

MINUTES

Regular Meeting – Aurora City Council Monday, May 14, 2007

1. **CONVENE REGULAR MEETING OF MAY 14, 2007 AND CALL TO ORDER**

Mayor Tauer convened the regular meeting of City Council at 7:32 p.m.

2. **ROLL CALL**

PRESIDING: Mayor Tauer
COUNCIL MEMBERS PRESENT: Beer, Broom, FitzGerald, Frazier, Hogan, Markert,
Peterson, Pierce, Sandstrom, Wallace
OFFICIALS PRESENT: City Manager Miller, City Attorney Richardson,
City Clerk Johnson

3. **MOMENT OF SILENCE**

4. **PLEDGE OF ALLEGIANCE TO THE FLAG**

5. **APPROVAL OF THE MINUTES OF THE MEETING OF MAY 7, 2007**

Motion by Sandstrom, second by Wallace, to approve the minutes of May 7, 2007, as presented.

Voting Aye: Mayor Tauer, Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce,
Sandstrom, Wallace

6. **CEREMONY**

Mayor Tauer invited Robert Waples and Kevin Waters to come forward to accept the proclamation. Mayor Tauer read the proclamation declaring May 21 - 26, 2007 as Emergency Medical Services Week. Each guest expressed appreciation for the proclamation.

Mayor Tauer invited John Wright, Christian Yutai Gue, Jerico Javier, Hyun-Kyung Kim, Huiliang Liu, Sum Nguyen, Edith Pasion, Lily Shen, Chad Vu, George Yoshida, Mary Par, Joe Lopez, Evan Mordoch and Kate Tauer to come forward to accept the proclamation. Mayor Tauer read the proclamation declaring May 2007 as Asian Pacific American Heritage Month. Each guest expressed appreciation for the proclamation.

7. **PUBLIC INVITED TO BE HEARD (non-agenda related issues only)**

The following people spoke to Council about racial profiling and discrimination to young people and minorities at the Town Center at Aurora, formally known as the Aurora Mall. They asked Council for help in reviewing mall policies, creating a formal complaint process, and holding diversity/cultural awareness training for mall personnel and Aurora Police.

Jamal Miller, Aurora, CO
Michael Carter, Aurora, CO
Polly Baca, Denver, CO
Jane Feustel, Denver, CO
Cheyenne Hughes, Aurora, CO
Jordan Garcia, Denver, CO
Ashleah Howard, Aurora, CO
Rev. Thomas Mayes, Aurora, CO
James Johnson, Denver, CO

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Council Member Pierce expressed his appreciation to those who took the time to come and speak to Council. Council takes their comments very seriously. He agreed it was important to get the facts in order to make the Town Center at Aurora a pleasing place for everyone.

Council Member Beer also thanked the speakers for bringing this issue to Council's attention. He has met with many of the speakers as well as the Town Center management, and agrees there is a problem. He believes there should be zero tolerance for racist behavior or selective enforcement. The Town Center owners have invested \$85M in renovations, are committed to the City and have the right to protect their investment. He believes the implementation of the Moms and Dads and Family Night programs are positive, but the relationship between the private security company and young adult shoppers should be evaluated. He expressed his commitment to help implement necessary changes to eliminate this problem.

Council Member Frazier also thanked to the speakers. He stated he visited the Mall to observe any racial discrimination. He was encouraged to hear suggestions as to how improvements could be made. He was surprised to hear no anti-discrimination policy exists at the Aurora Mall and expressed his intent to discuss the suggestions presented with Mall management.

Council Member Wallace also thanked the speakers. She also related her experience when visiting the Town Center of Aurora, noting diversity training was needed in all areas of the country, including the City of Aurora. She stated if Simon Property Group has committed to the City then they should provide diversity training for their staff. She asked the citizens to keep communications open. She assured them she would do what she could to support this change.

Mayor Tauer thanked all of the speakers for coming forward, and stated this presentation was one of the most organized. He stated racism is an extremely important issue to City Council and they have a zero tolerance policy. The Human Relations Committee (HRC) exists to mitigate complaints and if that is not working, it must be addressed. He was pleased with Council's willingness to take action but hard information is needed before that can occur. He asked those experiencing discrimination to provide solid information to the City to help resolve these issues.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-9e**

General Business

- a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Gades Sales Co. Inc., Denver, Colorado in the not-to-exceed amount of \$168,916.00 to purchase Traffic Signal Control Cabinets for the Traffic Engineering Division of Public Works through April 30, 2008 (B3791).

Motion by Beer, second by Hogan, to approve item 9a.

Voting Aye: Mayor Tauer, Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

Final Ordinances

- ◆ b. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, rezoning a parcel of land generally located South of 18th Place and West of Altura Boulevard, City of Aurora, County of Adams, State of Colorado, from PD (Planned Development) to R-1 (Low Density, Single-Family Residential District), and amending the Aurora Zoning Map accordingly (Habitat for Humanity at 18th Place) 1.90 acres more or less.
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- ◆ c. Consideration of an ORDINANCE FOR FINAL amending Section 146-601 of the City Code of the City of Aurora, Colorado, related to assisted living facilities in the Office Commercial Zone District.
- ◆ d. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, adopting and enacting the provisions of the Urban Street Standards in Transit Oriented Developments and Urban Centers Code.
- ◆ e. Consideration of an ORDINANCE FOR FINAL of the City of Aurora, appropriating sums of money in addition to those appropriated in Ordinance Nos. 2005-80, 2006-02, 2006-17, 2006-27, 2006-39, 2007-04 and 2007-12 for the 2006 Fiscal Year and Ordinance No. 2006-57 and 2007-04 for the 2007 Fiscal Year.

Motion by Peterson, second by Hogan, to approve items 9b-e.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

10. **RESOLUTIONS**

- ◆ a. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, renaming the Aurora Senior Center to Aurora Center for Active Adults.

Motion by Pierce, second by Beer, to approve item 10a.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Markert, Pierce, Sandstrom, Wallace

Voting No: Hogan, Peterson

- ◆ b. Consideration to APPROVE A RESOLUTION approving the Fifth Amendment to the Amended and Restated Police "New Hire" Money Purchase Plan dated February 22, 2002.

Council Member Broom asked if requiring a spouse to sign a waiver if the employee wanted to take out a lump sum was included. Charles Richardson, City Attorney, stated that was added.

Motion by Wallace, second by Sandstrom, to approve item 10b.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

- ◆ c. Consideration to APPROVE A RESOLUTION approving the Vacation and Sanitary Sewer Relocation Agreement between the City of Aurora, Colorado, Majestic Realty Co., Edward P. Roski, Jr., Trustee, David A. Wheeler, Trustee, Randall C. Hertel, Trustee, Jay H. Bradford, Trustee, J. Todd Anderson, Trustee, and Himalaya Water and Sanitation District.

Motion by Peterson, second by FitzGerald, to approve item 9c with a Waiver of Reconsideration.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

- ◆ d. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, setting the date of a Public Hearing on the petition for organization of the Havana Business Improvement District and ordering the publication and mailing of a notice of such hearing.

- ◆ *The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.*

Andrea Amonick, Manager, Urban Renewal, briefly introduced the item. This resolution is for the first Business Improvement District for the City of Aurora.

Council Member Beer expressed his appreciation to Council Member Markert, Gayle Jetchick, and Havana Business Owners for their advocacy of this exciting program.

Council Member FitzGerald congratulated Council Member Markert, Mayor Tauer and Mike Hyman for realizing this effort.

Council Member Markert expressed her appreciation to all involved in this endeavor.

Motion by Markert, second by Beer, to approve item 10d.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

11. **ORDINANCES FOR INTRODUCTION**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION authorizing the issuance and sale by the City of Aurora, Colorado, acting by and through its Utility Enterprise, of First-Lien or Subordinate-Lien Water Revenue Bonds, Series 2007A, in an aggregate principal amount not to exceed \$550,000,000, for the purpose of financing or refinancing, in whole or in part, the cost of additions and improvements to the water system operated by the Utility Enterprise, pledging certain funds and revenues of the Enterprise to the payment of such bonds, and providing other details in connection therewith.
- ◆ b. Consideration of an ORDINANCE FOR INTRODUCTION authorizing the execution and delivery of a Loan Contract and Promissory Note by the City of Aurora, Colorado, acting by and through its Utility Enterprise, to the Colorado Water Conservation Board, such Promissory Note to be in a principal amount not exceeding \$75,750,000, for the purpose of financing the extension and improvement of the water system operated by such Enterprise; providing for application of the net revenues of such system to the payment of the principal of and interest on such Promissory Note and providing other details in connection therewith.
- ◆ c. Consideration of an ORDINANCE FOR INTRODUCTION authorizing the execution and delivery by the City of Aurora, Colorado, acting by and through its Utility Enterprise, of one or more swap agreements or similar instruments and related financial transactions with respect to one or more series of First-Lien or Subordinate-Lien Water Improvement Revenue Bonds proposed to be issued; providing various details relating thereto; ratifying action previously taken and relating thereto; and providing other details in connection therewith.

Tom Sather, Debt and Financing Administrator, gave a brief introduction of items 11a, 11b and 11c. These ordinances are necessary for financing the City of Aurora's Capital Improvement Program, which includes the Prairie Waters Project.

Council Member FitzGerald expressed his appreciation to the Aurora Water Department and all those involved in this effort.

Motion by Beer, second by Hogan, to introduce item 11a.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

Motion by Beer, second by FitzGerald, to introduce item 11b.

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Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

Motion by Beer, second by Wallace, to introduce item 11c.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

- ◆ d. Consideration of an ORDINANCE FOR INTRODUCTION amending Chapter 118 of the City Code of the City of Aurora, Colorado, by the addition of an Article III regarding General Improvement Districts.

MAIN MOTION:

Motion by Hogan, second by FitzGerald, to introduce item 11d.

Marianne Farrell, Aurora, Colorado, 80015, referred to the \$20M bond approved seven years ago for fence replacement. She showed photographs of poor fence maintenance from one of the neighboring businesses. She stated the property owners have not maintained these fences and asked why they would want to participate financially in improving the City.

Council Member Wallace asked if these violations have been reported to the City. Ms. Farrell stated Code Enforcement has been called, but the owners have chosen not to comply.

Council Member Markert asked the location of the business. Ms. Farrell stated Harper Plaza located at the southeast corner of Parker and Quincy.

Council Member Pierce stated the Cherry Creek Racquet Club wanted to replace their fence under the City's Masonry Fence Replacement project and the inclusion of the Harper Plaza fence was uncertain.

Council Member Hogan stated the purpose of this item is to address these issues and make it easier for neighborhoods to improve fences therefore he was uncertain as to why Ms. Farrell would be opposed.

Council Member Beer stated Ms. Farrell was speaking in opposition to an amendment not yet introduced and not the item itself.

Council Member Broom stated he supports the motion as currently presented.

Council Member Sandstrom agreed. She stated it gave property owners the option of choosing between a Special Improvement District (SID) and General Improvement District (GID) when considering replacing their fences. She stated if this item passes, she would like to make sure Neighborhood Services prepare adequate information in user-friendly terms for the general public's review.

AMENDMENT #1:

Motion by Beer, second by Pierce, to amend Item 11d by the addition of a Subsection (d) to Section 118-126 of the City Code, which Subsection shall read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF STATE LAW TO THE CONTRARY, WHERE THE ORGANIZATION OF A GENERAL IMPROVEMENT DISTRICT IS PROPOSED FOR THE

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PRIMARY PURPOSE OF FINANCING THE CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF A SOUND WALL, WALL, OR FENCE AND ANY IMPROVEMENTS APPURTENANT THERETO, NO COMMERCIAL PROPERTY SHALL BE INCLUDED WITHIN THE BOUNDARIES OF SUCH DISTRICT EXCEPT UPON PETITION SUBSCRIBED BY THE OWNER OF SUCH PROPERTY OR SUCH OWNER'S DESIGNEE.

Council Member Beer stated whether the amendment passed or not, he was in favor of the item. He stated it is a natural progression of the City's Fence Replacement Program, but he is sensitive to situations such as those presented by Ms. Farrell and that is why the Code Enforcement program exists. He expressed concerns that if the amendment is not adopted, it might create the possibility that some neighborhoods may decide to force abutting commercial property into their GID just to bring costs down. He asked Council to support the amendment.

Council Member Broom noted a good balance was realized between commercial and residential in City planning and zoning. He stated commercial properties in a community that creates a GID to beautify the area should be required to share the responsibility with the residential property. He stated that the GID would be required to come to City Council for approval and a business could make a case that they do not belong in the district. He noted this would make a significant difference in cost to an individual homeowner as to how much the fence would cost over time and was probably the most important feature the City could offer to get the fences built.

Council Member Sandstrom expressed her understanding of the overall fence program. She asked if approval of a General Improvement District would allow internal fences to be improved. Nancy Sheffield, Director, Neighborhood Services, stated there is a provision that fences will be reviewed on a case-by-case situation and neighbors in a General Improvement District wanting to replace internal fences could request Council's review.

Council Member Pierce stated if the amendment were approved, businesses choosing not to make improvements under the opt-in provision would not be included in the district.

Council Member FitzGerald expressed his understanding between a SID and GID. He stated variations are possible but are neighborhood driven.

Ms. Sheffield stated this is a neighborhood initiated program however; Council ultimately approves the creation of a General Improvement District or a Special Improvement District.

Mayor Tauer stated when Council originally approved the Fence Replacement Program it was targeted at neighborhoods and the idea was the owners would pay for arterial fences around their neighborhood because that is where the problem was. Another problem is fences backing up to commercial property and neighborhoods were hesitant to pay to replace that fence as well as their arterial fences. The amendment relates to a situation where the business with fencing only at the rear of its site and not in the front, would not benefit from the new fence and should have the option to opt out. Similarly, there are instances in the City where businesses do not properly maintain their property or fences and the amendment separates the issue of whether the business should be opted in without their approval.

Jim Hensinger, Aurora, Colorado, 80015, Chairman of the Cherry Creek Racquet Club Fence Committee, discussed the Club's efforts in creating a SID. He discussed the disrepair of the shared commercial fence referenced by Ms. Farrell. Their objective was not a new wooden fence off South Abilene Circle. It was to build an eight-foot masonry fence, which would provide more visual privacy and sound buffering and its cost should not be the sole responsibility of the neighborhood. He asked Council not to approve the amendment.

Council Member Beer stated agenda item 11f relates to ensuring there are no forcible inclusions into new metro districts, so his amendment is consistent in philosophy with that agenda item.

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VOTE ON AMENDMENT #1

Voting Aye: Mayor Tauer, Beer, Frazier, Markert, Pierce, Sandstrom

Voting Nay: Broom, FitzGerald, Hogan, Peterson, Wallace

Amendment passed 6-5.

Mayor Tauer stated the Council vote was tied 5-5, so he is allowed to vote, and he supports the amendment. He agreed there was a legitimate issue where businesses have not taken care of their property correctly but this program was not designed so that a neighborhood could tax businesses abutting their neighborhood. That was neither fair nor the intent of the program.

VOTE ON MAIN MOTION, AS AMENDED:

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

Mayor Tauer noted those who spoke on this issue raised important concerns. He expressed concern that Code Enforcement has visited the sites and not resolved these issues satisfactorily. He asked staff to review the issues and provide information to Council so that the problems are addressed. He asked that those speaking tonight be included in this process. Ms. Sheffield stated she will make sure they are included.

- ◆ e. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION repealing Section 146-408(D)(8) and adopting a new section 146-411 of the City Code of the City of Aurora, Colorado, regarding public art plans.

Nancy Bailey, Manager, Office of Development Assistance, gave a brief summary of the item.

Motion by Sandstrom, second by Markert, to introduce item 11e.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

- ◆ f. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION amending Section 122-30 of the City Code of the City of Aurora, Colorado, regarding the inclusion of Property within Special Districts.

Nancy Bailey, Manager, Office of Development Assistance, gave a brief summary of the item, noting this is to correct a technical error.

Motion by Sandstrom, second by Frazier, to introduce item 11f.

Voting Aye: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

12. **ORDINANCES FOR FINAL**

- ◆ a. Consideration of an ORDINANCE FOR FINAL amending Sections 94-112 and 94-113 of the City Code of the City of Aurora, Colorado, relating to General Offenses.

Motion by Frazier, second by FitzGerald, to approve item 12a.

Voting Aye: Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

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Voting No: Beer

13. **RECONSIDERATIONS AND CALL-UPS**

Motion by Beer, second by FitzGerald, to call up the Conditional Use for after-hours operation at the Copper Club for the June 4, 2007 City Council meeting.

Voting Aye: Mayor Tauer, Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

14. **GENERAL BUSINESS**

- a. Consideration to reappoint three incumbent members to a three-year term on the Human Relations Commission.

Council Member FitzGerald stated the importance of this Commission could not be overstated given what was heard previously this evening.

Motion by Frazier, second by Beer, to reappoint Bernard Celestin, Veronica White and Katheryne Zinter to the Human Relations Commission.

Voting Aye: Mayor Tauer, Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

15. **REPORTS**

- a. Report by the Mayor

Mayor Tauer expressed his appreciation to those who addressed Council this evening during the Public Invited to Speak portion of the meeting. He stated it was the most cohesive, well-prepared presentation he has experienced.

- b. Reports by the Council

Council Member Markert stated the first Saturdays of summer months, Delaney Farms would host over 30 vendors for food, arts and crafts, variety goods and entertainment. The summer market begins Saturday, June 2, 2007 from 9:00 a.m. to 2:00 p.m. She stated quarterly updates were presented and discussed during Council's recent retreat and one update included the many awards received by the City of Aurora in the last year. She asked that the list be posted on the City's website to let citizens know the range of awards, which were a testament to staff's hard work.

Council Member Pierce invited those interested to attend the E-Cycling Event taking place this Saturday, May 19, from 9:00 a.m. to 2:00 p.m. at the North Satellite Facilities, located at 15700 East 32nd Avenue.

Council Member Hogan stated there were 14 long-term City employees who were retiring. Those 14 people total 365 years experience working for the City of Aurora. He expressed his appreciation to each of them for their hard work and dedication.

Council Member Beer invited those interested to attend his Ward III Budget Town Meeting, Monday, May 21, 2007, in the Aurora Room in City Hall at 7:00 p.m.

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16. **PUBLIC INVITED TO BE HEARD**

None.

17. **ADJOURNMENT**

Mayor Tauer adjourned the regular meeting of City Council at 9:32 p.m.

EDWARD J. TAUER, Mayor

ATTEST:

DEBRA JOHNSON, City Clerk

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