

CITY OF BRUSH!

MINUTES OF THE FEBRUARY 8, 2016 – REGULAR CITY COUNCIL MEETING

The City Council of the City of Brush, Colorado met in regular session on February 8, 2016. Mayor Chuck Schonberger called the meeting to order at 6:00 p.m. The meeting was held at Brush City Hall. The pledge of allegiance was given.

Present on roll call were:

- Mayor Chuck Schonberger
- Councilor Jeanine Anderson
- Councilor Rick Bain
- Councilor Marlene Baker
- Councilor Heath Becker
- Councilor Kimberly Dykes
- Councilor Vicky Quinlin

Absent: None.

Also present were City Administrator Monty Torres, City Attorney Robert Chapin, Assistant Administrator Karen Schminke, Finance Director Joanne Gosselink, Marketing Specialist Tyler Purvis, Assistant Fire Chief Ray Uhrick and City Clerk Andrea Strand.

MINUTES

The minutes of the regular meeting of January 25, 2016, were approved as submitted, and the special meeting of February 1, 2016, were approved as corrected.

VISITORS AND DELEGATIONS

None.

MANAGEMENT

PUBLIC HEARING – CHARTER FRANCHISE AGREEMENT

Mayor Schonberger opened the public hearing concerning the Charter Franchise Agreement at 6:02 p.m.

Administrator Torres read the Ordinance by title and provided background information on the negotiation of the franchise agreement. Attorney Robert Chapin explained the second public hearing was necessary to avoid publication of the full agreement and adoption by reference.

The notice of public hearing was properly noticed by advertising in the Brush News Tribune. No one was present from the public and no comments were received from the Council.

Mayor Schonberger closed the public hearing at 6:04 p.m.

Second and Final Reading Of Ordinance No. 841-16 An Ordinance Granting A Non-Exclusive Franchise By The City Of Brush, Colorado, To Bresnan Communications, LLC, And Its Lawful Successors, Transferees And Assigns, For The Right To Make Reasonable And Lawful Use Of The Rights-Of-Way Within The City To Construct, Operate, Maintain, Reconstruct, Repair And Upgrade A Cable System For The Purpose Of Providing Cable Services To Citizens Within The City Of Brush, Colorado, And Declaring An Effective Date

Councilor Dykes moved, second by Councilor Quinlin to adopt on second reading Ordinance No.841-16 and publish by title only, which approves the Franchise Agreement between the City of Brush Colorado and Bresnan Communications LLC. It was approved unanimously by roll call vote.

PUBLIC HEARING – Castle Rock Subdivision Re-Plat and Special Use Permit for a Drive Through Restaurant

Mayor Schonberger opened the public hearing concerning Castle Rock Subdivision Re-Plat and special use permit for a drive through restaurant at 6:05 p.m.

Assistant Administrator Schminke presented the request from Galloway & Company, Inc., for approval of a preliminary plat to re-subdivide Lot 3 of Castle Rock Subdivision into five (5) lots. The subject property is zoned Commercial (C) and is approximately 30.43 acres in size, and is located at the southeast corner of Hospital Road and Interstate 76 (also known as 1045 Hospital Road) She then provided History, information on the Comprehensive Plan, Zoning, Access & Infrastructure, including, roads, sidewalks, utilities and easements. She added that a Subdivision Improvement Agreement Is required, whenever infrastructure needs to be installed as part of a subdivision. This document is typically finalized as part of the final plat application. She added that in this request the City is supporting economic development by allowing development of a portion of the subject property prior to completion of the subdivision process. A special use permit application is currently being reviewed and there will be a development agreement that will cover the infrastructure that will be constructed in association with that application. Any infrastructure not constructed with that approval will need to be covered by a subdivision improvement agreement at the time of the final plat.

She stated that the Planning Commission met on February 1, 2016, and recommended the preliminary plat for the re-plat of Lot 3 of Castle Rock Subdivision be approved with the following conditions:

1. On the plat, the lot size for Lot 7 needs to be corrected from 1.92 acres to 2.28 acres.
2. Primary access into Lot 3A must be from Cotton Street. One secondary 'right in – right out only' access is allowed from Hospital Road.
3. Access to Lot 4 is limited to Cotton Street and must be aligned with other access points from Cotton Street into Lot 3A.

4. Lots 5 and 6 must share an access from Hospital Road.
5. Access into Lot 7 must be located adjacent to the south property line.
6. The applicant must resolve with City staff the location of a detached trail along Hospital Road.
7. Utilities such as electric and communication must be installed underground.
8. Infrastructure improvements (including, but not limited to curb, gutter, sidewalk, water, sanitary sewer, electric, gas, phone, etc.) not installed in conjunction with an executed special use permit development agreement must be included in a subdivision improvement agreement at final plat.
9. Unless a complete final plat application is submitted, approval of this preliminary plat shall expire twelve (12) months from the date of Council approval.
10. The applicant must resolve with City staff the exact model of light pole that will be installed along Cotton Street and Hospital Road.
11. The applicant must provide a proposal to address existing storm water run-off onto Lot 2 of Castle Rock Subdivision.

Dave Pierson representing Galloway & Company, Inc. was present to answer questions.

Caton Hogan, Project Manager with Love's was also present to answer questions. He added that once completed the project would add 35 employees to the area. Administrator Torres asked if an agreement could be created that would provide an impact or escrow fee if any future maintenance would need to be done to the roads because of the heavy truck traffic. He responded that he would ask the owner about such an arrangement.

Public Comments have not been received and reported that the notice of public hearing had been properly noticed in the Brush News Tribune

Bart Ginther, representing the Upper Platte and Beaver Canal Company, was present and stated that he had appeared at the Planning Commission and provided his concerns of storm water run-off in the augmentation pond on a neighboring lot. He wanted to be assured that this process would address their concern of water run-off as it has eroded the bank of the augmentation pond with recent rains.

Mayor Schonberger closed the Public Hearing at 7:10 p.m.

Councilor Dykes moved, second by Councilor Anderson to approve the request by Galloway & company, for the preliminary plat for the re-plat of Lot 3 of Castle Rock Subdivision with the conditions recommended from staff, it was approved unanimously by roll call vote.

Love's Travel Stops & Country Stores, Inc. Request for Special Use Permit

Assistant Administrator Schminke presented the request, submitted by Galloway & Company, Inc. on behalf of Roserock Holdings, LLC and Love's Travel Stops & Country Stores, Inc., for a Council Proceedings –February 8, 2016

special use permit for a drive-through restaurant in association with a convenience store, auto & truck gas station, and truck tire service center in a Commercial (C) Zone. She indicated that the subject property is currently 30.43± acres in size and is located at the southeast corner of Hospital Road and Interstate 76 (also known as 1045 Hospital Road). She indicated that there is also a pending application for a preliminary subdivision plat to further subdivide this property into five lots.

She then presented the Review Criteria, Intent of the Commercial (C) Zone, History of the property, Zoning and Setbacks, Access and Site Circulation, Drive-through Stacking, Parking, Landscaping and Lighting Criteria, Sidewalks, Utilities and the details of an Improvement Agreement.

She added that the notice of public hearing had been properly noticed in the Brush News Tribune and the property had been posted with the notice of public hearing. To date, she had not received any public comments. She then identified the Approval Criteria Review, outlining the Compatibility, Comprehensive Plan and Applicant's Compliance History.

Should Council find that the proposal had met the review criteria; staff recommended that Council grant a special use permit for a drive-through restaurant in a Commercial zone with the following conditions:

1. After final approval and recording of the final plat for the Replat of Castle Rock Subdivision Lot 3, the approval of this Special Use Permit will apply to the 18± acre parcel known as Lot 3A of that replat.
2. Once the facility is constructed the burdens and benefits of the Special Use Permit shall be deemed to run with the property, at law and equity, and shall be a burden upon and a benefit to the property, and shall be binding upon the City of Brush, Colorado and the applicant's respective grantees, mortgagees, successors and assigns and any person leasing, acquiring or owning an interest in the Property or the improvements built there on as authorized and approved by the City of Brush City Council pursuant to Article 16-6-20(f)(2) of the City Land Use Code, but subject to the provisions of Article 16-6-20 (d) and (e)
3. Primary access into Lot 3A must be from Cotton Street. One secondary 'right in – right out only' access is allowed from Hospital Road.
4. The applicant must provide additional information that shows how additional vehicle stacking for the restaurant's drive-through window can be accommodated.
5. All lighting on the site must be down-ward directional so as to limit fugitive light pollution.
6. A Knox Box for emergency access must be installed on site as required by the Fire Department.
7. The applicant must enter into a Development Agreement with the City of Brush as a part of construction of public infrastructure improvements (including, but not limited to curb, gutter, sidewalk, water, sanitary sewer, electric, gas, phone, etc.).

8. In the event that the facility is not constructed and a certificate of occupancy issued within three years of the issuance of the Special Use Permit, the approvals granted in this permit will be deemed repealed. This matter does not need to reappear before the City Council for such repeal to be effective.

Dave Pierson and Caton Hogan were present to answer questions about the project. A general discussion was held concerning the impact to area roads such as Mill Street and Hospital Road to Hwy 34, as trucks may be using those to get to the truck stop. Administrator Torres asked if Love's could help by placing an impact fee or escrow fee into the maintenance agreement. Also if a traffic light condition be placed in the agreement if future traffic use should warrant it. Council discussed the issue and opted to inquire about these in the future if they are warranted.

Dave Pierson also provided an explanation of the current drainage plan for the lots that would alleviate the run off to the augmentation pond.

Councilor Dykes moved, second by Councilor Bain to approve the special use permit with the eight (8) conditions identified by staff, it was approved unanimously by roll call vote.

Second And Final Reading Of Ordinance No. 843-16 An Ordinance Authorizing The Imposition of a Convenience Fee for Use of Alternative Forms of Payment To The City

Finance Director Gosselink presented the Ordinance for Second and Final Reading concerning a convenience fee.

Councilor Quinlin moved, second by Councilor Baker to adopt on second reading and publish by title only, Ordinance No. 843-16 an Ordinance Authorizing the Imposition of a Convenience Fee for Use of Alternative Forms of Payment to the City, the motion passed.

The roll call vote:

For: Councilors Anderson, Bain, Baker, Becker, and Quinlin

Against: Mayor Schonberger, Councilor Dykes

Quit Claim Deed RE: Boston Farms

Attorney Chapin stated that it was identified in a recent property search that a pump agreement and easement agreement recorded in B1125 at P753 on October 15, 2002, in the Morgan County Clerk and Recorder records, on property known as 28400 Morgan County Road S., Brush, Co-owned by the City of Brush should be transferred to the Estate of Donald E. Bostron.

Councilor Bain moved, second by Councilor Dykes to approve the signing of the Quit Claim Deed between the City of Brush and Estate of Donald E. Bostron, it was approved unanimously by roll call vote.

Extend the Residential Building Incentive Program

Marketing Specialist Purvis presented the specifics of the program that had been in place last year. To his knowledge, one residential house had been built last year, and more people had been inquiring about the program.

Councilor Bain moved, second by Councilor Quinlin to approve the extension of the Residential Building Incentive Program and was approved unanimously by roll call vote.

FINANCE
City Disbursements

Councilor Quinlin moved, second by Councilor Anderson to approve City bills from January 25-February 8, 2016. The motion was approved unanimously by roll call vote.

General Fund	\$ 66,583.11
Capital Reserve Fund	\$ 1,380.00
Water Fund	\$ 10,875.21
Trash and Garbage Fund	\$ 12,460.97
Waste Water Fund	\$ 323,181.98
Storm Water Fund	\$ 1,447.95
Golf Course Fund	\$ 14,152.30
Community Enhancement Fund	\$ 3,500.00
Joslin Needham Fund	\$ 2,914.37
Payroll and Cafeteria	\$ 70,113.34
Payroll Liability	<u>\$ 43,055.29</u>
Disbursements Total	\$ 549,664.52

STAFF REPORTS

Finance Director Gosselink

- Reported that the police department will hold a dog and car vaccination and licensing clinic on Saturday, February 27, 2016, from 8 a.m. to noon at the City Hall Garage located at 118 Carson Street.

Fire Department - 2015 Year Report

- 28 members
- 1530 total training hours completed, equates to 55 hours per member
- Responded to 440 calls, estimates 32 minutes per call
- Prepares grants
- Maintenance of equipment
- Community events with Bingo and golf tournament
- Provides assistant at high school football games

Still working toward the new building for the fire department

City Clerk Strand

- Announced upcoming meetings and other announcements.
- Council will host a citizen outreach forum on the first Monday of each month, beginning March 7, at the Course from 6-7 p.m.

Community Development Director Schminke

The Tree Board will host a tree care clinic on Saturday February 20, 2016, at City Hall.

Administrator Torres

- Provided a report on the progress of the fire department building in the packet, hopes to meet with the Rural Fire Board to continue discussion.
- A solar farm is considering locating in our area
- Crews continue to remove snow
- City Staff is putting together a recruitment process the police chief position.

MAYOR AND COUNCIL REPORTS

None.

ADJOURNMENT

The February 8, 2016, meeting adjourned at approximately 7:45 p.m.

ATTEST:

/s/ City Clerk Andrea Strand

/s/ Mayor Chuck Schonberger