



City of Brighton

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



Meeting Minutes - Draft

Tuesday, February 19, 2019

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

Councilmember Blackhurst led the recitation of the Pledge of Allegiance to the American Flag.

B. Roll Call

Present: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Not Present: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

2. APPROVAL OF REGULAR AGENDA

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

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

3. CONSENT AGENDA

A. Approval of the January 15, 2019 City Council Minutes

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING R. WAYNE WALVOORD AS A MEMBER OF THE DISTRICT PLAN COMMISSION WITH A TERM TO JANUARY 2023

Resolution No: 2019-19

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING VALERIE ESCATEL AS AN ECONOMIC DEVELOPMENT BOARD MEMBER OF THE LODGING TAX ADVISORY COMMITTEE WITH A TERM TO DECEMBER 2021

Enactment No: 2019-20

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

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

4. CEREMONIES

A. Swearing In of New Board and Commission Members

Deputy City Clerk Patricia Leyva swore in the newly appointed City of Brighton board member.

B. Recognition of Community Partners by the Brighton Employees Charities Committee

Brighton Employees Charities (BEC) members Gail Ashley and Sheryl Johnson updated the City Council on the BEC activities in 2018 and to recognize all of the community partners that donated to the group.

C. Youth Leadership Week Proclamation

Mayor Kreutzer read the Proclamation into the record and presented it to Youth Services Manager Tawnya Bockman.

Motion by Councilmember Humbert, seconded by Councilmember Wallin, to approve the Proclamation. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

D. Greater Brighton Chamber of Commerce Woman of the Year Proclamation

Mayor Kreutzer read the Proclamation into the record and presented it to the 2019 Evolution of the Year Honoree Shereen Fink.

Motion by Councilmember Mills, seconded by Councilmember Blackhurst, to approve the Proclamation. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

E. Greater Brighton Chamber of Commerce Legacy of the Year Proclamation

Mayor Kreutzer read the Proclamation into the record and presented it to the 2019 Legacy Award Winner Joan Kniss.

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

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

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

Michael Boutwell, Brighton. Mr. Boutwell expressed concern regarding the radiation that is being emitted from the AML water meters. Mr. Boutwell is concerned about the water prices in the City and is concerned with the Police Department.

Ann Taddeo, Brighton. Ms. Taddeo expressed concern regarding the money that is missing in the Water Department. Ms. Taddeo expressed concern regarding the businesses that have been chosen to occupy the Depot building; one business is not a local business located in the City of Brighton.

Kelly VanOosbree, Commerce City. Ms. VanOosbree represents Platte Valley Players and is concerned about a long-term lessee at the Armory, which is not an arts related organization. The Armory is a City facility, was created with the intention to provide a space for the citizens of Brighton to enjoy and participate in the visual and performing arts, and attracts patrons from the Denver metro area and the state.

Daryl Meyers, Brighton. Mr. Meyers expressed concern on behalf of three (3) cultural arts groups in the City regarding the Armory Cultural Arts Center and a large church organization to have use of the Armory on an ongoing weekly basis. No other organization has been allowed to have an ongoing, dominant presence in the facility, especially one that does not meet the criteria or definition of cultural arts. This use compromises the Armory for the purpose for which it was designed.

Heidi Storz, Brighton. Ms. Storz represents the heArt of Brighton, the fundraising entity for the Armory. Ms. Storz expressed concern regarding the intended and unintended impacts this ongoing schedule would have on the facility and the valued programming in Brighton. The City has never supported programming on Sunday, so several performing arts groups in the City schedule around the City's request to keep the Armory dark on Sunday. This long-term lease on Sundays is contrary to the schedule the groups were held. Ms. Storz is concerned that the heArt of Brighton has been kept in the dark regarding this lease.

Dr. Rod Fair, Brighton. Dr. Fair is on the heArt of Brighton board and raises funds for the Armory to market scientific, cultural, literary, visual, educational and performing arts programs for the Armory. The group has raised funds for many upgrades to the facility. Dr. Fair expressed his concern regarding the proposed long-term lease on Sundays and the impact to the rentals for Saturday night. The mission of the facility and the heArt of Brighton is to protect the investments that have been made in equipment and groups like Platte Valley Players. There is concern regarding fundraising for the Armory if the City is using the facility as a commercial rental property.

Dolly Garcia, Brighton. Ms. Garcia is a board member of Platte Valley Players and is concerned about the church moving into the Armory for the specific reason that the sets for plays can be complicated and difficult to disassemble them on Saturday night and reassemble the sets the following weekend. The Platte Valley Players has been a consistent customer of the Armory since the beginning. Ms. Garcia asked the Council and BURA to consider seriously the church coming into the Armory.

6. PUBLIC HEARINGS

7. RESOLUTIONS

A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AUTHORIZING A BID AWARD TO MILLSTONE WEBER, LLC, IN THE AMOUNT OF \$651,708.89 PLUS A 15% CONTINGENCY OF \$97,756.33 FOR THE TOTAL AMOUNT NOT TO EXCEED \$749,465.22 FOR THE COLORADO FRONT RANGE TRAIL CONSTRUCTION PROJECT #18-057, AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO

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

City Manager Philip Rodriguez clarified that staff is asking for a 15% contingency and introduced Assistant Director of Parks and Recreation Mark Heidt.

Assistant Director of Parks and Recreation Mark Heidt presented the Colorado Front Range Trail (CFRT) Construction Project from E-470 to Ken Mitchell Park. The project includes construction of 7.24 miles of 10' wide concrete trail, signage and other trail amenities. Funding was received from a Great Outdoors Colorado (GOCO) grant in 2014, an Adams County Open Space grant in 2015 and City funds budgeted in 2019 from the Recreation Capital Budget. Millstone Weber, LLC was the most responsive and responsible bidder. Staff requests awarding the contract to Millstone Weber, LLC for \$749,465.22. The bid amount is \$651,708.89 with a 15% contingency for \$97,756.33. Assistant Director Heidt answered questions from Council regarding:

- The other amenities along the trail.*
- The number of bids received.*
- The anticipated completion date for the trail.*
- Other grants being contributed to this project.*
- The reasons this was the best bid and the lowest and highest priced bids.*
- A detailed timeline from the bidder for completion of the trail.*
- The total of grants received for this project.*

Motion by Councilmember Blackhurst, seconded by Councilmember Humbert, to approve Resolution 2019-21. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, EXPRESSING ITS SUPPORT FOR HOUSE BILL 19-1035 CONCERNING AN INCREASE IN THE FLEXIBILITY TO SET FEES FOR ELECTRICAL INSPECTIONS THAT ARE NOT CONDUCTED BY THE STATE, AND SETTING FORTH THE REASONS FOR SUPPORTING THE PASSAGE OF HOUSE BILL 19-1035

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

City Manager Rodriguez introduced Urban and Policy Director Ryan Johnson.

Urban and Policy Director Ryan Johnson explained that CML and other municipalities are tracking 118 Bills. HB 19-1035 is related to the decoupling of electrical inspection fees. Currently a municipality cannot charge any more than 15% above what the state currently assesses for electrical inspections. The state provides electrical inspections on state government facilities and facilities for higher education. This bill would remove the cap so a municipality could more effectively establish its own fees for providing electrical inspections. This bill establishes 2014 as a high year in terms of inflationary costs and allows municipalities to have a CPI

inflation each year to ensure a municipality is capturing true cost recover on electrical inspections. Staff feels this would provide more authority to Brighton to assess and collect fees appropriately for the true cost to provide these services. This item is scheduled for a hearing on February 26, 2019. Any action by Council would be included in the testimony at that time.

Motion by Councilmember Humbert, seconded by Councilmember Johnston, to approve Resolution 2019-22. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, EXPRESSING ITS SUPPORT FOR SENATE BILL 19-006 CONCERNING AN ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM, WHICH BILL, IN CONNECTION THEREWITH, REQUIRES THE STATE OFFICE OF INFORMATION TECHNOLOGY TO CONDUCT A SOURCING METHOD FOR THE DEVELOPMENT OF THE SYSTEM, AND REQUIRES THE DEPARTMENT OF REVENUE TO ESTABLISH THE IMPLEMENTATION OF THE SYSTEM FOR THE ACCEPTANCE OF RETURNS AND PROCESSING OF PAYMENTS FOR THE SALES AND USE TAX LEVIED BY THE STATE AND ANY LOCAL TAXING JURISDICTIONS, AND SETTING FORTH THE REASONS FOR SUPPORTING SENATE BILL 19-006

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

City Manager Rodriguez introduced Urban and Policy Director Ryan Johnson.

Urban and Policy Director Ryan Johnson presented SB 19-006, which relates to the local municipalities ability to collect sales tax generated from online sales. This bill provides funding via the state for an RFP to conduct a study to look at a single point of remittance portal for sales taxes. The portal would be available to all seventy-one home rule municipalities that are self-collecting. Businesses are concerned with knowing all of the different local jurisdictions rules and policies on how to remit sales tax. At the end of the study, any home rule municipality could agree to join or to stay out of the program. This would create a more simplified system for businesses. Staff recommends support of this measure. Director Johnson answered questions from Council regarding:

- Any discussion regarding the remittance being delivered directly to the municipality, not the state.*

Motion by Councilmember Johnston, seconded by Councilmember Wallin, to approve Resolution 2019-23. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

8. 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, APPROVING CHANGE ORDER NO. 2 TO THE CONTRACT WITH NORTHERN COLORADO CONSTRUCTORS, INC., IN THE AMOUNT OF \$262,053.45, AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CHANGE ORDER ON BEHALF OF THE CITY

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

City Manager Rodriguez introduced Infrastructure Director Mike Woodruff and Storm Water Coordinator Scott Olsen.

Infrastructure Director Mike Woodruff presented a change order for the Veterans' Park Water Quality Project. The City applied for a grant from the Colorado Department of Transportation (CDOT) in 2017 for the design and construction of a stormwater treatment pond adjacent to Veterans' Park. The pond would allow for sediment, debris and trash to be removed from stormwater runoff from the CDOT right-of-way and Downtown Brighton. The City was awarded \$421,978.00 for this project and contracted with Northern Colorado Constructors for the project for \$289,962.00. Change Order No. 1 was done due to wetlands mitigation issues, the pond had to move to the south side of Highway 7. A wetlands delineation survey showed that the original location of the pond would not be feasible due to removal of a large area of wetlands. It was decided that the pond would be moved to the south side of Highway 7. This required a new survey, new pond design and other studies required by CDOT. The cost of Change Order No. 1 was \$56,233.00 bringing the total cost of the project to \$345,925.00. This was covered under the initial grant funding. Change Order No. 2 included construction of the pond on the south side of Highway 7. This included change of location, and design comments from CDOT increased the cost of the future construction of the pond. Change Order No. 2 is for \$262,053.45, and if approved the total contract amount would be \$607,978.45. Per the IGA with CDOT, the City is required to fund project costs that are above the grant amount. The City will pay \$186,000.45 above the grant award. Funding will come from the approved 2019 Stormwater Capital Improvement Project budget. Staff recommends approval of Change Order No. 2. Director Woodruff, Storm Water Coordinator Scott Olsen and Parks and Recreation Director Gary Wardle answered questions from Council regarding:

- The year this project was originally done.*
- The stage in the project it was discovered the proposed location was a wetlands area.*
- The City owning the land where the pond would be located.*
- The pond being located at Miller Street and Highway 7.*
- The stormwater being conveyed to the pond by the McCann Ditch.*
- Plans to expand the size and capacity of the McCann Ditch.*
- The need for storm outlet on the north side of Highway 7 due to planned development.*
- The water quality treatment for this water.*
- The difference in the pond to others in the City and the impact to neighbors.*
- The storm drains already being in place for the pond.*
- The pipes being placed under Highway 7 to the north.*
- The length of time to complete the process.*
- Road improvements that would need to be done during this process.*
- A sidewalk being constructed on the south side of Highway 7.*

Motion by Councilmember Humbert, seconded by Councilmember Mills, to approve Resolution 2019-24. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

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

COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, TO FIND AND ACKNOWLEDGE THAT GOOD CAUSE EXISTS AND THAT IT IS IN THE BEST INTERESTS OF THE CITY TO WAIVE THE FORMAL REQUEST FOR PROPOSAL PROCEDURES FOR CONTRACT RENEWAL WITH FISCHER, BROWN, BARTLETT, AND GUNN, P.C., FOR THE PROVISION OF WATER-RELATED LEGAL SERVICES TO THE CITY IN THE NOT-TO-EXCEED AMOUNT OF \$175,000, AND TO AUTHORIZE THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT ON BEHALF OF THE CITY

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

City Manager Rodriguez introduced Infrastructure Director Mike Woodruff.

Infrastructure Director Mike Woodruff presented a 2019 Professional Services Agreement with Fischer, Brown, Bartlett, and Gunn the City's water attorneys. Staff is requesting a waiver of the formal bid process. This firm has been the City's water counsel since 1985 and staff wishes to maintain as much continuity as possible in dealing with longstanding water issues, studies and procurement. The funds for this agreement have been included in the 2019 budget. Director Woodruff and City Attorney Jack Bajorek answered questions from Council regarding:

- The need for this agreement with a new in house City Attorney.*
- This firm being in the best interest of the City.*

Motion by Councilmember Johnston, seconded by Councilmember Mills, to approve Resolution 2019-25. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, TO FIND AND ACKNOWLEDGE THAT GOOD CAUSE EXISTS AND THAT IT IS IN THE BEST INTERESTS OF THE CITY TO WAIVE THE FORMAL REQUEST FOR PROPOSAL PROCEDURES FOR CONTRACT RENEWAL WITH WHITE SANDS WATER ENGINEERS, INC., FOR THE PROVISION OF WATER-RELATED ENGINEERING SERVICES TO THE CITY IN THE NOT-TO-EXCEED AMOUNT OF \$250,000, AND TO AUTHORIZE THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT ON BEHALF OF THE CITY

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

City Manager Rodriguez introduced Infrastructure Director Mike Woodruff.

Infrastructure Director Mike Woodruff explained that White Sands Engineers have been with the City for a number of years. Engineers are just as valuable as legal counsel when it comes to water rights, procurement and engineering. This firm assists the City on a regular basis at staff direction when needed. Staff recommends approval of this agreement. Director Woodruff answered questions from Council regarding:

- The duration of this renewal.*
- The length of time White Sands Water Engineers has worked with the City of Brighton.*
- White Sands having done the structural study on the 8.3 MG tank.*

Motion by Councilmember Blackhurst, seconded by Councilmember Johnston, to approve

Resolution 2019-26. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

9. GENERAL BUSINESS

10. REPORTS

A. By the Mayor

Mayor Kreutzer attended the Metro Mayors Caucus, the Adams County Mayors meeting, the Sister Cities dinner and auction, the Airport Coordinating Committee meeting, the E-470 Board meeting, the KB Homes ribbon cutting, and the ADCOG Executive Committee meeting. The EVAC Spaghetti lunch is on March 2nd.

B. By Department Heads

C. By the City Attorney

City Attorney Jack Bajorek announced that he has been with the City for six (6) months and will be hiring an Assistant City Attorney soon.

D. By the City Manager

City Manager Rodriguez thanked everyone for coming out this evening to speak and express their concerns. City Manager Rodriguez explained that a church is looking to rent the Armory on Sundays for a short term. They would like to establish themselves in the City and to build or purchase a building in the future. This has not been discussed with Council because the Armory is under BURA. This will be reviewed by BURA and their legal counsel with the help of their policy handbook to make the decision regarding the potential lease.

11. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Councilmember Johnston attended the CML meeting. Councilmember Johnston thanked the Police Department for their handling of the shooting that took place.

Councilmember Humbert attended the Housing Authority meeting, the Historic Preservation meeting, the In the Dog House ribbon cutting and the concert at the Armory. The Healing Hearts Hoedown is this Friday at the Armory.

Councilmember Wallin attended the CML Legislative workshop and the Public Art Committee meeting.

Councilmember Blackhurst attended the Youth Commission meeting.

Mayor Kreutzer reported that the Youth Commission is being recognized for their SPEAK Week event and suicide prevention efforts.

Councilmember Mills attended the KB Homes ribbon cutting, the CML Legislative workshop, the Sister Cities dinner, and a free concert at the Armory with the Aurora Symphony.

12. EXECUTIVE SESSION

13. ADJOURNMENT

Motion by Councilmember Humbert, seconded by Councilmember Wallin, to adjourn at 9:02 p.m. Motion passed by the following vote:

Aye: 7 - Mayor Kreutzer, Councilmember Blackhurst, Councilmember Humbert, Councilmember Johnston, Councilmember Mills, Councilmember Pollack, and Councilmember Wallin

Absent: 2 - Mayor Pro Tem Edwards, and Councilmember Baca

CITY OF BRIGHTON, COLORADO

Kenneth J. Kreutzer, Mayor

ATTEST:

Patricia Leyva, Deputy City Clerk

Approval Date