

MINUTES

Regular Meeting – Aurora City Council Monday, November 19, 2007

CALL TO ORDER – EXECUTIVE SESSION

Mayor Tauer convened the Executive Session of City Council at 4:51 p.m.

ROLL CALL

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

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, Markert, Peterson, Pierce, Sandstrom,
Wallace

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

1. **RECONVENE REGULAR MEETING OF NOVEMBER 19, 2007 AND CALL TO ORDER**

Mayor Tauer reconvened the regular meeting of City Council at 7:34 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 OCTOBER 29, 2007**

Motion by Markert, second by Pierce, to approve the minutes of October 29, 2007 as presented.

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

- ◆ *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.*

6. **CEREMONY**

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

<u>Name</u>	<u>Board or Commission</u>
Sarah Douglas	Aurora Youth Commission
Kimberly Harrell	Art in Public Places Commission
Karen Gilkey	Visitors Promotion Advisory Board
Veronica Moody	Human Relations 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.

- a. Swearing in of newly appointed Fire Chief, Mike Garcia - Presiding Judge Richard Weinberg

Presiding Judge Richard Weinberg administered the oath of office to Fire Chief, Mike Garcia. Mayor Tauer and City Council congratulated him and welcomed him to the City.

7. **ADJOURNMENT – SINE DIE**

Mayor Edward J. Tauer states the meeting of this City Council is adjourned sine die and gavel the meeting adjourned.

8. **ANNOUNCEMENT OF ELECTION RESULTS** Debra A. Johnson, City Clerk

Mayor	Edward J. Tauer
Council Member - Ward IV	Molly Markert
Council Member - Ward V	Sue Sandstrom
Council Member - Ward VI	Bob Broom
Council Member At-Large	Ryan Frazier
Council Member At-Large	Brad Pierce

9. **OATH OF OFFICE**

Swearing in of newly re-elected Mayor and Council Members - Presiding Judge Richard Weinberg

After oath has been administered, newly re-elected Mayor and Council Members will receive a Certificate of Election from the City Clerk.

10. **RECONVENE COUNCIL MEETING** Mayor Edward J. Tauer

Mayor states the meeting is reconvened and gavel the meeting to order.

11. **ROLL CALL OF CITY COUNCIL** Debra A. Johnson, City Clerk

PRESIDING: Mayor Tauer

COUNCIL MEMBERS PRESENT: Beer, Broom, FitzGerald, Frazier, Hogan, Markert, Peterson, Pierce, Sandstrom, Wallace

- ◆ *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.*

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

Arnold Schultz, representing Village East Neighborhood Association (VENA), expressed his congratulations to Mayor Tauer, the recently appointed Council Members, those involved in the recent creation of the Havana Business Improvement District, and Mayor Tauer and Council Member Markert in their efforts related to the redevelopment of Buckingham Square.

13. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

14. **CONSENT CALENDAR – 14a-14s**

General Business

- b. Consideration to EXTEND A SINGLE SOURCE AWARD to Niquito's, Aurora, Colorado in the not-to-exceed amount of \$65,000.00 for food service for the Aurora Detention Center through December 31, 2008.
- c. Consideration to EXTEND AN AWARD to Romberg and Associates in the amount of \$185,142.00 for federal lobbying services for 2008.
- d. Consideration to AWARD COMPETITIVELY BID CONTRACTS to select vendors in the combined total not-to-exceed amount of \$4,420,889.00 to cover the cost of motor vehicles as required through 2008.
- e. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Glacier Construction Company, Englewood, Colorado in the amount of \$6,229,304.00 for the construction of the Shop Creek Lift Station No. 4 Upgrades, Project No. 5107A.
- f. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with Integra Engineering, Denver, Colorado in the not-to-exceed amount of \$379,312.00 for professional project support services associated with the construction phase of the Blackstone Zone 8 Pump Station Project, RFP R-1277.
- g. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Wagner Equipment Company, Aurora, Colorado in the amount of \$65,000.00 for the rental of a trailer mounted electric generator to provide backup power at the Wemlinger Water Treatment Plant, Bid Number B-3809.
- i. Consideration to APPROVE AN AGREEMENT between the City of Aurora, acting by and through its Utilities Enterprise, and the Wattenburg Improvement Association for lease of firm delivery of fully reusable water.
- j. Consideration to APPROVE AN AGREEMENT between The City of Aurora, acting by and through its Utilities Enterprise, and Lafarge, trading fully reusable water for 1.75 Shares of Brighton Mutual Ditch Company.
- k. Consideration to APPROVE A WATER SUPPLY AGREEMENT between the City of Aurora, acting by and through its Utilities Enterprise, and Rocky Mountain Energy Center (RMEC).

- ◆ *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.*

Motion by FitzGerald, second by Broom, to approve items 14b – g, i – k.

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

- a. Consideration to AWARD CHANGE ORDER NUMBER 2 TO COMPETITIVELY BID CONTRACTS to Dell Computers and Hewlett-Packard Company in the combined total not to exceed \$500,000.00 to cover the cost of desktop computers, servers and printers as required through December 2007.

Council Member FitzGerald related he had questions at the last meeting related to this item, and appreciated the itemization.

Mark Pray, Director, Information Technology, gave a brief description of the item. He noted the change orders are a result of the growth of the City and how it uses technology.

Council Member Peterson noted a quarter of the cost relates to PC replacement and asked how often that occurs. Mr. Pray stated every four years a planned replacement for one quarter of the PCs occurs.

Council Member Markert noted 34 percent of the change order was from Aurora Water and asked if they contributed 34 percent to the budget. Mr. Pray answered affirmatively.

Motion made by FitzGerald, second by Peterson, to approve item 14a.

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

- h. Consideration to AWARD A SINGLE SOURCE CONTRACT to National Meter and Automation, Inc., Greenwood Village, Colorado in the not-to-exceed amount of \$2,652,063.00 for the purchase and installation of Badger water meters for 2008.

Council Member Beer supported the item, and asked for an explanation regarding how the meter replacements would be deployed throughout the community and how doing so would impact residential water customers.

Dan Mikesell, Aurora Water, stated 13,000 meters would be replaced in strategic locations across the City.

Motion made by Beer, second by Markert, to approve item 14h.

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

Final Ordinances

- ◆ I. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, vacating entirely Yuba Street which is generally located south of Colfax Avenue and west of Potomac Street, City of Aurora, County of Arapahoe, State of Colorado (Fitzsimons Hotel at Lighthouse Plaza).

- ◆ *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.*

- ◆ m. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, rezoning a parcel of land generally located east of Tower Road, approximately 300 feet north of 32nd Parkway from M-1 to B-3, and amending the Aurora Zoning Map accordingly (Gateway Park IV East), 20.7 acres more or less.
- ◆ n. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, rezoning a parcel of land generally located on the southwest corner of Mississippi Avenue and Tower Road from PCZD-Commercial to B-1 (Retail Business District), and amending the Aurora Zoning Map accordingly (Tower Landing), 3.0 acres more or less.
- ◆ o. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, rezoning a parcel of land generally located on the southwest corner of Mississippi Avenue and Tower Road from PCZD-Commercial to R-2M (Medium Density Multiple-Family Residential), and amending the Aurora Zoning Map accordingly (Tower Landing), 6.95 acres more or less.
- ◆ p. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, adopting the Urban Growth Area 2006, and Travel Framework Maps as an amendment to the Comprehensive Plan.
- ◆ q. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, amending sections 2-812(A) and 2-902(A) of the City Code of the City of Aurora, Colorado, regarding membership of the Commission for Seniors and the Aurora Youth Advisory Commission.
- ◆ r. Consideration of an ORDINANCE FOR FINAL authorizing the use of Lease-Purchase Financing to acquire new equipment for the Aurora Fire Department.
- ◆ s. Consideration of an ORDINANCE FOR FINAL appropriating sums of money in addition to those appropriated in Ordinance Nos. 2006-57, 2007-04, and 2007-25 for the 2007 Fiscal Year and Ordinance No. 2007-67 for the 2008 Fiscal Year.

Motion by Beer, second by Sandstrom, to approve items 14l -s.

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

15. **RESOLUTIONS**

- ◆ a. Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, Douglas County, and Kuvera, Inc. for the electronic recording of documents in Douglas County.

Motion by Broom, second by Hogan, to approve item 15a.

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, acting by and through its Utilities Enterprise, and Town of LaSalle, trading the firm delivery of reclaimed wastewater for four shares of Western Mutual Ditch Company.

Motion by Beer, second by Peterson, to approve item 15b.

- ◆ ***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.***

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, amending the CornerStar Urban Renewal Plan.

Motion by Sandstrom, second by Broom, to approve item 15c.

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, authorizing the execution of the Public Finance and Redevelopment Agreement between the City, The Aurora Urban Renewal Authority, PCCP CS Alberta CornerStar, LLC, and CornerStar Metropolitan District.

Motion by Sandstrom, second by Wallace, to approve item 15d.

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

16. **ORDINANCES FOR INTRODUCTION**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, authorizing the issuance and sale of City of Aurora, Colorado, Multifamily Housing Revenue Refunding Bonds (Liberty Creek Project) Series 2008, dated January 1, 2008, in an aggregate principal amount not to exceed \$28,000,000 for the purpose of financing multifamily residential housing facilities; authorizing and directing the delivery of a financing agreement, a trust indenture, a first amended and restated tax regulatory agreement, a remarketing agreement, a bond purchase agreement, and related documents; authorizing and directing the execution and delivery of such bonds; making certain determinations with respect thereto; providing for redemption and maturity of the bonds and other details in connection therewith; authorizing officers of the City to take action incidental thereto.

Council Member Markert related her experience touring the site, noting it was a wonderful addition to Ward IV.

Nancy Sheffield, Director, Neighborhood Services, gave a brief summary of the item.

Motion by Markert, second by FitzGerald, to introduce item 16a.

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

- ◆ b. Consideration of an ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, authorizing the use of Lease-Purchase Financing to acquire new equipment for the Aurora Fire Department.

Motion by Peterson, second by Pierce, to introduce item 16b.

- ◆ *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.*

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

17. **PLANNING MATTERS**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, vacating a portion of Orchard Road between Aurora Parkway and Powhaton Road within the Southlands Subdivision Flg. No. 14, which is generally located on the southeast corner of Aurora Parkway and Orchard Road, City of Aurora, County of Arapahoe, State of Colorado (Villages at Southlands CSP No. 28) 0.0241 acres more or less.

Michael Smyth, Planning Department, gave a brief summary of the item.

Motion by Broom, second by Pierce, to introduce item 17a.

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

Staff requests deferral of item 17b to the December 17, 2007 City Council meeting.

- ◆ b. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION initially zoning a parcel of land generally located on the west side of Parker Road, approximately 1,800 feet south of Arapahoe Road to B-4, and amending the Aurora Zoning Map accordingly (Kremer Property), 2.20 acres more or less.

Staff has asked for a deferral of this item, and the applicant agrees with the deferral.

Motion by Peterson, second by FitzGerald, to defer item 17b to the December 17, 2007 City Council meeting.

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

- c. PUBLIC HEARING and consideration of an appeal of the Planning Commission's decision to deny a Site Plan Amendment to convert an existing KFC with drive-thru to a Church's Chicken with drive-thru located at the southwest corner of Warren Drive and Havana Street (Church's Chicken). (Case Number 1974-6035-05).

Peter Kernkamp, Planning Department, gave a brief summary of the item. The item was denied by the Planning Commission, subsequently; the applicant and neighbors have met and resolved their concerns. Tyndall Green II HOA and VENA now support the item.

Council Member Sandstrom pointed out this site is located at the northwest corner of Warren Drive and Havana Street, not the southwest corner. She asked if that could be corrected.

Mayor Tauer directed staff to make that change permanent to the record.

Harris Rosenthal, representing the property owner, gave a presentation of the item. He related the history of the site, and rehabilitation of the building. He noted since the Planning Commission denial, he and Mr. Shapiro have become involved and the site has been cleaned up and brought into compliance. He stated the Church's Chicken was a perfect fit for the site.

Council Member FitzGerald asked Mr. Rosenthal if he supported the Havana BID. Mr. Rosenthal answered affirmatively.

- ◆ ***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.***

Shirley Scott, representing Tyndall Green II HOA, spoke in favor of the item. She related upgrades and improvement of the site.

Arnold Schultz, representing Village East Neighborhood Association (VENA), spoke in favor of the item. He raised the concern regarding the overhead Xcel Energy power pole waiver request and asked Council to negotiate with Xcel to have that removed.

Gayle Jetchick, representing the Havana Business Improvement District, spoke in favor of the item. She presented and discussed "before" and "after" photographs of the site. She noted great improvements have been made to the site.

Council Member Pierce asked staff how this building measured up to Havana Design Standards. Mr. Kernkamp stated what has been adopted was a conceptual plan and until more specific design standards are adopted for the BID, it was a judgment call.

Motion by Markert, second by Hogan, to approve item 17c.

Council Member Markert encouraged Council to support this item. She expressed her appreciation to all those involved with the negotiations of this site.

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

- d. PUBLIC HEARING and consideration of an appeal of the Planning Commission's decision to deny a Conditional Use and a Site Plan with waivers for 510 multi-family units on 33.62 acres located at the southeast corner of Arapahoe Road and E-470 (Tallyn's Reach Site Plan No. 16 - The Sanctuary). (Case Numbers 2007-4009-01, 2007-4009-00).

Michael Smyth, Planning Department, gave a presentation of the item.

Mayor Tauer expressed his understanding that the relative height of the multi-family to the adjacent neighbors was a problem but the applicant has agreed to grade the site to mitigate that concern.

Council Member Broom asked staff how many units were in this proposal compared to what was previously approved in 2000.

Ed Arnold, Planning Department, stated 76 more. The previous density was 14 dwelling units per acre and the current density is 15 units per acre.

Council Member Pierce asked staff to point out and discuss the waivers for this item. Mr. Smyth did so, noting the waivers related to garage parking, tandem spaces and garage doors.

Michael Sheldon, representing the applicant, gave a presentation of the item. The project is the only multi-family project in Tallyn's Reach and Council set the density in the GDP at 18 dwelling units per acre. A site plan calling out 14 units per acre was approved in 2001. At that time, it was proposed as a 'for sale' condominium complex however a downward change in the market put the project on hold. Currently the site would be marketed as rental units and would then be converted to 'for sale' as the market allows. The applicant has met on numerous occasions with the Fieldstone Task Force and Planning staff recommended approval of the project. Acknowledging the level of concern from the neighbors, the applicant was aware the item would be appealed to City Council regardless of the outcome at Planning Commission. In the interest of time and money, the applicant moved the item forward to Planning Commission under the GDP approval process without having resolved all neighborhood issues. The applicant was negotiating in good faith and as of Friday, the applicant has reached a written extensive agreement with the HOA, Board of Directors and Negotiating Committee. The mitigation agreement included buffering, a

- ◆ ***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.***

stone wall, and creating onsite and offsite mitigation including tree planting and irrigation. He discussed multi-family transitions.

Jan Adamczyk, representing the applicant, gave a presentation of the item.

Mr. Sheldon stated the architecture was high-quality and had attached and detached garages.

Council Member Beer asked what traffic control device was used at the corner of Glasgow and Arapahoe Road. Rick Hunter, Public Works, Traffic Division, stated it was currently a two-way stop controlled intersection on Glasgow.

Mr. Sheldon pointed out review of that intersection was one of the items addressed in the neighborhood mitigation agreement.

Mayor Tauer referenced the proposed agreement between the applicant and the HOA, noting in this case, the City was not party to the agreement. It could be reviewed and considered but the City was not involved in its enforcement.

Charles Richardson, City Attorney, agreed it was a comprehensive agreement but the City was not a party to it whatsoever. The applicant has agreed to excise that portion of paragraph 5 related to the Aurora City Attorney's review of the form of any restriction. He clarified he could not get involved in what would be determined as "state action".

Mr. Sheldon concurred. He noted removing that portion of the paragraph does not mean the applicant was backing away from that deed restriction.

Mayor Tauer stated this was a binding agreement between the applicant and the HOA but the City was not party to it. The same remedies were in place as with any other contract.

Council Member Beer asked if the agreement could be recorded with the mylars so as to run with the land. Mr. Richardson did not see a problem with that.

Council Member Pierce asked which buildings were two and which were three stories. Mr. Sheldon stated they were all three stories.

Mayor Tauer referenced Council Member Beer's suggestion to record the agreement with the Mylars and asked the applicant if that was amenable. Mr. Sheldon answered affirmatively. He agreed to record the agreement so that it runs with the land. Mayor Tauer asked staff if that was binding. Mr. Richardson stated yes.

Council Member FitzGerald asked the applicant how much has been expended in water tap fees thus far. Mr. Sheldon stated \$2.1M in 2001 and at current rates; the water taps would be in excess of \$6M. Council Member FitzGerald asked what was expected south and west of the project. Mr. Sheldon believed the GDP calls out open space. Mr. Arnold concurred.

Council Member Broom asked the applicant if this project was ready to be put on line. Mr. Sheldon stated the financing was in place and the applicant was prepared to commence construction immediately. Council Member Broom asked if market studies were in place for this project. Mr. Sheldon answered affirmatively.

Council Member Markert asked the price point of these units. Mr. Sheldon stated \$1K - \$2K each with an average price point of \$1500 per month.

Council Member Peterson asked why the 2001 plan was not completed. Mr. Sheldon stated it was due to the downward turn in the 'for sale' condominium market.

- ◆ ***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.***

Mayor Tauer asked Mr. Richardson to speak to the payment of water tap fees. Mr. Richardson clarified any new tap fees necessary for this density would have to be paid at the 2007 rate.

Karl Kasch, representing Fieldstone HOA Task Force, related the history of this site. He noted the initial concern was transition. It was asked if building elevation or deletion could occur and what kind of screening was proposed. The applicant was unable to do so. As a result, an agreement was in place that addressed site and noise mitigation, and benefits including cash for the HOA to implement their own mitigation.

Mayor Tauer asked Mr. Kasch if the HOA was amenable to the grading and subsequent lowering of the building height. Mr. Kasch clarified they were in lieu of unit reduction. Mayor Tauer asked if the HOA has agreed to the agreement in terms of landscaping, etc. Mr. Kasch answered affirmatively.

Council Member Broom asked Mr. Kasch to point out the location of this home and that of the other nine Task Force Committee members. Mr. Kasch did so.

Daniel Jones, an adjacent property owner, noted this developer had a good plan that had unacceptable aspects. He expressed concerns regarding the lack of building transition. He would like clarification regarding the lowering of the buildings because that has not yet been substantiated. He suggested a preliminary requirement be in place prior to site plan application filing.

Cayce Dunn, representing Fieldstone HOA and Task Force, agreed an agreement has been reached on all other issues except for the most important concern of building transition.

Council Member Sandstrom asked how many of the nine Task Force members were direct abutters. Mr. Dunn stated three.

Ralph Bruce spoke in opposition to the item due to the lack of appropriate density transition. He described the current view from his home which includes wildlife and mountains as opposed to the proposed view which would include large apartment buildings. The applicant and HOA committee reached an agreement with large compensations of money to the HOA. He suggested this was simply a buy-out and requested the project be denied.

Council Member Wallace referenced Mr. Bruce's letter which suggested the proposed retaining walls did not conform to City code and asked staff to clarify that issue. Mr. Arnold clarified the walls have been changed and were to code.

Lynn Bruce spoke in opposition to the item. She stated this developer would ruin their community with their 29 three story buildings. The property values and quality of life would change.

Dorothy Giorgio presented and discussed photographs depicting 'before' and 'after' views of the project. She noted Glasgow Drive was a small road with a steep incline, pointing out no stop signs or traffic mitigation was proposed.

Council Member FitzGerald stated there were 30 homeowners involved and nine were elected to negotiate and only 10 agree with the nine that were elected. He asked Ms. Giorgio to speak to that concern. Ms. Giorgio stated the agreement was a step in the right direction but was not enough.

Grayson Robinson stated he resigned from the Task Force for various reasons and was opposed to the project. It was known to the neighbors that a multi-family development would be constructed at the proposed location. It was also understood that conditional uses requiring 50 percent of the buildings be two-stories and allowing 50 percent of the buildings to be three stories,

- ◆ ***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.***

and he believed that condition should be required of the applicant. He asked for an explanation of staff's recent support of a waiver of the established land development condition.

Ms. Adamczyk discussed grading and buffering for the site. Mr. Sheldon discussed grades and building height for the site. He noted the computer generated site line boards were presented at a neighborhood meeting and staff recommended the waiver after their review. He pointed out after in-depth, good faith negotiation on the applicant's part, the site has been graded down to create less visual impact to the neighbors.

Council Member Broom asked what exactly the neighbors would be looking at from their homes. Mr. Sheldon stated the front side of the elevations.

Council Member Frazier asked the distance between this development and the neighbors' homes. Ms. Adamczyk estimated the closest neighbor would be between 50 to 60 feet from their backdoor. Council Member Frazier noted there has been a lot of discussion regarding density transition, and asked Mr. Sheldon to comment. Mr. Sheldon did so, noting it was in the code and City Council makes those determinations when they approve the GDP. He noted patio homes were a density transition in and of themselves.

Council Member Frazier wanted to better understand why a compromise on density transition was not realized. Mr. Sheldon stated it was due to economics.

Council Member Pierce asked the height of the proposed wall. Mr. Sheldon stated eight feet. Council Member Pierce asked how, the agreement notwithstanding, the waivers were mitigated.

Mr. Arnold stated the intent of the GDP was to separate the buildings that were three story walkups, and the waiver related to 23 buildings between the garage and three story building, the parking is exceeded by 21 spaces and staff required all tandem spaces to be standard 9' by 19', and one of the garage doors was removed and an landscape feature added.

Council Member Pierce asked if the tandem spaces were considered compact or standard. Mr. Arnold stated standard.

Council Member Markert asked if lowering the two brown buildings and the yellow roofed building by one story each would ruin the economics. Mr. Sheldon answered affirmatively.

Council Member FitzGerald stated he will support the item. There was the 50 - 50 requirement and that changed in 1998. The property owners have the right to develop their property as long as they have gone through the proper process, and in this case, they have. A group was elected to negotiate and an agreement was reached that included the exchange of money so he did not see how anything further could be accomplished.

Council Member Broom stated this was in his Ward and agreed it did not meet everyone's needs. He pointed out it was zoned multi-family and the applicant has attempted to do the best they could with it. The berm, eight foot fence and additional landscaping would mitigate some of the adverse impacts.

Mayor Tauer referenced Ms. Adamczyk's comments regarding the relative building heights, and asked staff if they were an accurate representation. Mr. Smyth answered affirmatively. Mayor Tauer asked if the lowering of the buildings would be the same height as a single-family home. Mr. Smyth stated the goal was for them to appear as two stories to the adjacent neighbors.

Council Member Beer noted mitigation and good faith negotiation have been realized therefore he would support the motion.

- ◆ ***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.***

Council Member Sandstrom commented this was a difficult decision as she agreed with the use of two story buildings on the perimeter of a project, but expressed concerns regarding requiring the 50 percent two stories because it would create a lower quality project to be built rather than what has been presented. She would support the motion.

Council Member Pierce understood the GDP was approved a long time ago and this density is lower than what was approved, however the neighborhood density is approximately three dwelling units per acre. It was his opinion the agreement addressed everything except density and that was a big issue and this project did not protect the lower density in the area.

Council Member Markert agreed this was a difficult case. She struggled with the transition concern and could not understand why reducing a few buildings to two stories would be so detrimental, and without the accurate information, she could not support the motion.

Council Member Peterson expressed her concern that the Task Force negotiated with the applicant and yet so many people were present who are opposed. Additionally, she would like to see a few of the buildings reduced to two story to provide appropriate transitioning.

Council Member Frazier also struggled with this decision due to compatibility and density concerns. He commended the applicant and the neighbors for their negotiation efforts but could not support the project.

Motion by Broom, second by FitzGerald, to approve item 17d.

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

Voting Nay: Frazier, Markert, Peterson, Pierce

Mayor Tauer was not sure the project met the appropriate transition and the diagrams show the buildings to be two stories from the homes. More importantly, it was necessary to have a process in the City and in doing that, people are asked to represent their neighbors. He was not sure how to have a reasonable process when an agreement is reached that the Council could not consider. He agreed this was one of the most difficult decisions in recent history and he voted to approve it because an agreement had been reached.

18. **RECONSIDERATIONS AND CALL-UPS**

None.

19. **GENERAL BUSINESS**

a. Consideration to Elect a Mayor Pro Tem to a one-year term.

Motion by Tauer, second by Frazier, to appoint Council Member Markert as Mayor Pro-Tem.

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

Abstained: Markert, Peterson

Council Member Markert expressed her appreciation for the election.

- ◆ *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.*

- b. Consideration to appoint one new member to a three-year term on the Aurora Fox Arts Center Board.

Motion by Pierce, second by Markert, to appoint Marita Kenney to a three year term on the Aurora Fox Arts Center Board.

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

20. **REPORTS**

- a. Report by the Mayor

Mayor Tauer related his recent experience at the Eagles Annual Thanksgiving Dinner, and expressed his appreciation to all those who voted for him. He stated one of the best things about this recent election was that his son cast his very first vote.

- b. Reports by the Council

Council Member Beer extended congratulations to those re-elected on the Council. Council has proved to be a strong team working together for the people of Aurora, and it was his privilege to serve with them. He announced, due to scheduling conflicts, no November Ward III Town Meeting would be held. He wished everyone a happy Thanksgiving.

Council Member Wallace announced the reappointment of George Dumas to the Business Advisory Board, and asked residents to be mindful of children out of school on the Friday after Thanksgiving. She wished everyone a happy holiday and concurred with Council Member Beer that Council was a wonderful group.

Council Member Sandstrom expressed her appreciation to the voters of Ward V who re-elected her. She has enjoyed the last four years and looked forward to the next four years. She related her recent wonderful experience with local elementary schools honoring veterans and congratulated two local high school sports teams for becoming State Champions. They are Grandview Girls Volleyball Team and the Smoky Hill Boys Soccer Team. She extended best wishes to the Grandview Football team as they were down to the Final Four and wished everyone a happy Thanksgiving.

Council Member Broom invited everyone to the tree and Menorah lighting ceremonies at Southlands on Friday evening at 5:00 p.m.

Council Member Frazier wished everyone a happy Thanksgiving and expressed his appreciation to those who voted to re-elect him for another four-year term. He related his recent experience attending the Allied Jewish Federation Men's Event and commended that group for their great humanitarian efforts both locally and abroad.

Council Member Pierce noted Aurora came out ahead at the recent National League of Cities Conference as the most digitally advanced city with a population of over 250,000. He expressed his appreciation to the Aurora Information Technology Department. Additionally, he related his experience at the Conference regarding the Art in Public Places booth.

Council Member Markert expressed her appreciation to those who re-elected her and allowed her to continue with this wonderful group. She mentioned she has historically been a supporter for the Hinkley High School Land Mines Task Force and related her recent experience at their Launch. She noted her appointment to the Aurora Youth Commission, and reminded the Council they have a Youth Committee appointment as well.

- ◆ ***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.***

Council Member FitzGerald noted the ultimate power of the law rests with the people. He related a recent event at St. Pious X Church where a request for a new recreation center in northwest Aurora was presented. He noted the City would attempt to address this concern. Council Member Peterson expressed her hope that the child in everyone would shine bright during this Holiday Season.

21. **PUBLIC INVITED TO BE HEARD**

None.

22. **ADJOURNMENT**

Mayor Tauer adjourned the regular meeting of City Council at 10:18 p.m.

EDWARD J. TAUER, Mayor

ATTEST:

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.*