

MINUTES

Regular Meeting – Aurora City Council Monday, June 16, 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, Sandstrom, Wallace
OFFICIALS PRESENT:	City Manager Miller, City Attorney Richardson, City Clerk Johnson
COUNCIL MEMBERS ARRIVING AFTER ROLL CALL:	Frazier, Hogan

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

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

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

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

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

1. **RECONVENE REGULAR MEETING OF JUNE 16, 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, 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 JUNE 2, 2008**

Motion by Markert, second by Peterson, to approve the minutes of June 2, 2008 as presented.

Council Member Sandstrom made the following change to the June 2, 2008 City Council Meeting minutes:

- ◆ *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.*

"Mr. Derarhshandeh stated his preference that the item be deferred." (Page 14)

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

6. **CEREMONY**

Friend of Environmental Protection Award to the City of Aurora – Mayor Tauer

John Brink, Chief of the Pollution Prevention and Toxics Unit, United States Environmental Protection Agency, discussed the City of Aurora's Electronic-Cycling Event. He and Mary Rogers, Human Resources Advisor, United States Environmental Protection Agency, recognized the achievement of the Environment Aurora Group and presented the award to the individuals involved: Jim Schrack (Environmental Program Supervisor, Planning), Joanne Scarbeary (Aurora Water), Lynne Center (Streets, Public Works), Don Roche (Environmental Management Section, Planning), Gabrielle Johnston (Communications), and Mike Garcia (Fire).

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

None.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-9d**

General Business

- a. Consideration to AWARD A SOLE SOURCE CONTRACT to Infrastructure Management System, Inc., Chandler, Arizona in the amount not to exceed \$341,000.00 for pavement data collection and data software integration services.
- b. Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Ad Light & Sign, Denver, Colorado in the amount of \$165,965.00 for the Citywide Park, Open Space and Trail Signage Program, Project Number 5055C.
- c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to T-P Enterprises, Inc., Denver, Colorado in the amount of \$800,160.00 for North Campus Land Management for the Prairie Waters Project, Bid Package J2, Project Number 1121 J2A

Motion by Broom, second by Beer, to approve items 9a-c.

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

Final Ordinances

- ◆ d. Consideration of an ORDINANCE FOR FINAL of the City Council of the City of Aurora, Colorado, granting a franchise to Public Service Company of Colorado d/b/a Xcel Energy.

Motion by Sandstrom, second by Wallace, to approve item 9d.

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

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10. **RESOLUTIONS**

- ◆ a. Consideration to APPROVE A RESOLUTION for an amendment to the Intergovernmental Agreement (No. 08-04.03) between the City of Aurora, Colorado, acting by and through Utility Enterprise, and the Urban Drainage Flood Control District regarding funding of outfall systems planning for Baranmor Ditch Watershed

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

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

11. **ORDINANCES FOR INTRODUCTION**

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, approving an agreement for a long term water lease between the City of Aurora, Colorado, acting by and through the Utility Enterprise, and the McCanne Ditch and Reservoir Company

Motion by Peterson, second by Pierce, to introduce item 11a.

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

- ◆ b. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, appropriating sums of money in addition to those appropriated in Ordinance Nos. 2006-57, 2007-04, 2007-25 and 2007-77 for the 2007 fiscal year and Ordinance Nos. 2007-67 and 2007-77 for the 2008 fiscal year.

Motion by Frazier, second by Markert, to introduce item 11b.

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

- ◆ c. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, amending various subsections in Division 2, of Article 7, of Chapter 146, relating to the Fitzsimons Boundary Area District

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

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

- ◆ d. Consideration of an ORDINANCE FOR INTRODUCTION amending Section 146-2001 the City Code of the City of Aurora, Colorado, relating to the definition of Motel.

Motion by Wallace, second by Pierce, to introduce item 11d.

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

- ◆ e. Consideration of an ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, amending the definition of Temporary Employment Office contained

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within Article 20 of Chapter 146 of the City Code removing the distinction based upon remuneration for the provided service.

Motion by Peterson, second by Wallace, to introduce item 11e.

Council Member Wallace asked staff to clarify this ordinance.

Dave Lathers, Assistant City Attorney, did so. He referenced Code Section 1521 which explained there are regulations that relate to temporary employment offices. This particular section of code calls out specific regulations for pawn shops, liquor stores and temporary employment offices. The temporary employment offices would be physical offices inside of buildings. He reviewed the code and could not find a rational basis for distinguishing between a for profit and nonprofit entity when it comes to the collateral land use affects. Therefore the ordinance seeks to remove that distinction of whether an employment agency works for a fee or not thereby putting nonprofits on the same status from a land use perspective as for profits. By including offices that perform such services for no fee, the code's new language would adopt nonprofit agencies into the City's definition. Council Member Wallace asked staff to define an employment office. Assistant City Attorney Lathers did so.

Council Member Markert asked staff how this ordinance would make things different than they are now. Assistant City Attorney Lathers stated nothing would change unless a large number of nonprofit employment agencies applied to open employment offices in a concentrated area of the City. Currently, they cannot be closer than one every 1500 feet. Council Member Markert referenced the Committee minutes where the Arapahoe/Douglas Works, a quasi-governmental agency, was discussed. She asked how those programs would be affected by this proposal. Assistant City Attorney Lathers noted government offices would be exempt.

Council Member Beer referenced the word "*procuring*", and asked staff how it would relate if a nonprofit organization was to seek to provide a center in which an incidental contact between a potential employer and employee that resulted in a day's work might occur even though the focus was not soliciting the employment. Assistant City Attorney Lathers stated that would be considered a collateral affect and would not come under the language of the ordinance. He suggested more clear language could be added such as "*engaged primarily in procuring employment.*"

Mayor Tauer asked staff if this ordinance would make day laborers illegal in Aurora. Assistant City attorney Lathers answered no. Mayor Tauer stated the intent was to allow nonprofits to be covered by the same rules as those private agencies that are helping day laborers. Assistant City Attorney Lathers stated it put nonprofits on equal footing as those who are conducting the same effort for profit.

Chuck Saxton, Denver, Colorado, spoke in opposition to the item. He discussed the importance of immigrant day laborers in our country's workforce.

Minsun Ji, Denver, Colorado, Executive Director of El Centro Humanitario, a day laborer advocacy group, spoke in opposition to the item. She discussed the importance of immigrant day laborers in our country's workforce.

Henia Bolanos, Denver, Colorado, agreed with the previous speaker's comments.

Scott Kwasny, Indian Hills, Colorado, spoke in opposition to the item. He discussed the importance of immigrant day laborers in our country's workforce.

Julie Todd, Denver, Colorado, spoke in opposition to the item. She discussed how this ordinance would exclude El Centro from the community.

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Harold Lasso, Denver, Colorado, spoke in opposition to the item. He discussed his experience with racism and discrimination against immigrant day laborers.

Council Member FitzGerald expressed his appreciation to Mr. Lasso for his comments. He stated he would vote against the motion but wanted to make a clear statement that the proponents of this item were not racist, or elitist. He suggested disparaging comments on their behalf was unfair because they were two of the finest people he knows.

Council Member Markert stated disparaging blanket statements against Council as a group was unjust as they each make their own efforts in creating solutions for the community for the betterment of everyone.

Irene Rodriguez, Boulder, Colorado, spoke in opposition to the item. She expressed concerns regarding civil liberties abuse.

Council Member Wallace related staff clearly represented the nature of this ordinance and she was looking out for the entire community not just for the citizens but also the business owners in the area. She related a committee started by the Community Partnership was working together with El Centro on this issue. She asked for Council support, noting this does not relate to any one group.

Council Member Peterson noted there were nonprofit resource centers and temporary agencies in the City that support day laborers. She stated an accusation that Council was attempting to eliminate day laborers was inappropriate.

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

12. PLANNING MATTERS

Staff requests Item 12a be deferred until the June 30, 2008 City Council Meeting.

- ◆ a. PUBLIC HEARING of a Conditional Use for after-hours operation adjacent to residential for Mirage at Stockade Shops, which is generally located at the northeast corner of Parker Road and Yale Ave. (Case Number 1989-6085-16)

Motion by Markert, second by Beer, to defer Item 12a to the June 30, 2008 City Council Meeting.

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

- ◆ b. PUBLIC HEARING of a Site Plan Amendment for The Gardens on Havana to Buildings 5 and 6 by removing the residential units from these commercial buildings generally located at the SE corner of Mississippi and Havana. (Case Number 2007- 6054-01.)

Michael Smyth, Planning Department, gave a brief presentation of the item. The Planning Commission heard this item on May 28, 2008, and returned a tied vote thereby making no recommendation. Staff, the Village East Neighborhood Association (VENA) and the Havana Business Improvement District supports the item.

Rob Beery, Englewood, Colorado, representing the applicant, gave a brief presentation of the item.

John Ward, Boulder, Colorado, representing the applicant, gave a brief presentation of the item.

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Arnold Schultz, Aurora, Colorado, representing VENA, spoke in support of the item. VENA has been involved in this item since its inception, and it was his contention the applicant has done everything possible to mitigate their financial issues and to continue the Mixed-Use nature of the development.

Shirley Scott, Denver, Colorado, representing the Tyndall Green II Homeowners Association, spoke in support of the item.

Paul Suss, Aurora, Colorado, representing the Havana Business Improvement District, spoke in support of the item.

Motion by Markert, second by Peterson, to approve item 12b.

Council Member Peterson liked the project without the residential component and was excited to hear a Whole Foods Store was a proposed anchor for this development.

Council Member Markert expressed her appreciation to all those involved in the project.

Council Member Beer was swayed to vote in favor of the item by the speaker's comments.

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

13. **RECONSIDERATIONS AND CALL-UPS**

Motion by Markert, second by Hogan, to call up Arash Groceries at the Shores Site Plan Amendment (Case Number 1973-6005-15). Council meeting date to be decided, with an end date of September 15, 2008.

Council Member Markert expressed her hope that the business owner would work with the neighbors and staff to formulate a plan that works. Calling this item up to no later than mid-September allowed sufficient time for this to occur.

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

14. **GENERAL BUSINESS**

None.

15. **REPORTS**

a. Report by the Mayor

Mayor Tauer announced the recent CU School of Pharmacy located at the Anschutz Medical Campus in Aurora groundbreaking, which was made possible by the Skaggs family's generous contribution. He reappointed Kay Barnes to the Aurora Housing Authority.

b. Reports by the Council

Council Member Beer invited all those interested to attend the Ward 3 Town Meeting scheduled for Thursday, June 19, 2008, in the Aurora Room at 7:00 p.m. The program would include a panel of journalists discussing reporting news in Aurora.

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Council Member Wallace expressed her appreciation to staff for their efforts in helping when Aurora won the All American City Award, and to Zelda's Group on behalf of NANO and the Del Mar Neighborhood Organization for their community service efforts.

Council Member Pierce related his recent attendance at the Arapahoe County Open Space Tax Ceremony. The Open Space Tax is paid by everyone who purchases something in Arapahoe County and half of the taxes paid were given back to cities based on population. Aurora received \$5.8M towards the Parks and Open Space Program. He noted the current production of "Honus and Me" currently showing at the Aurora Fox Theater through July 30, 2008, and invited all those interested to attend. Lastly, he related Bike to Work Day was June 25, 2008. He noted the several breakfast stations proposed to be set up around the City.

Council Member Markert invited all those interested to attend the Ward 4 Town Meeting scheduled for June 26, 2008 at 7:00 a.m. at Rosie's Diner. She related Aurora's July 4th celebrations planned for this year, and the grand reopening of Utah Park that would take place August 9, 2008. She asked that everyone allow the new grass to continue to grow undisturbed until then.

Council Member FitzGerald related his attendance at the recent Teen Court Dinner which demonstrated Aurora's innovation, and expressed appreciation to Jack Cooper, Director of Parks and Open Space, for his efforts on behalf of Aurora's Parks and Open Space and wished him well in his retirement.

Council Member Peterson announced the appointment of Billy Richardson to the Aurora Youth Commission, and bid farewell to Mark Trevithick, Budge Officer.

16. **PUBLIC INVITED TO BE HEARD**

None.

17. **ADJOURNMENT**

Mayor Tauer adjourned the regular meeting of City Council at 9:06 p.m.

EDWARD J. TAUER, Mayor

ATTEST:

DEBRA JOHNSON, City Clerk

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