

MINUTES

Regular Meeting – Aurora City Council Monday, March 3, 2008

CALL TO ORDER – EXECUTIVE SESSION

Mayor Tauer convened the Executive Session of City Council at 4:10 p.m.

ROLL CALL

| | |
|----------------------------------------------|----------------------------------------------------------------------|
| PRESIDING: | Mayor Tauer |
| COUNCIL MEMBERS PRESENT: | Beer, Broom, FitzGerald, Markert, Peterson, Pierce, Wallace |
| COUNCIL MEMBER ABSENT: | Frazier, Hogan |
| 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 FitzGerald, second by Pierce, to recess to Executive Session.

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

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

1. **RECONVENE REGULAR MEETING OF MARCH 3, 2008 AND CALL TO ORDER**

Mayor Tauer reconvened the regular meeting of City Council at 7:33 p.m.

2. **ROLL CALL**

| | |
|--------------------------|----------------------------------------------------------------------|
| PRESIDING: | Mayor Tauer |
| COUNCIL MEMBERS PRESENT: | Beer, Broom, FitzGerald, Markert, Pierce, Sandstrom, Wallace |
| COUNCIL MEMBER ABSENT: | Frazier, Hogan, Peterson |
| 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 FEBRUARY 25, 2008**

Motion by Markert, second by Sandstrom, to approve the minutes of February 25, 2008 as presented.

Voting Aye: Mayor Tauer, Beer, Broom, FitzGerald, Markert, 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**

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

| <u>Name</u> | <u>Board or Commission</u> |
|------------------|-------------------------------|
| Karen Spence | Aurora Commission for Seniors |
| Corinne Lende | Aurora Youth Commission |
| Bernard Celestin | Civil Service Commission |
| Dave Williams | Civil Service Commission |
| Thomas Sullivan | Cultural 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.

Mayor Tauer recognized Brandon Skogen, from Boy Scout Troop #127, Centennial District.

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

Alvertis Simmons, Aurora, CO, came before Council to bring light to an injustice in the City. He stated that there is no African-American participation involved with the redevelopment of Buckingham Square Mall. The owners of the development will want African-Americans to spend their money at the new shopping center, but won't use them to help build it. He asked Council's help to stop the project from continuing until this participation is allowed. He urged fairness to all, stating they are not wanting a hand out, but rather a hand up.

Council Member Wallace stated the City is making sure that the contractors for this project are on a list of qualified companies and are using minorities in all aspects of the destruction and re-development. She made a commitment to work with Mayor Tauer and Council Member Markert, as Buckingham is in Ward IV, to make sure guidelines are followed and minorities are being hired.

Mary Martin, Denver, CO, also spoke to Council regarding the lack of minorities being used at the Buckingham project. She owns a construction company, and was never notified of any jobs available for this project involving her industry. She is concerned with comments made about diversity in construction in regard to whether people are qualified or not. Many times, African-Americans are over qualified for jobs. She has been involved with many high profile construction projects in the metro area, and feels she is over qualified for the project in Aurora. People need to think outside the box. A goals committee usually determines diversity on a project, and she does not see that on this development. A joint venture group with minority input is also needed. Shaw Construction is not the best company in the industry, but also not the worst. The Buckingham project needs to be monitored. Community involvement is needed.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-9g**

General Business

- b. Consideration to EXTEND A SOLE SOURCE CONTRACT to Positron, Montreal, Quebec in the amount of \$105,286.55 for annual renewal of maintenance on the City's 911 answering system through February 9, 2009.

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- c. Consideration to AWARD A SOLE SOURCE CONTRACT to Versaterm Systems, Ottawa, Ontario in the amount of \$198,972.00 for annual renewal of software maintenance on the Police Information Management System through March 31, 2009.
- d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Software Spectrum, Liberty Lake, Washington in the total not-to-exceed amount of \$500,000.00 to cover the cost of Microsoft, Symantec and Adobe software purchases as required through December 31, 2008.
- e. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Deere and Ault Consultants, Inc., Longmont, Colorado in the not-to-exceed amount of \$1,355,489.00 for professional engineering design and site planning services associated with the Everist Reservoir Project, RFP R-1325.
- f. Consideration to AUTHORIZE the Mayor to execute an Agreement between the City of Aurora, Colorado acting by and through its Utility Enterprise and Chikuma Family, LLC for lease of New Brantner Extension Ditch Company share water valued at less than \$100,000.00.

Motion by FitzGerald, second by Broom, to approve items 9b-f.

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

- a. Consideration to APPROVE A CONTRACT to buy and sell real estate to purchase 308 acres, more or less, in Section 19, Township 3 South, Range 64 West of the 6th Principal Meridian, Adams County, Colorado, in the amount of \$2,310,000.00 (Kaufman Jensen Small).

Council Member FitzGerald asked for an explanation of the source of funding for this purchase and why it is out of the ordinary. Joani Cravens, Manager, Real Property, stated the money comes from the DIA noise fund. This fund exists because of a law suit filed by Adams County and other municipalities, including the City of Aurora, against DIA for noise violations. This money can only be used for purchasing property within the DIA noise boundary. This property will be used as a buffer to mitigate noise from DIA.

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

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

Final Ordinances

- ◆ g. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora and the City and County of Denver, Colorado to establish a mutually binding and enforceable Comprehensive Development Plan for Hampden Town Center and vicinity.

David Chaknova, 8631 Monte Vista Avenue, Longmont, CO 80503, thanked Council for the opportunity to speak, and apologized for any frustrations his comments created the last time he was here. He thanked Mike Smyth, Bob Watkins, Bob Rogers and Mayor Tauer for the time they took to meet with him. It was never his intent for new zoning to be passed just to increase his property value, which has been referred to as speculative zoning. The current zoning for the property allows for building heights of one to twenty floors. The proposed zoning restricts the height to seven to ten stories, which limits opportunities for future development. The building code changes dramatically after six stories, and is not economical for developers to build on. He shares the Council's objectives for the development, and agrees that low-scale buildings should not be allowed. He is respectfully asking Council to reconsider the limits and allow a minimum of six

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stories or maximum over ten stories. He is willing to go back to work with Aurora and Denver staff to come up with revisions that works for everyone and will allow a quality development. He thanked Council for their time and appreciates the hard work they do here.

Mayor Tauer also thanked Mr. Chaknova for his time spent on this issue. He stated this item tonight is an agreement with Denver that has already been approved by them, and that neither Mr. Chaknova nor his team opposed when it came before Denver Council. Mr. Chaknova stated that is correct. Mayor Tauer stated the ten-story height limit was in the agreement approved by Denver and that Mr. Chaknova did not protest that issue at the time. Mr. Chaknova stated he made no protest at a formal meeting. Mayor Tauer noted in addition to the current height allowance of one to twenty stories, an overall density plan exists which includes high-rise buildings next to the light rail station. He realizes this plan was submitted by Trammell Crow, but it does exist. Mayor Tauer asked Mr. Chaknova if he has a builder for a high-rise development, to which Mr. Chaknova answered no. Mayor Tauer asked if Mr. Chaknova's intention is to find a developer for the project, then sell the property to the developer. Mr. Chaknova stated he would consider a joint effort, but he is not qualified to take on that type of development alone and would more than likely sell the property. Mayor Tauer stated he still feels this is speculative zoning, as there is no builder involved with a proposed plan. Council is being asked to take an agreement that has already been negotiated and agreed to by Denver, and at the eleventh hour, unilaterally make changes to that agreement. Mayor Tauer stated we cannot unilaterally make changes to an agreement with another entity, especially when no opposition was voiced at the time of Denver's approval.

Charles Richardson, City Attorney, agreed, stating it would be very difficult to modify the IGA at this point.

Mayor Tauer stated he doubted if anyone here would oppose a project that would go over ten stories, with the agreement of Denver. The best way to go about this is to find a developer willing to build a project over ten stories, and bring a proposal back to Denver for their consideration. He believes that would be more productive for Mr. Chaknova than him asking Aurora Council to approve something with a lower height.

Council Member FitzGerald asked if there is some significance to requiring heights of seven to ten stories. Michael Smyth, Planning, stated it is not a national standard. Seven stories represents the minimum or low-end height required to follow the desired density agreed upon by Council in response to public investment in the light rail station. The maximum limit is actually 145 feet above grade and could be considered more than ten stories, which represents the high end of what Denver and Aurora both regard as transit oriented development (TOD) standards. This is not a set standard, but rather what is practiced.

Motion by Markert, second by Pierce, to approve item 9g.

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

10. **RESOLUTIONS**

- ◆ a. Consideration to APPROVE A RESOLUTION of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the Board of Water Works of Pueblo, Colorado, and the City of Aurora, Colorado, acting by and through its Utility Enterprise, establishing the Busk-Ivanhoe Water System Authority.

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

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

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- ◆ b. Consideration to APPROVE A RESOLUTION of the City of Aurora, Colorado, approving a Service Agreement for the operation of the Busk-Ivanhoe Water System between the Board of Water Works of Pueblo and the City of Aurora, Colorado, acting by and through its Utility Enterprise, and the Busk-Ivanhoe Water System Authority.

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

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

11. **ORDINANCES FOR INTRODUCTION**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION approving a Purchase and Sale Agreement between the City of Aurora, Colorado, acting by and through its Utility Enterprise and Lafarge West, Inc. (at a total cost of \$1,150,000.00).

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

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

- ◆ b. 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 Refunding Revenue Bonds Series 2008A, in an aggregate principal amount not to exceed \$45,000,000, for the purpose of 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.

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

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

- ◆ c. Consideration of an ORDINANCE FOR INTRODUCTION concerning a Lease-Purchase Agreement between the City of Aurora, Colorado, as lessee, and the Aurora Capital Leasing Corporation, as lessor; authorizing the execution of an amendment to the Lease Purchase Agreement or, alternatively, a new lease with respect to specific leased property; approving not to exceed \$65,000,000 principal amount of Fixed-Rate or Variable-Rate Refunding Certificates of Participation in connection therewith, as well as the use of certain alternative financing instruments; authorizing officials of the City to take all action necessary to carry out the transactions contemplated hereby; and related matters.

Motion by Sandstrom, second by FitzGerald, to introduce item 11c.

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

12. **ORDINANCES FOR FINAL**

- ◆ a. Consideration of an ORDINANCE FOR FINAL amending Chapter 130 of the City Code of the City of Aurora, Colorado, regarding the use of a Certified Statewide Electronic Database to determine liability for local sales and use taxes.

Motion by Broom, second by Pierce, to approve item 12a.

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

Voting No: Beer

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13. **RECONSIDERATIONS AND CALL-UPS**

None.

14. **GENERAL BUSINESS**

- a. Consideration to reappoint one incumbent member to a four-year term on the Citizens' Advisory Committee on Housing & Community Development.

Motion by Sandstrom, second by Pierce, to reappoint Gary Gilliard to the Citizens' Advisory Committee on Housing & Community Development.

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

- b. Consideration to reappoint one incumbent member to a three-year term on the Human Relations Commission.

Motion by Wallace, second by Pierce, to reappoint David Wilson to the Human Relations Commission.

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

- c. Consideration to reappoint one incumbent member to a three-year term on the Judicial Performance Commission.

Motion by Markert, second by Beer, to reappoint E. Dwight Taylor to the Judicial Performance Commission.

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

- d. Consideration to appoint one new member to a two-year term on the Metropolitan Wastewater Reclamation District Board.

Motion by Broom, second by FitzGerald, to appoint Dan Mikesell to the Metropolitan Wastewater Reclamation District Board.

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

15. **REPORTS**

- a. Report by the Mayor

Mayor Tauer reported he read *The Library Mouse* to 1st graders for Read Across America Day.

- b. Reports by the Council

Council Member FitzGerald wished Aurora High School freshmen and sophomores good luck on their CSAP tests next week. He urged them to get plenty of rest and eat a good breakfast.

Council Member Markert thanked the volunteers who keep the City going. She reported that there were 11,415 volunteers who contributed a record 176,242 hours in 2007. That is a value of over \$3 Million to the City. She announced Overland High School will hold their 11th Annual Community Swing Dance, Dinner and Silent Auction on April 25th. She also commended Colleen O'Brian, the Civics Teacher at Overland High School, for hosting a breakfast she and Mayor Tauer attended a few weeks ago. They sat with the students and discussed what it is like to be an

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elected official. The future is in good hands with these capable students. The entertainment was wonderful, and these are good kids to be proud of. She thanked Darius Don Sparks, Travis McCain, Kayla Nelson, Nick Sampson and Brittany Duncan for the beautiful thank you letters they wrote.

Council Member Pierce announced the latest production at the Fox Theater is *Moby Dick, the Musical*, which is running now through March 30th. The Parade of Homes was in Aurora last summer, and the Southshore development was awarded Community of the Year at the Homebuilder's Association annual awards ceremony. This award is given in recognition of setting a standard of excellence in home building in the Denver area. Laing Village Homes was honored in five other categories, including best interior merchandising and best architectural design for their models at the Parade of Homes. He extended congratulations to Laing Village Homes at Southshore in Aurora. He also noted he read to 3rd graders at the Aurora Academy this morning. The book was *Horton Hears a Who*, in honor of Dr. Seuss' birthday. He passed on a hello from the students to Mayor Tauer.

Council Member Sandstrom noted she likes to recognize outstanding high school students in Aurora, and congratulated Caroline Piehl, a 9th grade student at Smoky Hill High School, for taking 1st Place in the state for an individual swimming event. She is the first female student from Aurora to win a swimming event at state in over 13 years. In addition, she clocked an automatic All-American time. Council Member Sandstrom announced FasTracks will be holding two public meetings on March 12th at the Summit Conference Center. The meetings will be held at 4:00 p.m. and 6:00 p.m., in order to take public comment on the light rail line along I-225. The public is invited to attend either meeting.

Council Member Wallace announced her Ward I Town Meeting will be held March 20th, at 7:00 p.m. at the Martin Luther King, Jr. Library. The new Fire Chief will be present to discuss emergency preparedness. She reported that last Thursday over 250 people toured the new location for the Shadow Theater, which has moved from Denver to the 1400 block of Dayton Street in Aurora. The first play, *Diana Was*, regarding Diana Washington, will open April 24th. She wished them much success and welcomed them to the arts district in Aurora. The East End Arts District will also have an opening soon, which she will announce when the date is set.

Council Member Beer thanked the citizens that participated in Aurora Day at the Capital last Friday morning. About 50 people attended. He announced the 9th Annual Aurora Symphony Ball will be held March 8th at the Holiday Inn DIA starting at 6:00 p.m.; and the annual Great Highline Canal Cleanup will take place at 8:00 a.m. on March 15th. Volunteers will clean up debris along the canal. Anyone interested in helping can gather at the Community College of Aurora parking lot at 8:00 a.m. Information on both of these events can be found on the City's Web site, www.auroragov.org. He reported he read *Horton Hatches the Egg* to 2nd graders at Virginia Court Elementary School for Read Across America Day. It is always so much fun to read to our kids.

16. **PUBLIC INVITED TO BE HEARD**

Pastor Reginald Holmes, Aurora, CO, stated he is fairly new to the Aurora and Denver communities. He also has concerns about the Buckingham project. According to the paper, the project is receiving public tax breaks for funding improvements. Public money will be used, which includes money from African-Americans. There is something wrong with doing justice only when it is convenient or required. When public money is involved, it ceases to be a private project, and it needs to be fair. He has seen situations in Aurora surrounding justice issues that he compares to growing up in the south. This is an injustice that needs to be corrected.

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17. **ADJOURNMENT**

Mayor Tauer adjourned the regular meeting of City Council at 8:22 p.m.

EDWARD J. TAUER, Mayor

ATTEST:

DEBRA JOHNSON, City Clerk

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