

CITY OF BRUSH!

MINUTES OF THE MARCH 24, 2014 – REGULAR CITY COUNCIL MEETING

The City Council of the City of Brush! Colorado met in regular session on March 24, 2014. Mayor Chuck Schonberger called the meeting to order at 6:00 p.m. The Pledge of Allegiance was given.

Present on roll call were: Mayor Chuck Schonberger
Councilor Jeanine Anderson
Councilor Rick Bain
Councilor Heath Becker
Councilor Kimberly Dykes
Councilor Vicky Quinlin
Councilor Mark Smith

Absent on roll call were: None.

Also present were City Administrator Monty Torres, Assistant City Administrator Karen Schminke, City Attorney Bo Chapin, Police Chief Mark Thomas, Finance Director Joanne Gosselink, Public Works Director Dale Colerick, Fire Chief Tad Andersen and City Clerk Andrea Strand.

MINUTES

The minutes of the regular meeting of March 10, 2014, were approved as submitted.

VISITORS AND DELEGATIONS

None.

MANAGEMENT

Proclamation 2014-2 Proclaiming April 1st as National Service Recognition Day

Betsy Porter, Executive Director of United Way in Morgan County was present and had provided the proclamation for Council consideration. She provided information concerning volunteers in our county and also presented an airplane print and thanked the City for their support of United Way.

Motion by Councilor Dykes to adopt Proclamation 2014-2 Proclaiming April 1st as National Service Recognition Day, seconded by Councilor Becker and approved unanimously by roll call vote. The Mayor read the Proclamation.

Public Hearing Petition by Castle Rock Construction Company to Amend Their Special Use Permit

Mayor Schonberger read the procedures of the public hearing and announced that the hearing was opened at 6:10 p.m. The notice of the public hearing was published in the Brush News Tribune and had met the notice requirements.

Staff Report

Assistant Administrator Karen Schminke informed Council that Castle Rock Construction Company of Colorado, LLC, (CRCC) had submitted an application requesting an amendment to their special use permit (SUP) for a temporary concrete batch plant in a Commercial (C) zone at 1045 Hospital Road; the original SUP was granted March 18, 2013. The requested amendment is for permission to allow additional excavation of approximately 10 acres in the southeast corner of the property for future use as an augmentation pond. Schminke provided a table file item which was a revised staff Conclusion and Recommendation Summary that had minor changes to approval conditions 1A, 2A, 4A, and 7A.

Ms. Schminke presented a detailed overview of the staff report which included zoning district intent (Commercial zone and Environmental Preservation zone district purposes and setbacks) and project history (including conditions of approval for the original SUP granted in 2013). She also provided an update regarding activities related to this property that had occurred since the original SUP issuance. This included a summary of CRCC's conversations with Administrator Torres and the Morgan County Commissioners regarding safety improvements to Hospital Road; a review of Council direction and staff actions to date related to the development of an ordinance to allow augmentation ponds within the City; and a brief overview of a possible future subdivision of the subject property. She also noted that to date, no comments from citizens had been received in her office.

Ms. Schminke's detailed review of the staff report went on to review the requested SUP amendment to the approval criteria of compatibility, Comprehensive Plan conformance, and applicant's zoning compliance history. She then concluded her report with the recommendation that should Council find that the proposal has met the review criteria, an amendment to the special use permit for a temporary concrete batch plan issued on March 18, 2013, be granted to allow additional excavation with the following conditions:

- 1A) Prior to excavation of additional material from the property, items stored on the 45-acre parcel must be located so they comply with the 100-foot setback required in the original SUP.
- 2A) Prior to excavation of additional material from the property, submit a written plan for increased blow sand and dust control measures.
- 3A) Prior to excavation of additional material from the property, a development agreement for the reconstruction of the portion of Hospital Road between the south right-of-way line of Interstate 76 and Mill Street must be signed by all parties to the agreement.
- 4A) Related to condition #8 of the original SUP, prior to excavation of additional material from the property, CRCC must provide a final grading plan (including both current and proposed elevations) for the entire 45-acre property.

5A) Additional excavation allowed under the SUP revision is restricted to that portion of the 45-acre property proposed as Lot 2 on the Castle Rock Subdivision plat prepared by Leibert-McAtee & Associates, Inc., dated 8-6-13.

6A) The top of slope must be set back from the proposed property lines of Lot 2 and the Brush Lateral Ditch as depicted on EXHIBIT A of this staff report dated March 19, 2014.

7A) Prior to excavation of additional material from the property, provide an updated site plan for the excavation area. The plan must be modified to reflect the property lines for Lot 2 as well as the required setbacks from EXHIBIT A of this staff report dated March 19, 2014.

8A) The maximum allowed slope for the proposed hole is 4:1.

9A) The maximum depth of the hole is to an elevation of 4226.

10A) The property lines of the proposed Lot 2 of Castle Rock Subdivision (prepared by Leibert-McAtee & Associates, Inc., dated 8-6-13) and the required setbacks from these property lines and the Brush Lateral Ditch must be clearly staked at all times during excavation.

Applicant Presentation

Ralph Bell, who resides in Centennial, Colorado and represents Castle Rock Construction Company, referred to the table file item presented by Director Schminke and stated they would comply with the 100 foot setback requirement for equipment and they will be mulching this weekend and will be submitting a grading plan, all to comply with the original special use permit requirements. However, he did state that they would not agree to item 3A. They have pledged \$150,000 for the rebuilding of Hospital Road and that is the most they are willing to provide, he looks for the other parties to contribute as well. Timing is of the utmost importance because of the construction time line with the Interstate and needing the dirt from the subject property.

Public testimony

Steve Griffith of Road 26, Brush, CO, President of Upper Platte and Beaver Canal Co, was present and addressed the condition of set-backs from property lines. He asked if the depth of the augmentation pond could be increased to compensate for the set-backs, which effectively decrease the size of the potential pond. Also, their initial core drilling did find a deeper depth needed to reach sand which is necessary for the functioning of the augmentation pond. He added that the ditch has been in this location since 1882. Administrator Torres questioned the need for multiple augmentation ponds in this area (the subject property and the on Golf Course property); Mr. Griffith responded that there is enough water for both prospective augmentation pond sites.

Bart Ginther of Hwy 34, Brush, stated he was in favor of the project and stressed that water is everyone's future.

Becky Rusch of Fort Morgan, CO, representing the Brush Housing Authority was present and stated that she was not opposed to the augmentation pond, but did have concerns of sand blowing into residents' yards at Brush Village. She added that she had not previously brought this to the attention of

officials, but it was a concern. She also would like to see a temporary fence when the construction was started.

Scott Kemble, Brush, CO, added that the augmentation site was favorable for native grass.

Final Questions from Council

Various Councilors had a series of questions related to condition of approval 3A. Assistant Administrator Schminke added that in lieu of a signed development agreement staff could prepare an outline of a development agreement, or letter of intent, that all parties could review to help speed up the process. Administrator Torres added that if 3A was left in, staff could quickly prepare this development agreement and present to Castle Rock Construction. Councilor Smith added that he did not feel the augmentation pond should be held hostage to Hospital Road and should not be a deal breaker. Ralph Bell added that an outline was not necessary, they were not willing to put up any more money than the \$150,000 already pledged and again timeliness of the project was crucial. Schminke added that given the public testimony Council may want to modify condition of approval 9A to allow an additional two feet of depth for the hole.

Mayor announced the public hearing was closed at 7:15 p.m.

Councilor Smith offered a motion to approve the amendment to Castle Rock Construction Company's special use permit for a temporary concrete batch plant in a Commercial zone, to allow additional excavation of approximately 10 acres in the southeast corner of the property for future use as an augmentation pond, with the following conditions:

- 1A) Prior to excavation of additional material from the property, items stored on the 45-acre parcel must be located so they comply with the 100-foot setback required in the original SUP.
- 2A) Prior to excavation of additional material from the property, submit a written plan for increased blow sand and dust control measures.
- 3A) DELETED
- 4A) Related to condition #8 of the original SUP, prior to excavation of additional material from the property, CRCC must provide a final grading plan (including both current and proposed elevations) for the entire 45-acre property.
- 5A) Additional excavation allowed under the SUP revision is restricted to that portion of the 45-acre property proposed as Lot 2 on the Castle Rock Subdivision plat prepared by Leibert-McAtee & Associates, Inc., dated 8-6-13.
- 6A) The top of slope must be set back from the proposed property lines of Lot 2 and the Brush Lateral Ditch as depicted on EXHIBIT A of this staff report dated March 19, 2014.

7A) Prior to excavation of additional material from the property, provide an updated site plan for the excavation area. The plan must be modified to reflect the property lines for Lot 2 as well as the required setbacks from EXHIBIT A of this staff report dated March 19, 2014.

8A) The maximum allowed slope for the proposed hole is 4:1.

9A) The maximum depth of the hole is to an elevation of 4224.

10A) The property lines of the proposed Lot 2 of Castle Rock Subdivision (prepared by Leibert-McAtee & Associates, Inc., dated 8-6-13) and the required setbacks from these property lines and the Brush Lateral Ditch must be clearly staked at all times during excavation.

His motion was seconded by Councilor Becker and approved unanimously by Council by roll call vote.

Council Priorities 2014-2015

City Administrator Torres asked Council to review the Council Priorities that were included in the packet and let him or Clerk Strand know if they see any additions or corrections. The Priorities will be placed on the next Council agenda for action. Councilor Anderson stated that she would like to see if the Division of Wildlife areas could be reviewed to stop hunting so that it was safe for walking. Administrator Torres stated that this will be reviewed by the city attorney.

FINANCE

Councilor Quinlin offered a motion to approve City bills from March 10-24, 2014; the motion was seconded by Councilor Dykes and was approved unanimously by roll call vote.

General Fund	\$ 79,093.02
Capital Improvement Fund	\$ 2,684.00
Capital Reserve Fund	\$ 14,076.00
Water Fund	\$ 301,453.91
Trash and Garbage Fund	\$ 7,776.80
Waste Water Fund	\$ 675,357.42
Storm Water Fund	\$ 1,015.45
Community Enhancement Fund	\$ 5,829.70
Joslin Needham Fund	\$ 1,803.99
Payroll and Cafeteria	\$ 55,639.01
Payroll Liability	<u>\$ 25,082.91</u>
Disbursements Total	\$ 1,169,812.21

STAFF REPORTS

Finance Director Gooselink

- A Supplemental Budget will be presented at the next Council meeting for consideration. It is necessary because of the purchase of English Feedlot and the receipt of money from Joslin Needham.

Police Chief Thomas

- Distributed information about VINE which is a victim notification program.
- The police department will be receiving training on the Victims’ Rights Act.
- Lt John Fryar has left the police department and Cory Hardy has been promoted to Lieutenant, and David Hosier will be taking over as lead investigator.

Public Works Director Colerick

- Reported that he attended the closing for the English Feedlot property.
- He is working with Goodwill Industries and Morgan County for a bin to collect electronic recycling.
- Beginning April 1, trash normally picked up on Wednesday, will be picked up on Tuesday. This is to coordinate the recycling pickups with the Morgan County Landfill.

Fire Chief Anderson

- Thanked everyone for attending the event on Saturday, March 22, hosted by the fire department to support the Save Our Sands effort. \$1230 was raised.
- The fire department is forming committees to promote the proposed ballot issue to support the fire department. He asked for any help from Council or staff.

City Clerk Andrea Strand

- Read upcoming meetings, reminded everyone of the March 27, Economic Development Annual Meeting and the May CML spring meeting in May.

Assistant City Administrator Karen Schminke

- Reported that the Tree Board had identified areas of the city eligible to receive a tree at no cost and are busy notifying residents. Those interested in receiving a tree at 50% cost should contact her. The Arbor Day celebration for 3rd graders will be held, Friday, April 25, 2014, at Brush High School.

MAYOR AND COUNCIL REPORTS

Mayor Schonberger announced that the City had purchased English Feed Lot, north of town. The City will begin working on a master plan to finalize all of the various uses of this property.

ADJOURNMENT

The March 24, 2014, meeting was adjourned at 7:45 p.m.

ATTEST:

/s/ City Clerk Andrea Strand

/s/ Mayor Chuck Schonberger