

## MINUTES

### **Regular Meeting – Aurora City Council Monday, June 4, 2007**

#### **CALL TO ORDER – EXECUTIVE SESSION**

Mayor Tauer convened the Executive Session of City Council at 4:07 p.m.

#### **ROLL CALL**

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

Assistant City Manager Janice Napper announced the proposed items for discussion at Executive Session.

#### **CONSIDERATION TO RECESS FOR EXECUTIVE SESSION**

Motion by Wallace, second by Pierce, to recess to Executive Session.

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

The Executive Session was recorded pursuant to the requirements of State law.

#### 1. **RECONVENE REGULAR MEETING OF JUNE 4, 2007 AND CALL TO ORDER**

Mayor Tauer reconvened the regular meeting of City Council at 7:31 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 14, 2007**

Motion by Peterson, second by Hogan, to approve the minutes of the meeting of May 14, 2007 as presented.

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

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6. **CEREMONY**

- a. Swearing in of newly appointed Boards and Commission members - Presiding Judge Richard Weinberg

<u>NAME</u>	<u>BOARD/COMMISSION</u>
Donald Cook	Library Board
Joan Ott	Library Board
Dr. Sandra Arkin	Library Board
Suellyn Cota	Aurora Fox Arts Center Board
Shannon Watson-Borden	Aurora Fox Arts Center Board
Ricardo Rodriguez	Veterans' Affairs Commission

Presiding Judge Richard Weinberg administered the oath of office to the board and commission members. Mayor Tauer and City Council congratulated the members and thanked them for their service to Aurora.

- b. Recognition of Aurora Legislators - Mayor Edward J. Tauer

<u>NAME</u>
Representative Michael Garcia
Senator Nancy Spence
Senator Bob Hagedorn
Senator Suzanne Williams
Representative Nancy Todd
Representative Morgan Carroll

Each legislator reported on highlights from the legislative session and expressed appreciation for the recognition.

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

Don Summers, Morrison, CO, complimented Council regarding the Prairie Water Project, but also wanted to inform them that some of the technology being used for the project is patented by his company, PS Systems. Mr. Summers will use legal means to protect his patents.

Andrew Sims, Aurora, CO, spoke to Council asking why a roof overlay is against City code, why individual permits are needed for each town home unit, and why certain roads are being resurfaced and other more deserving roads are ignored. Mayor Tauer directed both City Manager Ron Miller and Public Works Director Dave Chambers to get in touch with the resident to answer his concerns.

Mary Ann Bender, Aurora, CO, came before Council with concerns regarding roofing permits and roofing overlays. She wanted to know why were the permit dates changed from June 1st, who made the change, and why was no one notified. She continued to ask why only one overlay was allowed, and who made the decision to make that change.

Francis Peter Maks, Aurora, CO, spoke to Council regarding foreclosures within the City and how they are affecting property values. He discussed the "Colorado Foreclosure Hotline," and the resources available for residents.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

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9. **CONSENT CALENDAR - 9a-9p**

**General Business**

- a. Consideration to APPROVE THE RECOMMENDATION to commission artists Jean & Tom Latka for a Public Art Project in the Rocky Ridge Park.
- b. Consideration to AWARD A SOLE SOURCE CONTRACT to Motorola, Schaumburg, Illinois in the amount of \$208,730.00 to provide annual maintenance and upgrades for the City's Computer Aided Dispatch (CAD) system and the Police Mobile Data Infrastructure System.
- c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to The Gateway Company of Utah, LLC, Salt Lake City, Utah in the amount of \$180,000.00 for the paint recoating of the Griswold Suspension Pipe Bridge, Project Number 5114A.
- d. Consideration to APPROVE PARTICIPATION in the South Platte Water-Related Activities Program (SPWRAP).
- e. Consideration to APPROVE THE PURCHASE of 60 Shares of the Lupton Meadows Ditch Company Stock, by the City of Aurora acting by and through its Utility Enterprise.
- f. Consideration to APPROVE THE PURCHASE of 0.5 Share of the Platteville Irrigating & Milling Company Stock, by the City of Aurora acting by and through its Utility Enterprise.

Motion by Broom, second by Peterson, to approve items 9a-9f.

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

**Final Ordinances**

- ◆ g. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, vacating a portion of a 16-foot wide alley along the West property line of a parcel generally located West of Sable Boulevard and South of 28th Avenue, City of Aurora, County of Adams, State of Colorado. (Case Number 2006-8003-00). Ordinance 2007-26, Introduced 10-0 at the April 30, 2007 City Council meeting.
- ◆ h. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, rezoning a parcel of land generally located 700 feet North of the Northeast corner of the intersection of Yale Avenue and Abilene Street from B-1 (Retail, Business District) to B-3 (Highway Service District), and amending the Aurora Zoning Map accordingly (Hampton Inn at Abilene) 2.12 acres more or less. (Case Number 2007-2002-00). Approved 7-0 at the April 11, 2007 Planning Commission Meeting. Ordinance 2007-27, Introduced 10-0 at the May 7, 2007 City Council meeting.
- ◆ i. Consideration of an ORDINANCE FOR FINAL annexing a parcel of land located in the North half of Section 36, Township 3 South, Range 66 West of the Sixth Principal Meridian, County of Adams, State of Colorado (City of Aurora Smith Road Right of Way 1). 12.27 acres. Ordinance 2007-28, Introduced 10-0 at the May 7, 2007 City Council meeting.
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- ◆ j. Consideration of an ORDINANCE FOR FINAL annexing a parcel of land located in portions of Sections 31, 32, and 33, Township 3 South, Range 65 West of the Sixth Principal Meridian, County of Adams, State of Colorado (City of Aurora Smith Road Right of Way 2). 16.39 acres. Ordinance 2007-29, Introduced 10-0 at the May 7, 2007 City Council meeting.
- ◆ k. Consideration of an ORDINANCE FOR FINAL 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. Ordinance 2007-32, Introduced 10-0 at the May 14, 2007 City Council meeting.
- ◆ l. Consideration of an ORDINANCE FOR FINAL 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. Ordinance 2007-30, Introduced 10-0 at the May 14, 2007 City Council meeting.
- ◆ m. Consideration of an ORDINANCE FOR FINAL 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. Ordinance 2007-31, Introduced 10-0 at the May 14, 2007 City Council meeting.
- ◆ n. Consideration of an ORDINANCE FOR FINAL amending Chapter 118 of the City Code of the City of Aurora, Colorado, by the addition of an Article III regarding General Improvement Districts. Ordinance 2007-33, Introduced 10-0 at the May 14, 2007 City Council meeting.
- ◆ o. Consideration of an ORDINANCE FOR FINAL 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. Ordinance 2007-34, Introduced 10-0 at the May 14, 2007 City Council meeting.
- ◆ p. Consideration of an ORDINANCE FOR FINAL amending Section 122-30 of the City Code of the City of Aurora, Colorado, regarding the inclusion of Property within Special Districts. Ordinance 2007-35, Introduced 10-0 at the May 14, 2007 City Council meeting.

Motion by Sandstrom, second by Beer, to approve items 9g-9p.

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

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10. **RESOLUTIONS**

- ◆ a. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving a request for funding from the Visitors Promotion account in excess of \$25,000.

Motion by Wallace, second by FitzGerald, to approve item 10a

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

- ◆ b. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Colorado, Northern Colorado Water Conservancy District, City and County of Denver acting through its Board of Water Commissioners, Pueblo Board of Water Works, City of Colorado Springs, and Southeastern Colorado Water Conservancy District for participation in the Sulphur Gulch Project.

Motion by Beer, second by Wallace, to approve item 10b

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

- ◆ c. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving a Petition for Inclusion in the Commerce City Northern Infrastructure General Improvement District (GID) for the limited purpose of obtaining potable and non-potable water services for the Prairie Waters Project, Pumping Station 2.

Motion by Beer, second by Wallace, to approve item 10c

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

11. **ORDINANCES FOR INTRODUCTION**

- ◆ a. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, organizing the Havana Business Improvement District; appointing the initial members of the Board of Directors of the District; and approving the preliminary Operating Plan and 2008 Budget for the District.

Andrea Amonick, Urban Renewal Manager, provided testimony and introduced legislation regarding the formation of the City's first ever Business Improvement District (BID). She noted that 57% of the value and 64% of the square footage is in support by way of petition, and listed the various advantages utilized by the improvements, such as increased tax revenue. The finalized operating plan and budget will be effective the third week in July, allowing the BID to meet its goal of considering a tax levy at the November 2007 election.

Paul Suss, 1301 South Havana, Aurora, CO, spoke to Council regarding his support for the BID as a business owner. He called the BID, "Business taking care of Business". He noted the decision to use a BID instead of a GID, mostly due to the economic development focus of the improvements. He spoke about the process of gaining adequate support, from financing to canvassing and open forums to questionnaires. The first planned operating budget is \$328k and will be used as outlined in the ordinance.

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Arnie Schultz, 1137 South Oakland Street, Aurora, CO, asked for support of the ordinance with great enthusiasm. He thanked Council Members Markert, Beer, and Pierce, as well as Mayor Tauer and staff for their assistance and noted that the improvements will add great value to the City of Aurora.

Michael Sheldon, 5290 Denver Tech Center, Greenwood Village, CO, added additional insight to the benefits of the ordinance and noted the perspective of northern Aurora, as he stated "activity will feed on more activity."

Council Member Beer stated his support of the project, but asked if the opening phrase of the operating plan, on page seven, could be modified before final approval. The modification would add the following phrase on the third line after the word Havana, "consistent with the City's adopted plan for Havana corridor design standards." He felt that this alteration was necessary to preserve the work of previous staff.

Motion by Markert, second by Beer, to approve item 11a

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

Council Members Markert and Pierce added their congratulations to all the business owners for all their hard work.

Council Member Beer extended his gratitude to Gayle Jetchick for all of her hard work.

## 12. PLANNING MATTERS

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, vacating a portion of a 40 foot right-of-way along the East property line of a parcel of land generally located on the Northeast corner of High Point Boulevard and Road A, City of Aurora, County of Adams, State of Colorado (Case Number 2007-8001-00).

Motion by Peterson, second by Hogan, to approve item 12a

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

- b. PUBLIC HEARING to consider a SITE PLAN with waivers for eleven single-family detached units on 2.0 acres generally located South of 18th Place and West of Altura Boulevard, City of Aurora, County of Adams, State of Colorado (Habitat for Humanity at 18th Place) (Case Number 2006-4023-00). Denied 6-0, (Tobiassen absent) at the February 28, 2007 Planning Commission meeting. Appealed by applicant. Deferred from the March 26, 2007 and April 23, 2007 City Council meetings.

Gretchen Armijo, Planning, gave a brief description of the appeal of Planning Commission's denial for the 11 single-family home Habitat for Humanity project. The reasons for denial included: the size of the homes, the quality of design, and the compatibility with the neighborhood. The Habitat for Humanity organization met with the home owner groups opposing the project and proposed specific changes in response to their concerns. They then drafted a revised site plan with expanded basement storage areas and eliminated the smallest 2-bedroom homes with a 3-bedroom design.

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Lori Vaclavik, 1500 West 12th Avenue, Denver, CO, spoke on behalf of the applicant, and gave a short history of their success record within the Denver-Aurora metro area. She then continued by describing the Habitat Homeowners and the processes and responsibilities required by the project, which include physical labor and education workshops.

Chip King, 730 Monaco Parkway, Aurora, CO, a Habitat for Humanity volunteer, stated his fondness of the organization and their work, and detailed his continued efforts of volunteer involvement. He then noted the current site plan and how they have addressed all the initial concerns which led to a denial, and therefore merit approval.

Andy Blackman, 1500 West 12th Avenue, Denver, CO, summarized the new site plan and its compatibility with the neighborhood.

City Attorney Charles Richardson answered Council Member Hogan's question about an oral representation of commitment by the applicant, and stated it would be good enough for the record and ultimately binding.

Richard Rosenthal, 9716 South Keenan Street, Highlands Ranch, CO, described comments made at the last Planning Commission Meeting referring to the potential decrease in property values due to the new Habitat for Humanity home construction. He felt that this so called potential negative impact was not a germane question, and therefore irrelevant. Questions that were relevant pertained to property density. Still, the concerns were unwarranted as the density limits are easily within the laws of City code. Mr. Rosenthal is in support of the site plan.

Ronnetta Williams, 14721 East 18th Place, Aurora, CO, is a current owner of a Habitat for Humanity home and wanted to express her favorable position regarding the site plan. She wanted to state for the record that the home, which is spacious, was built by volunteer man hours and all owners must put in 30 hours per week to help other projects.

Mona Gilbert, 14771 East 18th Place, Aurora, CO, spoke in favor of the Habitat for Humanity project addressing the sizes of the homes, which have ample space. She noted that the proposed project was a safe and attractive community.

Tony Brake, 15011 East Montview Blvd., Aurora, CO, addressed Council with opposition to the site plan, noting his discomfort with the applicants, as well as with their "sub-standard housing" plan. Mr. Brake felt that the site plan was in direct violation with City code, and should not be waived on the basis of being labeled a humanitarian effort.

Diane Brake, 15011 East Montview Blvd., Aurora, CO, told Council she was concerned with the waiver and opposed the site plan. She believed that the plan would not be for the betterment of the community and agreed with the decision made by the Planning Commission.

Jean Broida, 2085 Granby Street, Aurora, CO, spoke in opposition of the site plan, noting her concerns with reduced lot size standards; believing it would be lowering the value of the adjacent properties. Ms. Broida detailed her fears that the project would create a fixed reduced standard.

Russ Martin, 14781 East 24th Avenue, Aurora, CO, noted his opposition to the site plan. He stated that the neighborhood community will not benefit from more sub-standard homes. The space reduced homes laid out in the site plan could lead to additional code enforcement issues and an over crowding, and ultimately lower property values.

Mary DiVbaldo, 2258 Altura Blvd., Aurora, CO, presented her concerns and opposition to the site plan, primarily future traffic concerns on Altura Boulevard and reduced property values. She stated that real estate values are steadily dropping, due to increased amounts of low-income homes being built in the area, and ultimately this is hurting the residents.

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Mr. King responded to several opposing comments. He noted that the lot sizes will not be smaller, but actually are larger. The waiver is being asked for because the lots are 6,300 to 8,000 square feet. He then stated that the homes will be 3-4 bedrooms, and will have ample storage. The applicants have made many alterations in order to create compatibility with the neighborhood.

Council Member Broom asked the applicant how the storage area within the homes was accessed. Chip King noted that there was a panel on the floor that included a wooden stair step and allowed for a minimum of 20"x36" worth of space.

Council Member Markert noted that property values have been declining in her Ward, and this was not a simple localized problem.

Council Member Fitzgerald stated his support of the site plan waiver and noted his personal distress with several of the opposing speakers who had appeared to make personal attacks.

Council Member Markert asked if Staff had evaluated neighboring towns and their property value concerns. Ms. Armijo stated that the Planning Department does not keep that information, but the county does and it can be obtained.

Mayor Tauer asked if waivers were a common practice. Ms. Armijo stated that the waiver process is fairly common, ranging from parking to setbacks. Mayor Tauer confirmed that the lot size of the properties within the waiver in fact meets Code standards; they are not as wide as the neighboring lots, but are much deeper and total roughly 6,000 square feet or more. Ms. Armijo concurred, and stated Staff supports this waiver because the smaller width is balanced by the deeper and larger backyards.

Council Member Peterson asked if this specific waiver could possibly lead to other developers wishing for similar lot configurations. Ms. Armijo concluded that other developers would ask for similar lot sizes, but only in situations where parcels of land have unusual shapes. Council Member Peterson stated that a street could have been added within the plan in order to divide up the properties better, thus making more space and aiding with future traffic. She then asked if Staff had planned for traffic concerns. Ms. Armijo stated that the traffic engineers reviewed the site plan and have approved the design.

Motion by Broom, second by FitzGerald, to approve item 12b

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

Voting No: Peterson.

Council Member Peterson stated that she felt the site plan was inconsistent with the City Code. In addition, the plan does not adequately control using impacts with parking congestion, traffic congestion, and noise.

Council Member Pierce thanked all the speakers and stated his support for the site plan, noting the strong compatibility with the neighborhood and the high quality of the design.

Council Member Sandstrom stated her support of the site plan and noted her opinion of the benefits of a narrow, yet deep backyard.

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- c. PUBLIC HEARING to consider a CONDITIONAL USE for after hours operation (Midnight to 2:00 a.m.) adjacent to residential for Fargo's Pizza Co. (Copper Club) located at 10801 East Mississippi Avenue, City of Aurora, County of Arapahoe, State of Colorado (Case Number 1976-6030-06). Approved 4-3, (Dodds, Singer and Tobiassen voting no) at the May 9, 2007 Planning Commission meeting. Called up by City Council at the May 14, 2007 City Council meeting.

Abigail Janusz, Planning, gave a brief introduction of the conditional use permit, which would allow for after hours operation. A total of 15 neighborhoods were notified of the conditional use permit, of which only five responded: one group supported the proposal outright, one group supported with reservations, two groups opposed with conditions to support, and another group stated outright opposition. Neighborhood concerns included both traffic impacts and fear of the property owner selling the property. Staff found the application to meet the criteria for a conditional use business and supported the permit.

David Ogden, 10801 East Mississippi, Aurora, CO, the applicant, spoke to Council regarding why the Copper Club, an Event Facility, would not only greatly benefit from the extended hours, but would not be an issue for neighboring residents. The Copper Club hosts events, such as weddings and parties, and shorter hours equates to less income and less clientele. Allowing for just two more hours will allow the Copper Club to stay competitive with those event facilities that already have extended hours. Mr. Ogden presented several letters from various patrons who noted that they had to choose other event facilities solely because of the limited hours presently at the facility. The Copper Club has also worked with the neighboring residents to assure cohesion. They have hosted two neighborhood meetings and sent out several mailings, in hopes of creating community support. Mr. Ogden noted that in all of his nine years of business, there has not been a single complaint from neighboring residents. The Copper Club hopes to silence neighborhood concerns by noise reinforcement of the interior, adding pine trees to diffuse noise in the exterior, hiring off-duty police officers to direct any additional traffic flow from large volume events, adding security cameras, keeping area clean of trash build-up, and encouraging community communication by adding a phone hotline for complaints.

Council Member Markert stated her concern regarding noise sensitivity and how a simple cell phone for immediate concerns by neighbors can address any immediate problems. Mr. Ogden agreed and stated that that is part of the current plan. Council Member Markert then added several simple ideas to keep the neighborhood happy. Mr. Ogden gave a brief description of how a "soft close" worked and the basic process of how an event is ended.

Council Member Beer thanked the applicant for a great presentation and then asked if there were any plans to sell the business within the year. Mr. Ogden stated he had no intention of selling the business.

Bob Stewart, 660 South Oswego Street, Aurora, CO, showed support for the event facility and the request for a conditional use permit.

Barry Walters, 4977 Nepal Street, Denver, CO, spoke to Council in support of the conditional use permit and added insight to the potential noise level. He had tested the sound system at the highest levels and found it hard to hear the music more than 20 feet away from the door, concluding that noise would not be a concern for neighboring residents.

Georgina O'Connell, 1456 South Macon Street, Aurora, CO, stated her support of the Copper Club as a fair and honest business. She stated the facility did not have traffic issues and no pending complaints from the community.

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Anthony Prieto, 1456 South Macon Street, Aurora, CO, spoke in support of the Copper Club as an employee. He noted the business' ability to work with the community and saw no real issues with approving a conditional use permit.

Larry Ellis, 1010 South Joliet, Aurora, CO, stated his support of the Copper Club, representing the neighboring Havana Gardens Office Condominiums. He stated that the Board recommends the conditional use permit in order to give the Copper Club a stronger and more competitive business. In the past years, there have been no problems with the Club and they have no concerns with extending the business hours.

Darla Stuart, 904 South Jamaica Street, Aurora, CO, stated her opposition to the conditional use permit on behalf of the Havana Villa Neighborhood Association. The concerns did not lie with the Copper Club, but with any future property owners. She noted that that specific property had changed hands numerous times and the hope is that an additional section in the permit can be added to state that if the business is sold, the conditional use would be void and would require a new permit altogether. This could protect the neighborhood.

Judi Uhrich, 914 South Jamaica Street, Aurora, CO, stated her opposition to the conditional use permit on behalf of the Havana Villa Neighborhood Association on the grounds that that permit does not protect the community from a future property owner.

Arnie Schultz, 1137 South Oakland Street, Aurora, CO, stated his opposing views of the conditional use due to the permit not protecting the community from a less than reputable owner. He then asked Council to consider a probationary period for any future owners.

Council Member Fitzgerald stated that this permit can be taken away from a new owner, and does not guarantee a new owner this conditional use, especially if it is abused.

Council Member Markert asked Mr. Schultz if there had been any previous scenarios of conditional use permits taken away. Mr. Schultz gave an example of a previous business, the Nile Restaurant, who had just received a conditional use, and eventually had their liquor license taken away after too many complaints. The next property owner was required to obey a probationary period in order to keep a conditional use permit.

Mykl Kryka, 13620 East 13th Place, Aurora, CO, stated his support of the conditional use on behalf of his personal career as a disc jockey for the Club. He noted several instances where he turned down requests to play at the Club because he had offers at other places where the closing times were later.

Mr. Ogden addressed the concerns, restating his openness to communication with residents. However, regarding the concern with a potential new property owner, any new owner can only utilize the conditional use permit if they perform the exact same service, otherwise they need to come back to Council and apply for a completely different conditional use permit. Mr. Ogden concluded by reminding Council of the community support for his permit and his excellent track record.

Mayor Tauer asked about the conditional use of this permit, and whether or not he was aware of the guidelines and restrictions written within the code. Mr. Ogden confirmed his awareness.

Mayor Tauer asked the City Attorney if Council could impose a condition of after hours use on a change of ownership. Mr. Richardson stated that Council, due to State law, does not have the right or power to impose that condition.

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Council Member Beer asked if any situation in recent history saw a Council or Commission elicit an agreement from an applicant to limit a conditional use permit to their own use. Mr. Richardson could not recall of any such imposition. Council Member Beer then asked if a Council member could ask an applicant to voluntarily waive the application of the State law. Mr. Richardson stated that Council does have the right to ask, but should the applicant wish not to waive the State law, it cannot be used against them.

Council Member Beer asked Mr. Ogden, if he would make a commitment to terminate the conditional use of extended hours of operation if he sells the business. Mr. Ogden was unable to answer at that time.

Council Member Hogan noted that these types of questions should not be asked of the applicant, because the applicant has the right to a yes or no vote on their original request.

Council Member Beer noted that this specific question of the applicant had been asked previously and the applicant was most likely already aware that it could be asked of again.

Council Member Broom added his support of the current conditions of the conditional use permit.

Council Member Pierce stated that he was in support of the conditional use, and did not want to speculate on the future ownership of the property.

Mr. Ogden responded to the question saying he wanted the permit to be voted on as is and go with the current facts.

Council Member Peterson left the meeting before remainder of the votes.

Motion by Sandstrom, second by Pierce, to approve 12c

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

Voting No: Beer

Council Member Beer added that he felt the business was top quality, but the neighborhood concerns are regarding the prospects of future ownership. He then stated he has never voted yes on any after hours use and will stay consistent by voting no on the conditional use permit, because of the neighborhood concerns not being addressed.

Council Member Sandstrom noted that she works near the Copper Club and works late hours. She has never heard any music or noise coming from the Club and is in support of the use because it is unfair to penalize the current owner on speculation of the future.

13. **RECONSIDERATIONS AND CALL-UPS**

None.

14. **GENERAL BUSINESS**

- a. Consideration to reappoint one incumbent member to a three-year term on the Public Defender Commission.

Motion by Pierce, second by Fraizer, to reappoint Paul Moran to a three-year term on the Public Defender Commission

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

- b. Consideration to reappoint one incumbent member to a three-year term on the Board of Adjustments and Appeals.

Motion by Pierce, second by Hogan, to reappoint George Loescher to a three-year term on the Board of Adjustments and Appeals

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

- c. Consideration to appoint five youth members to a two-year term on the Aurora Youth Commission.

Motion by Broom, second by Markert, to appoint Stephanie Raeburn, Marco Garcia, Morgan McDonald, Allie Vick, JoseLuis Rodriguez to two-year terms on the Aurora Youth Commission

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

- d. Consideration to appoint three new members to a three-year term on the Open Space Board.

Motion by Markert, second by FitzGerald, to appoint Cecilia Dona Vanderbilt, Gerald Allen, Jarrod Musick to three-year terms on the Open Space Board

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

- e. Consideration to appoint two new members to a three-year term on the Art in Public Places Commission.

Motion by Beer, second by Broom, to appoint Anne Feeney, Barbara Peck to three-year terms on the Art in Public Places Commission

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

15. **REPORTS**

- a. Report by the Mayor

Mayor Tauer congratulated the people from the Colorado Freedom Memorial who have planned a construction date of 2008.

- b. Reports by the Council

Council Member Sandstrom thanked the Social Studies teachers and the 5th Graders at Prairie Middle School for allowing her to be a Judge in their culmination of "We the People."

Council Member Frazier invited all to the Aurora D.A.R.E. Golf Tournament on Saturday June 9, 2007 at 7:30 a.m. All those interested should contact D.A.R.E. Sgt. Pat Smith 303-739-6371.

Council Member Pierce thanked everyone for helping with the E-Cycling event where 45,000 pounds of electronic material were dropped off.

Council Member Markert reminded everyone about numerous events on Saturday June 16, 2007: Aurora Chase Tour at 8:00 a.m., Aurora Reservoir Beach Party at 10:00 a.m., and the Aurora Historical Society Ice Cream Social at 2:30 p.m. She added congratulations to the 3,784 8th Graders who will be moving on to High School and the High School students moving on to college. She concluded by thanking everyone for keeping her mother in their prayers.

Council Member Fitzgerald congratulated the State Championship teams of Aurora; several athletes on the Overland High School Track team, the Cherokee Trails High School Baseball team, and the Regis High School Swimming team. He concluded by congratulating his son for graduating high school.

16. **PUBLIC INVITED TO BE HEARD**

None.

17. **ADJOURNMENT**

Mayor Tauer adjourned the regular meeting of City Council at 10:43 p.m.

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EDWARD J. TAUER, Mayor

ATTEST:

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DEBRA JOHNSON, City Clerk

- ◆ *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.*