

## **CITY OF BRUSH!**

### **MINUTES OF THE FEBRUARY 12, 2018 – REGULAR CITY COUNCIL MEETING**

The City Council of the City of Brush, Colorado met in regular session on February 12, 2018. Mayor Rick Bain 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 Rick Bain  
Councilor Heath Becker  
Councilor Vicky Quinlin  
Councilor Daniel R. Scalise  
Councilor Dana Sherman

Absent: Councilor Jeanine Anderson  
Councilor Marlene Baker

Also present were City Administrator Monty Torres, Assistant Administrator Karen Schminke, City Attorney Robert Chapin, Police, Finance Director Joanne Gosselink, and City Clerk Andrea Strand.

### **MINUTES**

The minutes of the regular meeting of the January 22, 2018, were approved as submitted. The minutes of the special meeting of February 1, 2018, were approved as submitted.

### **VISITORS AND DELEGATIONS**

Animal Control Officer Lisa Lebsock introduced Leslie Vogt from Northern Colorado Friends of Ferals. They reported that they have trapped cats in the City of Brush over a period of years; 43 in 2014; 140 in 2015; 113 in 2016; and 99 in 2017. They requested a partnership continue and ask the City to consider a donation to their organization. This would help them to alter, vaccinate and release the cats back into the community.

### **MANAGEMENT**

#### **PUBLIC HEARING CONTINUED FROM JANUARY 22, 2018 - ENGLISH ANNEXATION (PETITIONS 1-4 INCLUSIVE)**

Mayor Bain opened the public hearing at 6:10 p.m. He stated that the public hearing was continued from January 22, 2018.

Karen Schminke provided the staff report who stated that the subject property consists of 97 plus acres and is located northeast of Brush at the northeast corner of the intersection of Colorado Highway 71 and County Road T. The Council initiated annexation proceedings by adopting a resolution at their December 11, 2017, council meeting. The public hearing had been properly noticed. She provided the annexation impact report and the Brush Agripark Development Plan. Land Use attorney Gerald Dahl provided his opinion that consent was not needed from the land owner to annex that portion of the road way.

Public Comment: Martin Ley and Chris Ley who resided at 19490 County Road 27, Brush, and own property adjacent to the annexed property were present. Chris Ley read a letter to Council:

Dear Mayor Bain and Brush City Council:

This letter is in regards to the annexation of my portion of Highway 71, located north of Brush into the City of Brush.

I was contacted originally in late fall by Monty Torres, Brush City Administrator regarding the annexation. At that time Mr. Torres gave me the option of annexing my portion of land in the Highway Right of Way. I was given a copy of a preliminary annexation map. (Attached as Exhibit A). I made no decision at the time and told him I would consider it.

I then received a letter in early December dated November 30, 2017. (Attached as Exhibit B) This was a notification of the pending annexation. It states in this letter that if I am interested I must submit a petition for annexation to the City prior to January 15, 2018. Attached were the plat maps for the annexation. These maps already show my portion of Hwy 71 being annexed. My wife and I then went in and visited with Mr. Torres. He again told me it was my choice whether I wanted my property annexed. Nothing was ever said about the City not needing my permission to annex. I did not submit a petition for annexation. I also received a letter from the City (Attached as Exhibit C) for me to sign prepared by their attorney if I would consent to my property being annexed. I did not sign.

On January 15, 2018, I attended the Planning and Zoning Commission meeting and again nothing was said.

The Public Hearing on the annexation was held on January 22, 2018. At this hearing I asked for clarification on where the West boundary line of the annexation was. Karen Schminke then stated that it would include my portion of Highway 71 and the City could force me to annex without needing my permission.

In closing I have one question/thought. Why did the City of Brush not annex County Road T, south of the English Feedlot annexation or North of the property lying West of Highway 71 and South of County Road T as shown in "Exhibit A" in blue? The City did not even annex the County Road T Right of Way that is theirs. So why is my Highway 71 Right of Way so important? I am asking the City Council to leave my Highway 71 Right of Way out of the new annexation and I am opposed to my portion of the Highway 71 Right of Way being Annexed. I want the City of Brush to know that if they do annex it, I will consider it a forced annexation.

Sincerely,  
Martin Ley

Administrator Torres commented that Martin Ley had previously told him that a former Council person had commented that Martin's opinion didn't matter because he wasn't a city resident. Being aware of that he took extra steps to reach out to Martin and inform him about the annexation. Karen Schminke added that it is only the Highway 71 access that is being annexed, not his property.

Mayor Bain closed the public hearing at 6:22 p.m.

**Resolution No. 2018-3 Making Certain Findings of Fact Regarding the Proposed Annexation of a Parcel of Land Located in Parts of the SW1/4 Section 26, The SE1/4 Section 27, The NE1/4 Section 34, and the NW1/4 Section 35, Township 4 North, Range 56 West of the Sixth Principal Meridian, Moran County, Colorado (English Annexation 1) to the City of Brush**

Councilor Quinlin offered a motion to approve Resolution No. 2018-3, a Resolution Making Certain Findings of Fact Regarding the Proposed English Annexation 1, second by Councilor Sherman. It was approved unanimously by roll call vote.

**First Reading of Ordinance No. 864-18 An Ordinance Annexing Certain Unincorporated Lands Located In The SW1/4 Of Section 26, The SE1/4 Of Section 27, The NE1/4 Of Section 34, And The NW1/4 Of Section 35, Township 4 North, Range 56 West Of The 6th Principal Meridian, Morgan County, Colorado, (English Annexation 1) To The City Of Brush, Colorado.**

Councilor Quinlin Introduced Ordinance No. 864-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 1) to the City of Brush.

Councilor Scalise offered a motion, second by Councilor Quinlin to approve Ordinance No. 864-18 for first reading and publish in full. It was approved unanimously by roll call vote.

**Resolution No. 2018-4 Making Certain Findings of Fact Regarding the Proposed Annexation of a Parcel of Land Located in Parts of the SW1/4 Section 26, the SE1/4 Section 27, and the NE1/4 Section 34, Township 4 North, Range 56 West of the Sixty Principal Meridian, Morgan County, Colorado (English Annexation 2) to the City of Brush, Colorado**

Councilor Quinlin offered a motion to approve Resolution No. 2018-4, a Resolution Making Certain Findings of Fact Regarding the Proposed (English Annexation 2) second by Councilor Becker. It was approved unanimously by roll call vote.

**First Reading of Ordinance 865-18 An Ordinance Annexing Certain Unincorporated Lands Located In The SW1/4 Of Section 26, The SE1/4 Of Section 27, And The NE1/4 Of Section 34, Township 4 North, Range 56 West Of The 6th Principal Meridian, Morgan County, Colorado, (English Annexation 2) To The City Of Brush, Colorado.**

Councilor Scalise Introduced Ordinance No. 865-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 2) to the City of Brush.

Councilor Quinlin offered a motion, second by Councilor Becker to approve Ordinance No. 865-18 for first reading and publish in full. It was approved unanimously by roll call vote.

**Resolution No. 2018-5 Making Certain Findings of Fact Regarding the Proposed Annexation of a Parcel of Land Located in Parts of the SW1/4 Section 26, The SE1/4 Section 217, and the NE1/4 Section 35, Township 4 North, Range 56 West of the Sixth Principal Meridian, Morgan County, Colorado (English Annexation 3) to the City of Brush, Colorado.**

Councilor Becker offered a motion to approve Resolution No. 2018-5, a Resolution Making Certain Findings of Fact Regarding the Proposed (English Annexation 3) second by Councilor Quinlin. It was approved unanimously by roll call vote

**First Reading of Ordinance No. 866-18 An Ordinance Annexing Certain Unincorporated Land Located In The SW1/4 Of Section 26, The SE1/4 Of Section 27, And The NE1/4 Of Section 34, Township 4 North, Range 56 West Of The 6th Principal Meridian, Morgan County, Colorado, (English Annexation 3) To The City Of Brush, Colorado.**

Councilor Quinlin Introduced Ordinance No. 866-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 3) to the City of Brush.  
Councilor Sherman offered a motion, second by Councilor Quinlin to approve Ordinance No. 866-18 for first reading and publish in full. It was approved unanimously by roll call vote.

**Resolution No. 2018-6 Making Certain Findings of Fact Regarding the Proposed Annexation of a Parcel of Land Located in Parts of the SW1/4 Section 26, and the SE1/4 Section 27, Township 4 North, Range 56 West of the Sixth Principal Meridian, Morgan County, Colorado (English Annexation 4) to the City of Brush, Colorado**

Councilor Quinlin offered a motion to approve Resolution No. 2018-6 a Resolution Making Certain Findings of Fact Regarding the Proposed (English Annexation 4) second by Councilor Sherman. It was approved unanimously by roll call vote

**First Reading of Ordinance No. 867-18 An Ordinance Annexing Certain Unincorporated Lands Located In The SW1/4 Of Section 26, And The SE1/4 Of Section 27, Township 4 North, Range 56 West Of The 6th Principal Meridian, Morgan County, Colorado, (English Annexation 4) To The City Of Brush, Colorado.**

Councilor Quinlin Introduced Ordinance No. 867-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 4) to the City of Brush.  
Councilor Scalise offered a motion, second by Councilor Quinlin to approve Ordinance No. 867-18 for first reading and publish in full. It was approved unanimously by roll call vote.

## **PUBLIC HEARING CONTINUED FROM JANUARY 22, 2018 - HEARING ENGLISH FEED LOT ZONING**

Mayor Bain opened the public hearing at 6:28 p.m. He stated that the public hearing was continued from January 22, 2018. Karen Schminke provided a staff report stating that the subject property is currently in the process of being annexed into the City of Brush. It is located approximately a half-mile north of Interstate 76, Exit 90. The property consists of two parcels which are located at the northeast corner of Colorado Highway 71 and County Road T. The combined area of the two parcels is approximately 97 plus acres and was previously known as English Feedlot. The smaller parcel, a little over 35 acres in size, is currently being used by the City of Brush for municipal shop and storage purposes. The larger parcel is targeted for redevelopment. In July of 2017 the Planning Commission held a public hearing to reaffirm the City's Three Mile plan and incorporate a concept plan for this area into that larger plan. The English Concept Plan envisioned a combination of Commercial zoning adjacent to Hwy 71 and Industrial zoning for the eastern portion of the subject property. She provided the Land Use Code Commercial and Industrial Zoning descriptions. She stated that at the January 15, 2018, Planning and Zoning Commission meeting they conducted a formal review of the zoning proposal. After evaluating the development concept plan for the subject property and reviewing the intent of the discussed zoning districts, the Planning Commission recommended City Council zone the 97 plus acre English Property as Industrial (I)

Public Comment: Robert Pennington, who resides at 16145 County Road 28 was present and asked about the intended use of the property. Mayor Bain responded that this hearing is for the purpose of zoning.

Mayor Bain closed the public hearing at 6:35 p.m.

### **First Reading of Ordinance No. 868-18 An Ordinance Establishing And Determining Zoning Designation For Lands Recently Annexed To The City Of Brush Located In The SW1/4 Of Section 26, The SE1/4 Of Section 27, The NE1/4 Of Section 34, And The NW1/4 Of Section 35, Township 4 North, Range 56 West Of The 6th Principal Meridian, Morgan County, Colorado, Known As English Annexation**

Councilor Quinlin Introduced Ordinance No. 867-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 4) to the City of Brush. Councilor Scalise offered a motion, second by Councilor Quinlin to approve Ordinance No. 867-18 for first reading and publish in full. It was approved unanimously by roll call vote.

### **First Reading of Ordinance No. 870-18 An Ordinance amending various provisions of the Brush Municipal Code to incorporate the new Flood Insurance Study for Morgan County, Colorado, and incorporated areas, dated April 4, 2018.**

Councilor Quinlin Introduced Ordinance No. 867-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 4) to the City of Brush. Councilor Scalise offered a motion, second by Councilor Quinlin to approve Ordinance No. 867-18 for first reading and publish in full. It was approved unanimously by roll call vote.

**First Reading of Ordinance No. 871-18 – An Ordinance Approving The Lease Of Certain Real Estate Owned By The City Of Brush For Terms Of Six Years.**

Councilor Quinlin Introduced Ordinance No. 867-18 an Ordinance Annexing Certain Unincorporated Lands (English Annexation 4) to the City of Brush. Councilor Scalise offered a motion, second by Councilor Quinlin to approve Ordinance No. 867-18 for first reading and publish in full. It was approved unanimously by roll call vote.

**FINANCE**  
**City Disbursements**

Councilor Quinlin moved, second by Councilor Sherman to approve City bills from February 12-26, 2018. The motion was approved unanimously by roll call vote.

General Fund	\$ 69,526.00
Capital Improvement Fund	\$ 15,249.00
Fire Equipment Fund	\$ 1,392.90
Capital Reserve Fund	\$ 78,247.73
Water Fund	\$ 14,309.04
Trash and Garbage Fund	\$ 16,709.37
Waste Water Fund	\$331,464.67
Storm Water Fund	\$ 8,659.46
Golf Course Fund	\$ 6,905.55
Community Enhancement Fund	\$ 750.00
Joslin Needham Fund	\$ 1,760.00
Payroll	\$ 61,529.37
Payroll Liability and Cafeteria	<u>\$ 33,921.67</u>
Disbursements Total	\$640,424.76

**STAFF REPORTS**

**Finance Director Gosselink**

- Reported that it appeared from the sales tax reports that she receives that Love’s Travel Center does not seem to have an effect on the Exit 90 businesses.

**City Clerk Strand**

- Announced upcoming meetings and other announcements

**Administrator Torres**

- Reported that the parking lot project at the golf course is progressing and the expected completion date is April 1. Light poles will be placed after that date.
- The fire department building design process is coming along. A short term lease was entered into with Susan Balderston for storage of the fire department vehicles during demolition and construction of the building.

**MAYOR AND COUNCIL REPORTS**

None.

**ADJOURNMENT**

The February 12, 2018, meeting adjourned at approximately 6:40 p.m.

**ATTEST:**

/s/ City Clerk Andrea Strand

/s/ Mayor Charles R. Bain