

City of Brighton

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



Meeting Minutes

Tuesday, April 18, 2023

6:00 PM

Amended

Council Chambers

City Council

**MAYOR - GREGORY MILLS
MAYOR PRO TEM - CLINT BLACKHURST
COUNCIL MEMBERS:
TOM GREEN, MATT JOHNSTON,
PETER PADILLA, JAN PAWLOWSKI,
MARY ELLEN POLLACK, ANN TADDEO**

1. CALL TO ORDER

Mayor Mills called the meeting to order at 6:00 p.m.

A. Pledge of Allegiance to the American Flag

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

B. Roll Call

Present: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

2. APPROVAL OF REGULAR AGENDA

Motion by Councilmember Pawlowski, seconded by Mayor Pro Tem Blackhurst, to approve the Regular Agenda as presented. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

3. CONSENT AGENDA

A. Approval of the March 21, 2023 City Council Minutes

B. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT (“IGA”) BETWEEN THE CITY OF BRIGHTON AND ADAMS COUNTY FOR GRAFFITI CLEAN UP SERVICES, AUTHORIZING THE CITY MANAGER TO EXECUTE SAID IGA ON BEHALF OF THE CITY, AND TO UNDERTAKE SUCH TASKS AND EXECUTE SUCH DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT SAID IGA ON BEHALF OF THE CITY

Resolution No. 2023-39

C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING REGARDING HOMELESSNESS SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT AND FUTURE AMENDMENTS ON BEHALF OF THE CITY

Resolution No. 2023-40

D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPOINTING STARR ZWEIFEL AS A MEMBER OF THE BRIGHTON URBAN RENEWAL AUTHORITY WITH A TERM TO AUGUST 2028

Resolution No. 2023-41

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

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

4. CEREMONIES

A. Swearing In of New Board and Commission Member

City Clerk Natalie Hoel swore in the new Board and Commission member.

B. National Arbor Day Celebration Proclamation

Mayor Mills read the Proclamation into the record.

Motion by Councilmember Johnston, seconded by Councilmember Pawlowski, to approve the Proclamation. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

C. Recognition of the Arbor Day Poster Contest Winner

City Forester Patrick Laphilliph introduced Arly Boyer, 5th grader from Bromley East Charter School.

D. Dr. Warren T. Johnson Proclamation

Councilmember Padilla read the Proclamation into the record.

Motion by Councilmember Green, seconded by Councilmember Pawlowski, to approve the Proclamation. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

E. National Earth Day Celebration Proclamation

Mayor Pro Tem Blackhurst read the Proclamation into the record.

Motion by Councilmember Padilla, seconded by Mayor Pro Tem Blackhurst, to approve the Proclamation. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

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

Tom Lampo prayed for the city.

Patrick O'Brien asked members of the public and the city to respect the separation of church and state and be respectful of all religions.

Bill Mathis expressed concern regarding the battery plant and the plan for first responders.

Magdalena DelVillar expressed concern regarding the use of city facilities after hours for personal use by Councilmembers.

6. PUBLIC HEARINGS

A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A FINAL PLAT AND DEVELOPMENT AGREEMENT FOR THE RIVERFRONT SUBDIVISION FILING NO. 1, AN APPROXIMATE 52.982 ACRES OF LAND, GENERALLY LOCATED SOUTH OF BASELINE ROAD, WEST OF US HIGHWAY 85, NORTH OF KUNER ROAD'S INTERSECTION WITH US HIGHWAY 85 AND DENVER STREET, AND EAST OF THE SOUTH PLATTE RIVER, MORE PARTICULARLY LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO; AUTHORIZING THE MAYOR TO EXECUTE THE DEVELOPMENT AGREEMENT ON BEHALF OF THE CITY; AND SETTING FORTH OTHER DETAILS RELATED THERETO

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

Mayor Mills opened the public hearing at 6:37 p.m. and City Clerk Natalie Hoel verified the required postings and publications (March 27, 2023 on the City of Brighton website) for this public hearing were completed.

Assistant Director of Community Development Mike Tylka presented the Riverfront Subdivision Filing No. 1 Final Plat and Development Agreement. The applicant is Resource Consulting, and the owner is Brighton Industrial Park, LLC. This item was submitted prior to the adoption of the current Land Use and Development Code. The Final Plat is for a ten-lot subdivision for possible multi-family residential, commercial, industrial, or public uses with easements in tracts for open space, trails, drainage access and dedication of rights-of-way. The property is currently unplatted. In the previous process, a Preliminary Plat is brought before the Planning Commission for their consideration and a Final Plat and Development Agreement is brought before the City Council. These are all required before site development can occur on the property. The Development Agreement would be approved with the Final Plat. The Development Agreement outlines the expectations the city has for the developer regarding the property as it develops.

The property is generally located south of Baseline Road, west of US Highway 85, north of Kuner Road's intersection with US Highway 85 and Denver Street, and east of the South Platte River and is approximately 52.982 acres. Uses to the north is the Metro Water Recovery northern treatment facility, to the south is an unannexed parcel with an industrial user, to the east is an unannexed industrial use, and an annexed commercial use being Tractor Supply and a planned public use, and to the west is the South Platte River. The property was annexed in January, 2016 as the Riverfront Property Annexation and was zoned as the Riverfront PUD and amended in 2021.

The Final Plat proposal includes ten lots for development and has dedicated right-of-way for trails and utility easements. There are tracts and easements dedicated to the city for open space and the future Colorado Front Range Trail corridor. Assistant Director Tylka presented the terms of the Development Agreement including dedicated water shares, rights-of-way, dedicated open space, and construction of necessary infrastructure. A document in an exhibit of the Development Agreement would grant consent for the assignment of the developer's obligation to Love's Travel Truckstop's and Country Stores. Assistant Director Tylka presented a detailed explanation of the roadway improvements that will take place at this location prior to any business being conducted on the property.

The proposal aligns with three principles of the Comprehensive Plan:

- Principle 1: Managing Growth, Development pays its own way*
- Principle 2: The Freestanding City, there are a variety of uses and services*
- Principle 3: Open Space & Natural Environment, promotes urban space patterns with dedicated regional trail corridor and open space*

Staff finds that all the subject requirements in the Land Use and Development Code (LUDC) are met. The property is in conformance with the LUDC and meets requirements for the zone district and subdivision regulations. Development of the property will facilitate the orderly growth and expansion of the city. It will allow the developer to take advantage of the location near the major transportation

corridors. The proposed subdivision, where its neighbors are industrial, commercial, and public users is compatible with the surrounding area. Section 17-40-210 outlines that City Council accepts and approves the Final Plat and that the developer has entered into an agreement with the city that outlines the timing of construction of all necessary public improvements. With the agreement, a detailed schedule of improvements was submitted, a phasing plan was included, and the developer has signed the Development Agreement.

Staff finds that the Final Plat complies with all necessary regulations and the Development Agreement complies with the previous LUDC. Staff recommends approval of the Final Plat and Development Agreement. All public notice and posting requirements have been met and notice of the hearing was published on social media. No public comment was received.

The Planning Commission heard the request on January 26, 2016 and issued approval unanimously with three conditions. Staff finds that all conditions have been satisfied. The Development Review Committee reviewed the project and recommended approval. The Colorado Department of Transportation (CDOT) was included as a reviewer. A CDOT permit will be needed prior to work commencing on the Baseline Road and US Highway 85 improvements. The proposed Development Agreement protects the city if the applicant and CDOT cannot come to terms. These improvements must be completed before business can take place on the property.

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

Erik Carlson with Foster Graham thanked staff for their hard work and asked for support of this project.

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

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

Mayor Mills asked if there were questions from City Council.

Councilmember Green asked for the timeline for the project. Steve Walters with Love's explained that it would be six to nine months after they break ground and noted that staff has been great to work with.

Councilmember Blackhurst stated that this is a good use for the property.

Councilmember Padilla stated that this is an excellent addition to the city's gateway.

Mayor Mills stated that this is a great addition to have Love's in the city.

Mayor Mills closed the public hearing at 7:02 p.m.

Motion by Councilmember Green, seconded by Mayor Pro Tem Blackhurst, to approve Resolution 2023-42. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

Recuse: 1 - Councilmember Johnston

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ADOPTING ACCESSORY DWELLING STANDARDS FOR AGRICULTURAL, COMMERCIAL, AND INDUSTRIAL USES BY AMENDING CHAPTER 17 ARTICLE 4 OF THE BRIGHTON MUNICIPAL CODE

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

Mayor Mills opened the public hearing at 7:03 p.m. and City Clerk Natalie Hoel verified the required postings and publications (March 29, 2023 on the City of Brighton website) for this public hearing were completed.

Senior Long Range Planner Shannon McDowell presented the Accessory Dwelling Code Amendment. The Code currently has accessory dwelling standards for residential uses, but not for commercial, industrial, and agricultural businesses. Uses that would request this would be a mini-storage operation with a caretaker living space onsite or an animal boarding facility.

This change is modeled after the standards in the pre-2020 Code. An accessory dwelling would only be allowed in these facilities if it is in an existing single-family residence or as an apartment in a non-residential structure. An additional parking site would be required onsite. Adequate utilities and access would be required onsite. The unit would not be able to be sold separately or leased on the open market. This is meant to be a benefit to the business.

The review criteria requires that the amendment furthers the purposes of these regulations in Section 1.01.C. The amendment meets these requirements. The amendment must be in accordance with the Comprehensive Plan and has been considered for both its long-range effects as well as immediate impacts. This amendment addresses several policies including:

- Policy 2.1, this amendment adds flexibility for business owners to live on their property or have a caretaker onsite to ensure the safety of their property. The city could be a more competitive place for small businesses since people could reduce their housing costs.
- Policy 5.4, this amendment considers water, sewer, and access as well as safety when reviewed.
- Principal 8, the amendment improves the effectiveness and efficiency of administering the LUDC because a Planned Development Application would not be required. This saves the applicants and business owners time and makes it an easier process.

Public notice was provided in accordance with the LUDC and posted on social media sites. No formal comments have been received.

The Development Review Committee reviewed this project and recommended approval. Staff finds the Code amendment is in general compliance with the requirements as outlined in the LUDC and recommends approval of the amendment. The Planning Commission heard this Code amendment on March 23, 2023 and unanimously recommended approval.

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

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

Mayor Mills asked if there were questions from City Council.

Councilmember Blackhurst expressed concern with the stipulation that the owner could not lease the property on the open market because there is no way to enforce that.

Councilmember Padilla asked if this was intended to be dropped in the 2020 update of the LUDC. Senior Planner McDowell explained that the Code amendment in 2020 was a complete overhaul and there were a lot of things that changed drastically. This is an item that just got missed.

Mayor Mills closed the public hearing at 7:13 p.m.

Motion by Mayor Pro Tem Blackhurst, seconded by Councilmember Pawlowski, to approve the Ordinance. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

7. ORDINANCES FOR INITIAL CONSIDERATION

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, DISCONNECTING FROM THE CORPORATE BOUNDARIES OF THE CITY OF BRIGHTON APPROXIMATELY 23.682 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF 120TH AVENUE AND CHAMBERS ROAD, AND MORE PARTICULARLY DESCRIBED AS A PORTION OF THE SOUTHEAST ONE QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 66 WEST, OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

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

Senior Long Range Planner Shannon McDowell presented the Adams Crossing Disconnection. The applicant is Lance Richards of Landmark Development, and the owner is Adams Crossing LLC, c/o Woodbury Corporation. This is a disconnection, or de-annexation of the property located at the northwest corner of 120th Avenue and Chambers Road consisting of approximately 23.7 acres. I-76 is the north and west border, 120th is the southern border, Chambers Road is the eastern border, and the O'Brian Canal runs through the property. The recently adopted disconnection process requires City Council to approve an Ordinance to disconnect property from the city.

The property was annexed in 1987 with the Sable Annexation No. 2. and was zoned as Sable PUD in 1987. The property was designed as Parks and Open Space and Mixed-Use Industrial by the PUD. The Parks and Open Space designation was recommended by the Department of Wildlife because it is a designated wetland. The Mixed-Use Industrial designation is intended for light manufacturing, fabrication, processing, and storage. The Comprehensive Plan calls the north portion Parks and Open Space and the southern portion Mixed Use Residential. City Council should consider if the disconnection would be a detriment to the city when reviewing this proposal.

This property was mentioned in the 2019 Intergovernmental Agreement (IGA) with Commerce City. The IGA was meant to define terms around annexation and planning cooperation regarding growth boundaries. The language in the IGA stated that with the owner's consent, Brighton would de-annex the property and Commerce City may accept and act upon any petition for annexation of such property.

Senior Planner McDowell presented the hurdles to developing the property including utility extension and looping under the Burlington Ditch, I-76, the BNSF Railroad, the O'Brian Canal, and Cameron Drive. This is the only property in the city that is east of I-76, all other property to the east of I-76 is annexed into Commerce City. If the property develops, Chambers Road would be in Brighton and Commerce City and an agreement would be needed for maintenance. Access to 120th Avenue is through CDOT. If the wetland area could not be developed, the site is only 12.6 acres. The Annexation Agreement for this property indicates that the city will remit 1/3 of the generated sales tax to finance their proportionate share of the E-470 and Sable Boulevard interchange for improvements to Sable Boulevard and for offsite water and sewer lines. That remission of sales tax is effective for forty years after the first bond issuance. The Comprehensive Plan calls this property Parks and Open Space and Mixed-Use Residential, so that is the type of development the city would see without an amendment to the Comprehensive Plan.

The property is in the service area for Adams Crossing Metropolitan Districts Nos. 1-8 and in 2018, the property was included in the Adams Crossing Metropolitan District No. 2. The service plan indicates that areas outside the city limits cannot be included, except with prior written consent of the City Council. Staff is recommending that the property be removed or excluded from the service area for Districts 1-8 and from District No. 2 prior to this being approved at final reading.

Notice was provided in accordance with Section 2.11 E of the Land Use and Development Code and a copy of the application was sent to the Adams County Board of Commissioners and the Boards of Directors of the Adams Crossing Metropolitan District No. 2, the Rangeview Library District, the Brighton Fire Rescue District, the Central Colorado Water Conservancy District, the Mile High Flood District, the Regional Transportation District and 27J Schools. No agencies requested a meeting to discuss concerns within thirty days of notice and several responded stating they had no concerns. The Development Review Committee reviewed the project and recommended approval. Staff finds that the

disconnection is in general compliance with the requirements as outlined in the Land Use and Development code. Staff recommends approval of the disconnection request with the requirement that the subject property be excluded from the Adams County Metropolitan District No. 2 and be removed from the service area of the Adams Crossing District Nos. 1-8 prior to final reading of the Ordinance.

Failed for lack of a motion.

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING CHAPTER 15 OF THE BRIGHTON MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2023 EDITION OF THE NATIONAL ELECTRICAL CODE

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

Deputy Chief Building Official Michael Abruzzi asked to set a public hearing to adopt the 2023 Edition of the National Electric Code on May 16, 2023.

Motion by Councilmember Johnston, seconded by Councilmember Pawlowski, to approve the Ordinance. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

Mayor Mills called for a break at 7:45 p.m.

Mayor Mills reconvened the meeting at 7:56 p.m.

8. ORDINANCES FOR FINAL CONSIDERATION

9. RESOLUTIONS

A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, OPPOSING THE LAND USE PREEMPTIONS IN SENATE BILL 23-213

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

City Manager Michael Martinez explained that this Resolution would oppose Senate Bill 23-213, which takes land use decision making away from municipalities and creating more open rules so it would hopefully further affordable housing development in Colorado. This Resolution asks the Legislature to consider amendments that would reinstate local control.

Motion by Councilmember Green, seconded by Councilmember Pollack, to approve Resolution 2023-43. Motion passed by the following vote:

Aye: 8 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

10. UTILITIES BUSINESS ITEMS

Ordinances

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, GRANTING A PERPETUAL EASEMENT TO UNITED POWER, INC. OVER A PORTION OF REAL PROPERTY GENERALLY LOCATED IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID EASEMENT ON BEHALF OF THE CITY

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

Director of Utilities Marc Johns presented the grant of easement for United Power for power lines and transformers at the Water Treatment Plant property.

Motion by Councilmember Pollack, seconded by Councilmember Taddeo, to approve the Ordinance. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, Councilmember Pollack, and Councilmember Taddeo

Recuse: 1 - Councilmember Green

11. GENERAL BUSINESS

12. REPORTS

A. By the Mayor

Mayor Mills attended the Metro Mayors Caucus, the State of the City, the Main Street Bunny Hop, the United Power Annual meeting, and the 27J Schools Foundation Luncheon Awards.

B. By Department Directors

C. By the City Attorney

D. By the City Manager

City Manager Michael Martinez explained that the city has not made any decisions regarding single hauler trash and reported that there are remaining outreach events.

E. By City Council

Councilmember Green attended the United Power Annual meeting, the 27J Schools Annual luncheon and reported that Pizza with the Police event is at Eagle View Adult Center tomorrow.

Councilmember Pawlowski attended the E-470 Board meeting.

Councilmember Padilla attended the Adams County Water Quality Committee meeting, the Adams County Board of Health meeting, and reported that the 30th Anniversary Almost Home event is April 28th.

13. EXECUTIVE SESSION

Motion by Mayor Pro Tem Blackhurst, seconded by Councilmember Pawlowski, to go into Executive Session at 8:11 p.m. for determining positions relative to matters subject to negotiations pursuant to C.R.S. Section 24-6-402(4)(e) and City Charter Section 5.4 (C)(3) regarding a potential prospect. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Mayor Pro Tem Blackhurst, Councilmember Green, Councilmember Johnston, Councilmember Padilla, Councilmember Pawlowski, and Councilmember Taddeo

No: 1 - Councilmember Pollack

Mayor Mills reconvened the meeting at 8:26 p.m.

14. ADJOURNMENT

Mayor Mills adjourned the meeting at 8:26 p.m.

CITY OF BRIGHTON, COLORADO



Gregory Mills, Mayor

ATTEST:



Natalie Hoel, City Clerk



Approval Date