the Municipal Code.*

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

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Humbert, to approve Ordinance 2271 repealing Article 5-28 Cable Television System of the Brighton Municipal Code; and setting forth other details related thereto. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

7. PUBLIC HEARINGS

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AMENDING CHAPTER 17 OF THE BRIGHTON MUNICIPAL CODE, LAND USE AND DEVELOPMENT CODE, SECTION 17-52-50, CERTIFICATES OF APPROPRIATENESS; AND SETTING FORTH DETAILS IN RELATION THERETO

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

Mayor McLean opened the public hearing at 7:48 p.m. and City Clerk Natalie Hoel verified the required postings and publications (November 1, 2017 in the Brighton Standard Blade) for this public hearing were completed.

City Manager Philip Rodriguez introduced Long Range and Historic Preservation Planner Aja Tibbs.

Long Range and Historic Preservation Planner Aja Tibbs presented an amendment to the Brighton Municipal Code Section 17-52-50, Regulations for the Certificate of Appropriateness (COA) in the Land Use and Development Code. Section 17-8-20(a) establishes the process for making amendments to the Land Use and Development Code. This requires that the amendments be heard by the Planning Commission to make a recommendation to City Council and adoption by Ordinance by City Council.

Sections 30 and 40 of the Land Use and Development Code establish the process for which a historic structure will be designated. The Code outlines a series of criteria when a structure is appropriate for designation and the process of evaluation to determine what is important or significant with the historic structure. Once a structure is designated, the COA process comes into action. Once a structure is designated, any change or modification to the structure or properties within the district have to go through a COA process. The COA criteria is used to determine if any modifications or changes will significantly alter any significant elements that were determined when the structure was designated. These elements must be protected and preserved.

The criteria for the COA has been working well; staff is just looking at where the burdens are in the COA process. Any work, minor or major, being done to a historic structure is required to go through a COA process.

This was intended to make sure that the structure or district was protected. The process for the COA requires a fifteen (15) day notice for a public hearing before the Historic Preservation Commission. This can cause problems when looking at a minor proposal like a sign permit or minor ground work that does not impact the historic structure or historic features. This has caused some burden on staff, the applicant and the Commission. It would be appropriate to have a more minor process for minor work being proposed.

Staff has worked with the HPC to find alternatives to create a more functional process for everyone involved. The HPC asked that staff proposed two (2) additional types of review, this will create a three (3) tiered system. The administrative level review process will allow administrative staff to determine if the existing criteria is unchanged, do their own analysis to see if there is a significant impact being proposed. If it is a minor change and there is no impact, staff can move forward and approve the permit. If there is some impact, the permit will be moved to the COA Sub-committee, consisting of three (3) of the Historic Preservation Commission members. This gives the sub-committee the opportunity to review staff concerns regarding the permit and to make their own determinations. The sub-committee can approve the permit or recommend that a public hearing be held with the HPC.

The applicant does have the option to skip the administrative and sub-committee reviews and move straight to the public hearing process. The goal is to shorten the process, not lengthen it. Staff and the sub-committee do not have the authority to deny a request. If staff or the sub-committee feel at any time that there will be detrimental impacts to the structure, there will be a public hearing held to make the final determination regarding the application. Sub-committee members will be selected with the Commission seats each year on a rotating basis so every member will have the opportunity to learn and be involved in the process. This new proposed process will allow the approval of permits that do not impact the structure so do not need the full COA process and also allows for the COA process when needed for something like a mural that does not require a permit, but can cause damage to historic materials on a building.

The Historic Preservation Commission recommended that this item be taken to City Council for approval and the Planning Commission unanimously recommended approval of this Code amendment. Notice was published on November 1, 2017 and staff has not received any comments against this proposal. Staff recommends approval of the proposed Code amendment.

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.

Joseph Burt, 4629 Midland Street, Brighton. Mr. Burt is the Vice-Chair of the Historic Preservation Commission. This item was suggested over a year ago to the HPC so the COA application process could be streamlined to reduce the burden on the applicant, the Commission and staff. The HPC reviewed the process and determined the best way to streamline the process for applications while allowing the applicant to move forward with the public hearing process if they want. Mr. Burt thanked staff for their hard work and feels that this is a good solution for the HPC regarding the COA process.

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.

Mayor Pro Tem Kreutzer explained that the Historic Preservation Commission is a unique, hardworking group that understands the community and its roots. The Commission works to save and preserve history and to save it correctly. The Historic Designation process and the Certificate of Appropriateness process can be intimidating to property owners, they do not know if they will be told what they can do with their property. It is in the best interest of the City to make sure this is done correctly. The members of the HPC and staff want to find a way to work with the property owners and ease their fears about the process. Preserving the history of the City is good for the community.

Mayor McLean closed the public hearing at 8:03 p.m.

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Humbert, to approve the Ordinance amending Chapter 17 of the Brighton Municipal Code, Land Use and Development Code, Section 17-52-50, Certificates of Appropriateness; and setting forth details in relation thereto. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

8. RESOLUTIONS

THE A. A RESOLUTION OF THE CITY COUNCIL OF BRIGHTON, COLORADO ADOPTING THE REVISED EMERGENCY OPERATIONS BASE PLAN (THE 2017 PLAN); AUTHORIZING AND INSTRUCTING THE CITY MANAGER, IN CONJUNCTION WITH THE EMERGENCY MANAGEMENT COORDINATOR, TO IMPLEMENT SAID 2017 PLAN WHEN APPROPRIATE; AND SETTING FORTH OTHER DETAILS RELATED THERETO

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

City Manager Philip Rodriguez introduced Emergency Management Coordinator Stephanie Hackett.

Emergency Management Coordinator Stephanie Hackett explained that every two (2) years there is a formal re-adoption of the Emergency Operations Base Plan to adopt and review all changes to the Plan. Reviewing the Plan helps to make it work better internally and while working with other entities to be sure the Plan is functional. It is important to adopt the Plan and continue to amend and use the Plan. Coordinator Hackett answered questions from Council regarding:

- The plan being on the City's website.*

Motion by Councilmember Kniss, seconded by Councilmember Pollack, to approve Resolution 2017-130 adopting the revised Emergency Operations Base Plan (The 2017 Plan); authorizing and instructing the City Manager, in conjunction with the Emergency Management Coordinator, to implement said 2017 Plan when appropriate; and setting forth other details related thereto. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO APPROVING AN AMENDED 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 ONE HUNDRED TWENTY-THREE THOUSAND FOUR HUNDRED FIFTY-FIVE DOLLARS (\$123,455); AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY; AND SETTING FORTH OTHER DETAILS RELATED THERETO

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

City Manager Philip Rodriguez explained that this is being presented in part because the staff working on the Ralston House project attempted to get grant funding for the program, but that failed to happen. Therefore, the City's contribution amount will increase to \$123,455.00 but staff still believes that this is a worthwhile project. City Manager Rodriguez introduced Chief of Police Paul Southard.

Chief of Police Paul Southard explained that the Ralston House did not receive grant funding so staff is presenting an amended Agreement which will increase the City's share of the cost from \$77,910.00 to \$123,455.00. The funding is available for this project. The Brighton Police Department's total use of the facility is 7.88% and this percentage determines how the assessment is calculated. Chief Southard answered questions from Council regarding:

- All other entities involved agreeing to this increase.
- An explanation of the purpose of Ralston House.

Motion by Councilmember Baca, seconded by Councilmember Pollack, to approve Resolution 2017-131 approving an amended 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 \$123,455.00; authorizing the Mayor to execute said Agreement on behalf of the City; and setting forth other details related thereto. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO SUPPORTING THE REAUTHORIZATION BY THE GENERAL ASSEMBLY OF THE COLORADO LOTTERY DIVISION IN 2018

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

City Manager Philip Rodriguez introduced Parks and Recreation Director Gary Wardle.

Parks and Recreation Director Gary Wardle explained that this Resolution supports the reauthorization of the Lottery Fund for expenditures in Parks and Recreation. The Lottery Fund was created in 1992 and since then the City has received in excess of six million dollars of Lottery proceeds. After approval of the Lottery Fund the voters also approved the Great Outdoors Colorado legislation which provides for grant funding for other Parks and Recreation projects. Since its inception, the City has received just over three million dollars in grants for Parks and Recreation projects. The reauthorization of the Lottery Division in the State of Colorado takes place every twenty (20) years and is up for reauthorization in 2018. Staff is asking for City Council support to show support to have the State Legislature reauthorize this program.

Motion by Councilmember Pollack, seconded by Mayor Pro Tem Kreutzer, to approve Resolution 2017-132 supporting the reauthorization by the General Assembly of the Colorado Lottery Division in 2018. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON,

COLORADO APPROVING A MEMORANDUM OF UNDERSTANDING FOR THE ADMINISTRATION OF THE MINOR HOME REPAIR PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE SAID MEMORANDUM OF UNDERSTANDING ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SUCH DOCUMENTS AND UNDERTAKE SUCH TASKS AS MAY BE REQUIRED TO CARRY OUT THE TERMS OF THE MEMORANDUM OF UNDERSTANDING; AND SETTING FORTH OTHER DETAILS RELATED THERETO

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

City Manager Philip Rodriguez introduced General Services Manager Karla Armstrong.

General Services Manager Karla Armstrong requested approval of the Memorandum of Understanding (MOU) with Adams County for the administration of the Community Development Block Grant Minor Home Repair Program. In the past year Adams County has provided the administration of the Minor Home Repair Program. The purpose of the MOU is to outline the responsibilities between Adams County and the City of Brighton if on an annual basis the City elects to use the allocation for the program. Authorization of the MOU will allow Adams County to retain 20% of the City's allocation for the administration of the program in which funds are committed to the program. Staff recommends approval of the MOU. Manager Armstrong answered questions from Council regarding:

- The portion the City will pay.*
- The funds being available.*
- All of the funds being used last year.*
- Adams County being responsible for the administrative work for the program.*
- All entities being charged 20%.*
- This being done only for the Minor Home Repair Program.*
- Adams County being responsible for reviewing applications for qualified residents, allocating funds and approving the residents.*
- The ways the average citizen can find out about the program.*

Motion by Councilmember Bell, seconded by Councilmember Kniss, to approve Resolution 2017-133 approving a Memorandum of Understanding for the administration of the Minor Home Repair Program; authorizing the Mayor to execute said Memorandum of Understanding on behalf of the City and the City Clerk to attest thereto, authorizing the City Manager or his designee to execute such documents and undertake such tasks as may be required to carry out the terms of the Memorandum of Understanding and setting forth other details related thereto. Motion passed by the following vote:

Aye: 6 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Baca, Councilmember Bell, Councilmember Humbert, and Councilmember Kniss

No: 1 - Councilmember Pollack

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

9. 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, ACCEPTING THE BID OF EXCAVATION & CONSTRUCTION SPECIALIST, INC., AND AWARDING THE CONTRACT FOR THE INDIGO TRAILS WATERLINE TO

EXCAVATION AND CONSTRUCTION SPECIALIST, INC. IN AN AMOUNT NOT TO EXCEED ONE HUNDRED EIGHTY-NINE THOUSAND SIX HUNDRED SEVENTY-SIX DOLLARS (\$189,676.00), AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY, AND AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS FOR UNFORESEEN SITE CONDITIONS UP TO FIFTY THOUSAND DOLLARS (\$50,000.00)

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

City Manager Philip Rodriguez introduced Utilities Director Curt Bauers.

Utilities Director Curt Bauers requested approval of a contract to install the Indigo Trails waterline. The Indigo Trails subdivision is supplied by a single-feed waterline which stretches over a half mile long. An additional distribution line is needed to add redundancy and improve reliability to the existing distribution system in the Indigo Trails subdivision. By eliminating a long, dead end line and completing a loop in the distribution system generally results in improved water quality as well. The project is approximately 1400 ft. of 12" waterline and was budgeted in 2017. The design for the line was completed by J3 Engineering this fall. The RFP for the construction was advertised and six (6) proposals were received. The lowest most responsive and responsible proposal came from Excavation & Construction Specialist, Inc. in the amount of \$189,676.00. This firm has good references and is in good standing in the State of Colorado. Generally a 10% or 20% change order approval for the City Manager's authorization is requested. In this case staff is asking for a \$50,000.00 limit because the risk of so many feet of underground infrastructure, the potential for unforeseen circumstances and the value to be able to act fast if an issue does arise warrants the additional approval for the City Manager. This amount is within the approval limits for the City Manager. Staff recommends approval of the agreement. Director Bauers, City Manager Philip Rodriguez and Jacob Herbert, Staff Engineer answered questions from Council regarding:

- The location of Indigo Trails.*
- The reason the City is paying for the repairs and not the developer since this is an established neighborhood.*
- The developer of the new portion being responsible for sharing in the cost of the repairs.*
- The location of the waterline.*
- The depth of the lines.*
- Justification for the requested \$50,000.00 change order.*
- This property being part of the farmland that was discussed previously.*
- This putting undue pressure on the City by a developer to take a future action.*

Councilmember Baca asked if it would be appropriate to go into Executive Session to discuss this matter as it may relate to an item that was discussed previously in Executive Session.

City Attorney Margaret Brubaker asked if the discussions relate to legal advice or negotiations.

Motion by Councilmember Baca, seconded by Mayor Pro Tem Kreutzer, to go into Executive Session at 8:46 p.m. 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). Motion passed by the following vote:

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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

Mayor McLean reconvened the meeting at 9:06 p.m.

Utilities Director Curt Bauers clarified that the need for this line is unrelated to any concurrent or future development. This project was identified during the water master planning process and the distribution system modeling that was performed identifying both pressure fluctuations within the Indigo Trails subdivision that put

the waterlines providing that subdivision at some risk for failure. The City tries to ensure that all new connections to the distribution system are well looped to the system. The single line feeding Indigo Trails was identified and prioritized as a potential risk to the public health and safety. If pressure fluctuations or other failure resulted in the 12" line feeding Indigo Trails would fail then a significant number of people would be out of service than during a main break with a looped system. Fire suppression failure during a main break is an even more significant issue.

City Manager Philip Rodriguez addressed the issue with the \$50,000.00 change order. This item was included so that staff can manage any issues in a timely manner on certain projects. If there is a project that can impact the distribution of water or the collection of wastewater, any issues need to be addressed quickly if something goes wrong. City Manager Rodriguez expressed his desire to ensure that the emergency purchase order processes are reserved for the most extreme cases and not used for problems that may be more commonplace with these types of projects. During the last emergency purchase order that took place, there were additional expenses incurred that could have been avoided if the change order process was in place. The department initiates the change order request, however it is reviewed by the City Manager and the Finance Director prior to the request being authorized. The amount of \$50,000.00 was proposed in part to reflect the \$50,000.00 signatory amount in the Code for the City Manager to approve for purchases. City Manager Rodriguez would like to have a little more ability to respond to problems quickly when dealing with water and wastewater issues.

Director Bauers answered questions from Council regarding:

- The project being delayed having to wait for a change order to be approved by City Council.

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Baca, to approve Resolution 2017-134 acting by and through its Water Activity Enterprise, accepting the bid of Excavation & Construction Specialist, Inc., and awarding the contract for the Indigo Trails Waterline to Excavation and Construction Specialist, Inc. in an amount not to exceed \$189,676.00, and authorizing the Mayor to sign the contract on behalf of the City, and authorizing the City Manager to approve change orders for unforeseen site conditions up to \$50,000.00. Motion passed by the following vote:

Aye: 6 - Mayor McLean, Mayor Pro Tem Kreutzer, Councilmember Baca, Councilmember Humbert, Councilmember Kniss, and Councilmember Pollack

No: 1 - Councilmember Bell

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

10. GENERAL BUSINESS

A. Cancel the December 26, 2017 Study Session for the Christmas Holiday

Motion by Mayor McLean, seconded by Councilmember Pollack, to cancel the December 26, 2017 Study Session for the Christmas Holiday. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

B. Approval of the October 17, 2017 City Council Minutes

Councilmember Humbert asked that the minutes be amended to correct the vote on Item 7C to 7 aye, 1 no, and 1 absent.

Motion by Councilmember Humbert, seconded by Mayor Pro Tem Kreutzer, to approve the October 17, 2017 City Council Minutes as amended. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

11. REPORTS

A. By the Mayor.

Mayor McLean attended the National League of Cities Conference and gave a speech at the Crossroads Church.

B. By Department Heads.

C. By the City Attorney.

D. By the City Manager.

City Manager Philip Rodriguez announced that the City is having a run-off election on December 5, 2017. Adams County is allowing access to the ballot box in the parking lot at City Hall to use during the election. The ballots have been sent out and residents should be receiving them soon. The City will be closed on Thursday (Thanksgiving) and Friday. The City will continue to research the question regarding the Development Agreement with Indigo Trails. City Manager Rodriguez thanked City Council for the opportunity to serve and thanked staff and City Council for their efforts to make Brighton a great community.

Assistant City Manager Marv Falconburg explained that Code Enforcement is working in Fuller Estates and will continue to do so. There are some issues in the area that are being taken to court. The City is taking these issues seriously.

12. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Mayor Pro Tem Kreutzer attended the tree dedication ceremony for Mary Ann Miller, the Helping Hands Food Drive, the Chamber Awards, the Career Expo at the Merchandise Mart and spoke to the first graders at Northeast Elementary about the political process.

Councilmember Kniss attended the Legacy Foundation Meeting and the Adams County Board recognition. Colorado Gives Day is December 5th. Councilmember Kniss spoke to students at Prairie View High School about traffic and the need for a sidewalk. The LINK board is adding Prosecuting Attorney Adam Gollin and Pastor Luna from New Hope Church to the board.

Councilmember Humbert attended the Housing Authority Meeting and the NLC Conference.

Councilmember Bell attended the NLC Conference and the Veterans Day luncheon for employees.

Councilmember Baca attended the DRCOG meeting and thanked staff for the lights at Prairie Center.

Councilmember Pollack thanked the Police Department for their response and work with the homeless members of the community.

13. EXECUTIVE SESSION

14. ADJOURNMENT

Motion by Mayor Pro Tem Kreutzer, seconded by Councilmember Kniss, to adjourn at 9:55 p.m. 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

Absent: 2 - Councilmember Edwards, and Councilmember Wallin

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

Approval Date