

MINUTES

Regular Meeting – Aurora City Council Monday, June 2, 2008

CALL TO ORDER – EXECUTIVE SESSION

Mayor Tauer convened the Executive Session of City Council at 4:08 p.m.

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
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 Pierce, second by Hogan, to recess to Executive Session.

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

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

1. **RECONVENE REGULAR MEETING OF JUNE 2, 2008 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 MAY 12, 2008**

Motion by Markert, second by Wallace, to approve the minutes of May 12, 2008 as presented.

Voting Aye: Mayor Tauer, Beer, Broom, FitzGerald, Frazier, 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.*

Abstained: Peterson, Hogan

6. **CEREMONY**

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

<u>Name</u>	<u>Board or Commission</u>
Dala French Giffin	Open Space Board
Donald J. Armstrong	Aurora Fox Arts Center Board
Jasmine Grayson	Aurora Youth 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.

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

Those listed below requested a public hearing for Item 14d, the Geo Group proposal to expand the detention center.

Kara Martinez, Aurora, Colorado, agreed this was not an immigration issue, but was a human rights issue. Aurora needs economic development but the question was would this project contribute to a safer, more forward-looking City. She discussed inhumane conditions in the nation's immigration facilities.

Cheyenne Hughes, Colorado Progressive Coalition, related his recent canvassing of the adjacent neighborhood where no one was aware of this item.

Council Member Pierce pointed out this portion of the meeting was for non-agenda related issues.

Mayor Tauer noted Item 14d might not be heard this evening therefore those signed up to speak would be allowed to do so at this time.

Ben Hanna, Colorado ACORN (*Association of Community Organizations for Reform Now*), expressed concerns regarding employment at the facility.

Scott Kwasny, Colorado Jobs with Justice, expressed concerns regarding the racialized work and detainee environment of the facility.

Harold Lasso, Denver, Colorado, stated this facility would bring shame to Aurora's future. He discussed Law 245I, an immigration law, and abuses realized at the GEO facility.

Miriam Pena, Colorado Progressive Coalition, related her recent canvassing of the adjacent neighborhood where no one was aware of this item or the location of the facility.

Judith Marquez, Rights for All People, discussed the substandard, inhumane conditions at the GEO facility.

Jennifer Piper, Coloradans for Immigrants Rights, expressed concerns regarding lack of appropriate space for visitors which forced people to wait outside in their vehicles. She stated Human Rights were the issue and they were being violated.

Mayor Tauer reiterated 14d might not be heard this evening and asked Council if the speakers who signed up to speak to that item should continue at this time.

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Council agreed to hear those who wished to speak to Item 14d at this time with the understanding they would not be called to speak again if Item 14d was heard.

John Brick, Colorado Alliance for Immigration Reform, discussed ICE and how they have failed to adequately deal with illegal immigrants in the United States, and the detriment illegal immigrants have on the country. He supported the Planning Commission's recommendation on this issue.

Marianne Pierce, Aurora, Colorado, and Alice Morgan, Aurora, Colorado, waived their rights to speak at this time preferring to speak if the item was heard later this evening.

Ken Barber, Aurora, Colorado, spoke in opposition to the item. He did not believe in profiting from human suffering.

Nick Spagnola, Aurora Resident, spoke in opposition to the item. He lived in the community and did not want a prison in his front yard.

Raul Paz Pastruna, Rights for All People, spoke in opposition to the item. He listed the lack of parking, traffic congestion and noise generated from the facility as reasons for his opposition.

Robert McGoey, Coloradans for Immigrants Rights, related his recent canvassing of the adjacent neighborhood where not many were aware of this item.

Amber Tafoya, Colorado Immigrants Rights Coalition, discussed the negative impacts this expansion would have on the City's streets and infrastructure, and adjacent property values. She pointed out traffic circulation, the drainage plan; indoor waiting areas and landscaping were not adequate.

Mayor Tauer asked Ms. Tafoya if she would support the item if the site plan issues she related were addressed. Ms. Tafoya answered no, citing past performance and lack of an ICE contract as additional concerns. Mayor Tauer asked Ms. Tafoya to clarify if she would support the item if all of her concerns were addressed. Ms. Tafoya answered no, noting those concerns were pointed out for Council's benefit. Her organization was opposed to the item due to the racialization of the facility. Mayor Tauer clarified an approved site plan must be built as it was approved.

Chandra Russo, Aurora, Colorado, discussed the M-1 zoning, noting the GEO facility was a non-conforming use in this zone district, and pointed out under Code Section 146-105 demonstrates the facility size and intensity could not be increased.

Mary Diane McDonald, Colorado CURE (*Citizens United for Rehabilitation of Errants*), expressed concerns regarding Colorado's focus on incarceration rather than rehabilitation for individuals.

Marvin Correa, Aurora, Colorado, discussed the Government Accounting Office Report which found overcrowding, lack of cleanliness and sanitation at the Denver facility.

Hans Meyer, Colorado Immigrants Rights Coalition, spoke in opposition to the item, and discussed substantial imperfections in the notice process and the lack of a contract between ICE and GEO.

Mayor Tauer explained Council's policy on accepting written testimony, and asked Mr. Meyer to speak to lack of notice. Mr. Meyer did so, stating there were three types of notice, written, posted and published. Written notice in this case occurred, but posted and published notice failed.

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Nadine Caldwell, Aurora, Colorado, Northwest Aurora Neighborhood Organization, spoke in favor of the item.

Brandon Townsend, Aurora, Colorado, spoke in favor of the item.

Council Member Wallace expressed her appreciation to Mr. Townsend for setting a wonderful example in community leadership and making a difference in his community.

Mayor Tauer explained legally speaking, Item 14d was a site plan, and was before Council because an adjacent neighbor objected to the Planning Commission approval of the site plan. There are many heartfelt opinions regarding how the United States deals with immigration policy but that was not an issue for Council. Typically, an item approved by the Planning Commission does not come before Council unless an adjacent neighbor objects as has occurred in this case. The objection has since been withdrawn and Council could now decide if the item should be heard this evening.

Charles Richardson, City Attorney, addressed several questions raised during testimony. He stated a letter has been received from a GEO corporate official assuring Council the detention population would not be expanded to permit acceptance of anyone other than federally provided detainees. That commitment was incorporated into the site plan. Council and staff were keenly aware that the system was dependent on strict compliance with site plans, and a strict protocol for investigating, enforcing and prosecuting an entity that violates that plan was in place. What is built was inspected prior to granting a Certificate of Occupancy. He expressed appreciation for Ms. Russo's presentation, but disagreed with her contention that this was a non-conforming use in this zone district. His staff has researched this issue and has determined it was an appropriate use for this district. Over the years, there has been discussion regarding posted notice not appropriately erected on a site. The idea that someone attending a meeting would complain about the lack of sufficient notice was generally viewed as immaterial. He discussed the incentive in obstructing the posting, noting the applicant could not supervise that posting 24 hours a day. He was not suggesting anyone present tampered with the posting, but asked Council to view the absence of posting in a skeptical manner. The Planning Commission was advisory and Council was the ultimate authority and he did not recommend this item be deferred because of a notice issue. Under the City's system of government, the burden of whether a business was economically viable was borne by the applicant and not the City; therefore, generally, having a contract to do business was not considered a site plan condition.

8. **ADOPTION OF THE AGENDA**

Motion by Peterson, second by Wallace, to adopt the agenda as presented with Item 14d removed.

Council Member Beer stated 20 years ago, the facility was titled under the definition of a public facility in an M-1 zone. He asked staff if the fact that the facility was currently owned and operated by a private for profit entity had any bearing on that definition. City Attorney Richardson stated this issue has been a strenuous debate in his office. He suggested the concept of private detention facilities was probably not a reality 20 years ago. Staff has reviewed this concern and has determined it to be the equivalent of what code refers to as a public facility because of the societal function it performs.

Council Member Markert expressed her disappointment that staff did not provide more detailed and specific zoning information well in advance of this item.

Council Member FitzGerald concurred with City Attorney Richardson, noting this was an appeal that was withdrawn and therefore should not be heard. He appreciated Ms. Caldwell's testimony regarding sufficient notice and pointed out an adjacent neighborhood supports this item. He reiterated Council could not decide Federal Immigration Policy.

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

Mayor Tauer stated even though this was a case where strict site plan issues were in place, Council greatly appreciated citizens' comments and efforts in addressing their concerns, and opinions.

9. **CONSENT CALENDAR - 9a-9l**

General Business

- a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Reynolds-Tierdael, Denver, Colorado in the amount of \$55,569,313.93 for the construction of Segment 1 of the Prairie Waters Project Conveyance System Pipeline, Bid Package G, Project Number 1100 G1
- b. Consideration to AMEND AN OPENLY SOLICITED CONTRACT to HDR Engineering, Inc., Denver, Colorado in an amount not to exceed \$2,526,272.00 to provide construction management services associated with the construction of Segment 1 of the Prairie Waters Project Conveyance System Pipeline, Bid Package G. R-1309
- c. Consideration to AMEND A SINGLE SOURCE CONTRACT to MWH Americas, Inc., Broomfield, Colorado in an amount not to exceed \$1,736,282.00 to provide design engineering services during construction of Segment 1 of the Prairie Waters Project Conveyance System Pipeline, Bid Package G
- d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Western Summit Constructors, Inc., Denver, Colorado in the amount of \$53,031,878.00 for the construction of Pump Stations 1, 2 and 3 of the Prairie Waters Project Conveyance System, Bid Package E. Project Number 1100 E1
- e. Consideration to AMEND AN OPENLY SOLICITED CONTRACT to HDR Engineering, Inc., Denver, Colorado in an amount not to exceed \$3,535,238.00 to provide construction management services associated with the construction of Pump Stations 1, 2 and 3 of the Prairie Waters Project Conveyance System, Bid Package E. R-1309.
- f. Consideration to AMEND A SINGLE SOURCE CONTRACT to MWH Americas, Inc., Broomfield, Colorado in an amount not to exceed \$3,091,616.00 to provide design engineering services during construction of Pump Stations 1, 2 and 3 of the Prairie Waters Project Conveyance System, Bid Package E
- g. Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Sturgeon Electric, Inc., Henderson, Colorado in the amount of \$1,020,513.50 for the 2008 Traffic Signal Installation, Project No. 07022B.
- h. Consideration to EXTEND COMPETITIVELY BID CONTRACTS to select vendors in the combined total not to exceed amount of \$2,245,000.00 to cover the cost of asphalt mixes as required through June 2009 (Bid #B-3801).
- i. Consideration to AWARD A SOLE SOURCE CONTRACT to Gades Sales Company Inc., Denver, Colorado in the not to exceed amount of \$96,000.00 to purchase traffic signal controllers through March 31, 2009.

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- j. Consideration to AWARD A SOLE SOURCE CONTRACT to Motorola Inc., Schaumburg, IL in the amount of \$199,623.00 to provide annual maintenance and upgrades for the City Computer Aided Dispatch (CAD) and Police Mobile Data Infrastructure System (PMDS).
- k. Consideration to EXTEND AN OPENLY SOLICITED CONTRACT with Coating Management Services, Fort Collins, Colorado in the not to exceed amount of \$70,000.00 for fire hydrant cleaning and painting services, RFP number R-1317.

Motion by Markert, second by Peterson, to approve items 9a - k.

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

Final Ordinances

- ◆ I. Consideration of an ORDINANCE FOR FINAL amending Section 50-255(a) of the City Code of the City of Aurora, Colorado, relating to Conditions of Probation

Motion by Sandstrom, second by FitzGerald, to approve item 9I.

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

10. **RESOLUTIONS**

- ◆ a. Consideration to APPROVE A RESOLUTION of the City of Aurora, Colorado, approving an Intergovernmental Agreement with the City and County of Denver, Colorado relating to the providing of public safety services (labor and equipment) during the holding of the Democratic National Convention on the August 23rd through August 29th, 2008, in Denver, Colorado

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

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

- ◆ b. Consideration to APPROVE A RESOLUTION authorizing the conversion of the City of Aurora, Colorado Hospital Revenue Bonds (the Children's Hospital Association) Series 2004B to bear interest at a weekly rate and Series 2004C and Series 2004D to bear interest at fixed rates; and authorizing the execution and delivery by the City of various documents in connection therewith

Motion by Broom, second by Frazier, to approve item 10b, with a waiver of reconsideration.

Council Member Sandstrom asked staff to clarify *needs public hearing in advance of resolution adoption*. City Attorney Richardson did so, noting there was no distinction when someone would like to speak under the City's protocol.

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

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

- ◆ a. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, submitting to a vote of the Registered Electors of proposed General Improvement District 1-2008 at the regular Municipal Election of November 4,
- ◆ *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.*

2008, a question concerning the organization of the district and a question authorizing the issuance of district bonds to construct and install a masonry fence and the levy of property taxes to fund debt service on such bonds and the maintenance of such fence. (Peoria Park)

Margee Cannon, Neighborhood Services, gave a brief introduction to the item.

Mayor Tauer clarified 30 percent of petition signatures was required to move this item forward, but this item would not determine whether a fence would be built or whether residents would be assessed for a fence, but simply whether it would be put in front of the residents for a vote. Ms. Cannon concurred, noting the vote would take place November 4, 2008. Mayor Tauer stated this in no way infringed on the rights of those who oppose the fence to vote against it. Ms. Cannon concurred. Mayor Tauer stated once the 30 percent is realized, it was not necessary to gain more signatures. Ms. Cannon concurred.

Council Member Frazier stated the cost would be \$160 per year for 20 years. He asked if a resident could pay that amount in a lump sum. Ms. Cannon answered no, and deferred to Mike Hyman, Assistant City Attorney.

Assistant City Attorney Hyman stated General Improvement District Assessments could not pay upfront because unlike a Special Improvement District, the General Improvement District was funded wholly by property taxes. Under the Colorado constitution, property taxes must be uniform in application among similar situations of classes of property.

Jules Porsche, Aurora, Colorado, spoke in favor of the item. He stated the design was appropriate to the area; the investment was fair and would help to maintain property values.

Ron Smookler, Aurora, Colorado, spoke in favor of the item. He discussed the positive impacts a fence of this nature has had on surrounding neighborhoods.

Bud Matis, Aurora, Colorado, spoke in favor of the item, noting the fence would beautify the City.

Lori Matis, Aurora, Colorado, spoke in favor of the item.

Pete Caldwell, Aurora, Colorado, spoke in favor of the item.

Caprice Bass, Aurora, Colorado, spoke in favor of the item, noting the fence would reflect the beauty inside the neighborhood.

Jennifer Collins, Aurora, Colorado, spoke in favor of the item, noting it would enhance the neighborhood.

Lisa Pieper, Aurora, Colorado, spoke in favor of the item. She concurred with Ms. Bass's statement.

Bridget Bigdin, Aurora, Colorado, spoke in favor of the item. She concurred with all of the previous testimony. She added the wall would help reduce noise into the neighborhood.

Mike Knight, Aurora, Colorado, spoke in favor of the item.

Betty Frederick, Aurora, Colorado, spoke in favor of the item, noting the fence would be an affordable way to enhance the beauty of the community.

Bruce Deacon, Aurora, Colorado, spoke in favor of the item.

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Darrell Schwartzkopf, Aurora, Colorado, spoke in favor of the item. He stated walls do not make a neighborhood but a nice wall would tell others the residents value their community.

Nancy Norris-Saucedo, Aurora, Colorado, spoke in favor of the item. She noted the wall would unite the community.

Jane Deacon, Aurora, Colorado, spoke in favor of the item. She expressed appreciation for the City's efforts in beautifying the City. She stated it would enhance the neighborhood and help build a stronger community.

Kay Boynton, Aurora, Colorado, spoke in favor of the item. She stated the fence would positively impact property values, and putting it on the ballot would support the democratic process.

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

Council Member Pierce expressed appreciation to all involved in this effort.

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

- ◆ b. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, submitting to a vote of the Registered Electors of proposed General Improvement District 2-2008 at the regular Municipal Election of November 4, 2008, a question concerning the organization of the district and a question authorizing the issuance of district bonds to construct and install a masonry fence and the levy of property taxes to fund debt service on such bonds and the maintenance of such fence. (Vista at Meadow Hills)

Margee Cannon, Neighborhood Services, gave a brief introduction of the item

Stephanie Berardini, Aurora, Colorado, spoke in favor of the item. She related the process history of the item within the neighborhood, noting the fence would enhance the look of the property and privacy for the residents. She pointed out there were several residents present in favor of the item that chose not to speak due to time constraints.

Mayor Tauer stated those residents could stand up and be counted. They did so.

Elizabeth Hamilton, Aurora, Colorado, spoke in favor of the item. She related the public process steps realized by the Fence Committee.

Joseph Ramsdale, Aurora, Colorado, spoke in opposition to the item. He discussed the assessment value and how it was distributed between 35 homes. He did not think the assessment was fair or affordable. The nature of the General Improvement District is one owner, one vote but he suggested it be one household, one vote as it was in a Special Improvement District. The goal was to find a fence that would meet the beautification, low maintenance and affordability objectives of the community within City standards. He did not believe this fence did that.

William Dearling, Aurora, Colorado, spoke in opposition to the item. He discussed the negative financial impact of the assessment on the residents.

Tom Van Buskirk, Aurora, Colorado, spoke in opposition to the item. He stated this would double residents' tax bills for an amenity. He agreed with beautification but felt it should occur in a more affordable manner.

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Council Member Frazier asked Mr. Buskirk his opinion as to whether the item would pass if it went to the ballot. Mr. Buskirk has not done that research, but expressed his opinion that it would be difficult to pass due to the extreme tax burden.

Carla Roden, Aurora, Colorado, spoke in opposition to the item. She explained this tax increase was comparable to much more expensive homes. She asked the City to grant a waiver to the Association to look at a more affordable fence. The existing fence was being maintained and would need to be replaced eventually.

Mayor Tauer stated one of the restrictions for this item was that it be a masonry fence. Therefore, a wooden fence could not be done under this ordinance, but could between the neighborhoods, although the options were relatively narrow.

Dan Cleere, Aurora, Colorado, spoke in opposition to the item. He expressed concerns regarding the fiscal responsibility, and extraordinary tax burden to the residents over time and the serious risk of this undertaking.

Council Member Frazier asked staff if any less expensive fences were considered. Ms. Cannon believed the group chose the least expensive fence.

Cesar Sanchez, Public Works, stated the fence was pre-cast panel which was approximately 75 percent less expensive than brick.

Council Member Frazier asked staff if any less expensive options were available. Staff listed those options, noting the Fence Committee chose this fence.

Council Member Peterson asked staff the price difference for the other options. Cesar Sanchez stated \$336 per linear foot, which was considerably less than the \$450.

Mayor Tauer stated the Fence Committee chose this fence, and obtained signatures for that fence. He asked City Attorney Richardson if the type of fence could be reconsidered at this time. City Attorney Richardson answered no.

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

Council Member Peterson would not support the item because it put an undue burden on many of the residents. It was unfortunate that a less expensive fence was not chosen.

Council Member FitzGerald would not support the item because it was an undue burden on the residents.

Council Member Markert pointed out it was the Fence Committee's responsibility to choose a fence and Council's to decide whether it should be put on the ballot. She would support the motion.

Council Member Pierce would support the motion because the neighborhood has met the requirements of the Fence Program.

Council Member Frazier stated this was a difficult situation because both sides had legitimate perspectives, but would support the motion in order to show support for the Fence Program.

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Council Member FitzGerald would support the motion and leave it to the voters in the neighborhood to decide for themselves.

Council Member Sandstrom expressed her appreciation to all those involved in this effort. Council's job was to recognize that the neighborhood followed the process and should be allowed to see it to fruition. She would support the motion. She explained there were substantial differences between the SID and GID and that is what affected the cost.

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

- ◆ c. PUBLIC HEARING and consideration of an ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, submitting to a vote of the Registered Electors of proposed General Improvement District 3-2008 at the regular Municipal Election of November 4, 2008, a question concerning the organization of the district and a question authorizing the issuance of district bonds to construct and install a masonry fence and the levy of property taxes to fund debt service on such bonds and the maintenance of such fence. (Meadow Hills Country Club)

Margee Cannon, Neighborhood Services, gave a brief introduction of the item.

Bill Bates, Aurora, Colorado, spoke in favor of the item.

Glenna Haley, Aurora, Colorado, spoke in favor of the item. She discussed the process history of the item.

Mayor Tauer stated the fence design was settled with a fixed cost, and the design would not change but the cost could be reduced. Ms. Haley answered affirmatively.

Council Member Broom asked Ms. Haley if this fence was compatible with their neighbors. Ms. Haley answered affirmatively.

Larry Eves, Aurora, Colorado, stated the cost involved was seriously considered but the noise must be addressed. The possible detriments have been weighed against the tremendous noise and this was the solution.

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

Council Member FitzGerald would support the item because there was not any opposition.

Council Member Peterson would not support the item because it was an undue burden on many of the residents.

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

12. **ORDINANCES FOR INTRODUCTION**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, granting a franchise to Public Service Company of Colorado d/b/a Xcel Energy
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Motion by Hogan, second by Markert, to introduce item 12a.

Council Member Markert noted a significant amount of this allows Xcel to respond to complaints in five days. She asked staff to discuss how this benefited citizens.

Dick Havercamp, Traffic Services Manager, did so; explaining access was available through the City's website.

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

13. **ORDINANCES FOR FINAL**

- ◆ a. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, amending various sections of Article 14, Chapter 146 of the City Code of the City of Aurora, Colorado, relating to xeric landscape standards.

Motion by Markert, second by Sandstrom, to refer item 13a to the Water Committee for further review.

Council Member Markert has reviewed the numbers and suggested the fiscal impact of the ordinance would be reviewed.

Council Member Sandstrom expressed concerns that the development community was not consulted in the process.

Council Member FitzGerald supported the ordinance's recognition of conservation but agreed it could be sent back to the Water Committee for review. He would support the motion.

Mayor Tauer agreed an analysis of the numbers should have been conducted prior to a final vote.

Council Member Hogan supported the motion, because he too had concerns about the rationale.

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

14. **PLANNING MATTERS**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, vacating a portion of East 14th Avenue between Ursula and Worchester, and a portion of Vaughn Street between East Colfax Avenue and East 14th Avenue, and a portion of Victor Street between 14th Avenue and 13th Place (Fitzsimons Village) (Case Number 2007-8005-00) 2.648 acres more or less.

Motion by Wallace, second by Hogan, introduce item 14a.

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

- ◆ b. PUBLIC HEARING to consider a Site Plan Amendment to convert a building that is currently vacant into a small grocery store and construct a 35-foot by 70-foot addition to the rear of the building, generally located at the Southeast Corner of Yale Avenue and Parker Rd. (Arash Groceries at the Shores) (Case Number 1973-6005-15)
- ◆ *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.*

Kim Kreimeyer, Planning Department, gave a brief presentation of the item.

Majid Derarhshandeh, Aurora, Colorado, representing the applicant, gave a brief presentation of the item. He provided a brief history of the business. Due to demand, the business has grown but had no room to expand. He discussed how trash concerns would be met. The applicant was asked to place 64 additional bushes on the site but after consideration, determined the site needed 100 so he decided to plant 100.

Mayor Tauer cautioned Mr. Derarhshandeh that comments made at the podium are as binding as if they were in writing. Mr. Derarhshandeh understood.

Elaine Levy, Aurora, Colorado, representing The Shores, spoke in opposition to the item. She expressed concerns regarding the appearance of the rear of the site, inadequate parking, and increased traffic generated by the site. She asked what recourse was available to the neighborhood if the applicant did not abide by the conditions of approval set forth on the site plan.

True Morgan, Aurora, Colorado, representing Eastridge Civic Association, spoke in opposition to the item. She expressed concerns regarding increased traffic in and out of the area, size of the parking lot, delivery trucks on Yale Avenue, dumpster noise, and the unsightly appearance of the site.

Residents of Eastridge stood to be counted in opposition.

Arnold Schultz, Aurora, Colorado, representing Village East Neighborhood Association (VENA), spoke in opposition to the item. He expressed concerns regarding the unsightly appearance of the site, which included outside storage, overflowing dumpsters, and graffiti. He discussed the applicant's past performance. VENA would support the item if a condition for approval was added that one violation was enough to lose the applicant's business license.

Tad Svendsen, Aurora, Colorado, spoke in opposition to the item. He expressed concerns regarding past performance.

Lois Schreiner, Aurora, Colorado, spoke in opposition to the item. She expressed concerns regarding past performance, and traffic generated by the site.

Mr. Derarhshandeh stated the Planning Commission went into detail on the site. He stated the interior of the store was similar to other grocery stores in the area. The exterior problems have occurred due to lack of space and the expansion would mitigate that concern. He suggested those neighbors taking pictures of the site should come into the store and see for themselves. He stated the applicant would do his best to address all concerns.

Mayor Tauer stated what the applicant has paid for a building was not a site plan criteria Council could consider, conversely, past performance could be considered.

Mr. Derarhshandeh related a previous meeting with the City where he asked if there would be any concerns with this project and after hearing none, the applicant purchased the building.

Mayor Tauer noted the question was if the applicant proposed to mitigate the concerns raised with the new building, why that was not a consideration on the existing building.

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Council Member Broom asked Mr. Derarhshandeh what was proposed by the neighbors at the Planning Commission meeting that the applicant did not agree to. Mr. Derarhshandeh noted there was not enough room in the rear of the site when groceries were delivered. Council Member Broom asked if landscape screening was in place to screen the view from Yale Avenue. Mr. Derarhshandeh answered affirmatively.

Council Member Markert explained what occurs within a building is not a part of the site plan approval consideration, conversely past performance and whether the applicant would be an asset to the community was. She related her experience of driving past the applicant's store where a couch and shopping carts remained stored outside day after day.

Mr. Derarhshandeh stated the couch belonged to the adjacent upholstery shop and the truck with graffiti was sold.

Council Member Hogan referenced Page 346, regarding the delivery truck route. He noted this diagram has been reviewed by the City Traffic Division had no further views. He asked staff if Traffic reviewed the site when cars were parked southeast to northwest into the fire lane. Rick Hunter, Traffic Services, stated the fire lane runs from Yale to Parker and a truck would be required to cross it but not park in it. Council Member Hogan understood that issue but noted cars back into the fire lane and a truck coming off of Yale might not be able to get past the location. The same was true when making a turning movement off Parker. Mr. Hunter stated the turning movement does use the parking spaces in the other lot. Council Member Hogan stated trucks might not be able to deliver because of legally parked cars in the adjacent lot. Mr. Hunter concurred. Council Member Hogan asked if there has been any discussion regarding widening the fire lane. He understood this would not fall on the applicant but to the properties to the south. Mr. Hunter answered no.

Council Member Frazier understood the site referred to was outside the City boundaries, but asked if it was not, how the City would have handled these issues. Ron Miller, City Manager, stated the applicant would have been cited for the violations in terms of facility maintenance. Council Member Frazier stated past performance could be a good indicator of future performance but he wondered if it was reasonable to consider this would have been dealt with differently in the City. Mr. Miller answered affirmatively.

ORIGINAL MOTION

Motion by Markert, second by Pierce, to deny item 14b.

Council Member Markert read additional language *"If my motion prevails, I will commit to vote to reconsider the denial at the next Council meeting if the applicant in the interim demonstrates a binding commitment to ensure that there will be no negative impacts to the neighborhood as have occurred previously that she was not including in her motion given the applicant's comments this evening. It was her opinion the applicant should read Aurora's code, commit in writing to following the code and make his corner an asset to Aurora because anything less is unacceptable.*

Council Member Broom recommended deferring the item until staff, the applicant and the Ward Councilperson could address these concerns.

Council Member Wallace stated growth was good for the City but hearing the neighbors' and applicant's comments demonstrated a lack of partnership with the City.

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SUBSTITUTE MOTION

Motion by Broom, second by Peterson, to defer Item 14b to the June 16, 2008 City Council meeting to provide time for City staff to meet with the applicant and the Ward Councilperson to work out outstanding issues.

Council Member Frazier noted the applicant should be asked if they prefer a vote or a deferral.

City Attorney Richardson stated the Mayor has the final call but discussion of a substitute motion was discouraged from a parliamentary perspective. With the concurrence of the Mayor, this was an important issue if the applicant would prefer a vote.

Mayor Tauer asked the applicant if he would prefer an up or down vote or to be deferred. The applicant preferred to be deferred.

Council Member Markert was opposed to the substitute motion. She stated defeating the motion would send a clear and serious message to the applicant.

Council Member Pierce was opposed to the substitute motion due to the applicant's lack of action regarding cleaning up the site.

Council Member FitzGerald concurred with Council Members Markert and Pierce.

VOTE ON SUBSTITUTE MOTION

Voting Aye: Broom, Frazier, Peterson, Sandstrom

Voting Nay: Mayor Tauer, Beer, FitzGerald, Hogan, Markert, Pierce, Wallace

Council Member Frazier would not support the original motion because the reality was this was approved by staff and the Planning Commission. Additionally, the City of Aurora has the appropriate structure in place to address any performance issues.

Council Member Broom would support the motion because of the many outstanding issues.

Council Member Markert encouraged Council to support the motion.

VOTE ON ORIGINAL MOTION

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

Voting Nay: Frazier

- ◆ c. PUBLIC HEARING to consider a Vested Site Plan for 169 single-family attached units on 5.66-acre lot with a waiver for parking, which is generally located at the SW Corner of Jefferson Ave and Dayton Way. (The Savoy at Dayton Station at Hampden Town Center) (Case Number 2008-4001-00)

Ed Arnold, Planning Department, gave a brief presentation of the item.

Michael Sheldon, Greenwood Village, Colorado, representing the applicant, gave a presentation of the item.

Chris Fasching, Centennial, Colorado, representing the applicant, briefly discussed the methodology and conclusions of the Hampden Town Center Parking Assessment.

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Mayor Tauer asked Mr. Fasching why a waiver was necessary when the code and the project proposal were the same. Mr. Fasching stated the waiver related to 15 of the resident spaces being accommodated in the street.

Council Member FitzGerald noted parking was currently allowed along the street.

Council Member Pierce asked how many spaces were being provided. Mr. Fasching stated 351, with 68 on-street with 15 of those for residents parking on the street, and the remainder for guests. Mr. Fasching concurred.

Council Member Markert expressed her appreciation to the applicant for meeting with the neighbors. She asked the applicant to outline the applicant's commitments to the neighbors. Mr. Sheldon did so, listing snow removal on north facing streets, and installation of dog waste stations.

Collie Norman, Aurora, Colorado, spoke in opposition to the item. He expressed concerns regarding the waiver request allowing residents to park behind their garage doors and on the street.

Council Member Markert related her discussion with Mr. Sheldon regarding tandem parking where Mr. Sheldon's response was the market would dictate and those units would not be as popular. She felt this was a good answer for the situation.

Council Member Peterson asked if there was an existing parking problem. Mr. Norman answered no, noting there were others who currently park in the public spaces being discussed this evening.

Ina Morri, Aurora, Colorado, was not opposed to the development but had concerns regarding parking and the loss of the dog walking area. She did not think the Transit Oriented Development made a difference because cars were still necessary.

Pamela Fromhertz, Aurora, Colorado, spoke in opposition to the item. She expressed concerns regarding traffic, parking, loss of green space, and child safety.

Mr. Fasching discussed tandem parking, noting those would be assigned spaces.

Council Member FitzGerald pointed out there was a dog run located approximately one half of a block from this site.

Motion by FitzGerald, second by Markert, to approve item 14c.

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

- ◆ d. PUBLIC HEARING to consider a Site Plan with waiver to increase the holding capacity of a privately operated detention facility, which is generally located west of Peoria and north of 30th Avenue. (GEO Processing Center) (Case Number 2007-6063-00)

ITEM REMOVED FROM THE AGENDA

15. **RECONSIDERATIONS AND CALL-UPS**

Motion by Beer, second by Markert, to call up the Original Hamburger Stand – Site Plan Amendment with waivers (Case #2000-6002-05) to be heard at the 07-14-2008 Council Meeting.

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

Motion by Markert, second by Hogan, to call up the Gardens on Havana Site Plan No. 1 – Site Plan Amendment (Case #2007-6054-01) to be heard at the 06-16-2008 Council Meeting.

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

16. **GENERAL BUSINESS**

- a. Consideration to reappoint three incumbent members to a three-year term on the Building Code & Contractors Appeals and Standards Board

Motion by Hogan, second by Beer, to reappoint Michael Aitken, Timothy Green and Dexter Harding to the Building Code & Contractors Appeals and Standards Board.

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

- b. Consideration to appoint one new member to a three-year term on the Local Licensing Authority

Motion by Hogan, second by Broom, to appoint Ernest G. Bell to the Local Licensing Authority.

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

- c. Consideration to appoint two new members to the Citizens' Water Advisory Committee

Motion by Beer, second by Frazier, to appoint Donald Kado, and Duane R. Martin to the Citizens' Water Advisory Committee.

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

- d. Consideration to appoint one new member to the Aurora Commission for Seniors.

Motion by Hogan, second by Broom, to appoint Dorothy Hajovsky to the Aurora Commission for Seniors.

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

- e. Consideration to appoint two incumbent members to a three-year term on the Parks & Recreation Advisory Board

Motion by Peterson, second by Hogan, to reappoint Elaine Demery-Potter and Dean Caron to the Parks & Recreation Advisory Board.

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

17. **REPORTS**

- ◆ *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.*

- a. Report by the Mayor
- b. Reports by the Council

Council Member Beer stated tonight's Council meeting reflected the City process at its finest, which was why Aurora was a finalist in the All America City Award.

Council Member Sandstrom congratulated the Grandview High School Girls Soccer Team for winning State this year and their subsequent naming of Grandview as Colorado's Top Athletic Prep Program by Sports Illustrated.

Council Member Pierce welcomed Council Member Peterson back to Council after her recent absence.

Council Member Markert expressed her appreciation to those who attended the Council Retreat. She discussed the success of the Prairie Waters Project Construction site, and the proposed elimination of the Light Rail G-Line. A public hearing would be held on the issue Monday, June 9, 2008 at 7:00 p.m. at the Red Lion Inn. Lastly, the Multi-cultural Business Conference would take place at the Colorado Convention Center on Friday, June 6, 2008.

Council Member FitzGerald congratulated all Aurora kids for making it through another school year.

Council Member Peterson expressed appreciation to the Denver Broncos for their generous contribution through the NFL Youth Football Fund Grant of \$250,000 for Aurora Public Schools.

18. **PUBLIC INVITED TO BE HEARD**

Arnold Schultz, 1137 South Oakland Street, Aurora, CO, 80012, expressed concerns regarding the inadequacy of Code Enforcement. He listed several situations where he had filed complaints with no penalty and little to no follow up.

Council Member Beer stated he would look into the various concerns at the upcoming Code Enforcement Policy Committee meeting.

Council Member Frazier appreciated Mr. Schultz's comments. He clarified his comments related to a structure being in place in Aurora to deal with these issues.

Lori Flanagan, 2047 South Ironton Court, Aurora, CO, 80014, expressed concerns regarding Code Enforcement. She feels the complaint driven Code Enforcement system is a broken process that not only requires heavy amounts of personal research and time, but usually ends without resolution.

19. **ADJOURNMENT**

Mayor Tauer adjourned the regular meeting of City Council at 12:02 a.m.

EDWARD J. TAUER, Mayor

ATTEST:

DEBRA JOHNSON, City Clerk

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