

AURORA BUSINESS ADVISORY BOARD

Minutes of the Regular Meeting
September 21, 2020

Board Members Present:

Garrett Walls, Nosh Tarachand, Regina Edmondson, Carolyn Pace, Alok Sarwal, Martin Liles, Chance Horiuchi, Hitesh Patel,

Board Members Absent:

Unexcused – Bob Fryberger

Excused – Michelle Redding (new appointee for Ward 5) – Ms. Horiuchi moved to excuse, Ms. Edmondson second, none opposed.

Staff Present: Elena Vasconez, Andrea Amonick,

Guest Present: Trevor Vaughn, Manager Tax & Licensing, Commander Steve Wright,

CALL TO ORDER

Meeting called to order at 11:00 am by Mr. Walls.

Mr. Walls moved to relax the attendance standards today. The prior meeting link was not working. A new link had to be sent at the last minute. And it's confusing and difficult for people to get a last-minute link and to check web issues with virtual meetings. So, Mr. Walls apologized to everybody. And offered to relax our attendance policy for today's meeting.

Any members opposed? Okay, none opposed.

APPROVAL OF THE MINUTES

August minutes Approved -

Ms. Edmondson moved to approve with admin changes.

None opposed.

Commander Steve Wright with Aurora Fire Department

The purpose of Commander Wright's visits was to be available for any 2021 fire code changes to requiring businesses. That 2021 fire code has not been released yet. So, it's not as if January 1, the new fire code needs to be adopted. We work on adopting the new code when we get it. It gets approved by city council. If it's not here, then we just stay with how we're already operating, which is under the 2015 fire code.

This month, I thought I'd share one of our task force deployments regarding fire code issues. We have an inspections group that goes out daily. There are 10,000 commercial properties in the city of Aurora that we inspect. In this case, the Aurora police department notified us of a concern property. When we have a concern property, it means they are egregiously violating fire code, to the point that it's creating tremendous life safety issue for the citizens of Aurora. We then developed this task force methodology, which for the most part, identifies the location, identifies the problem, and then incorporates the city entities; police department, tax and licensing, neighborhood services, which has code enforcement under it, and the fire department. We identify the problem and then a timeline, we get letters drafted by legal to mail out to the owners and the business occupants. And we go post these as well. We notify them of a date we're going to show up and perform a sweep. We show up on a certain time on a certain day and engage the business and deal with the problem. In some cases, we tow vehicles, we issue tickets, and the consequences can lead to a summons, where the business owner

has to meet with the judge and discuss their issue.

Sometimes the owners are very responsive. And we end up correcting all the issues without having to do any task force type enforcement. The owner is responsive and takes care of the problem for example boarding up the property and selling it.

So different concern properties; Either we end up having to be on site a certain day and have the more hands-on approach or the owners are responsive, and we work with them on their issues.

So that's my presentation to you all this month. Thanks for having me again. Let me know if you have any questions.

Mr. Walls asked, where is AFD with the whole idea of fees and creating an administrative process to handle those fees? Are you planning on partnering with tax and licensing for collections? It seemed one of the biggest barriers is AFD isn't really set up to be a fee collecting entity.

Commander Wright answered that they will need to get approval from City Council. The mechanical issue of collecting is still an issue. It was brought up at the city budget workshop on Saturday and no one seemed to have a problem with AFD collecting fees. Between now and the end of the year, AFD will be reaching out to city entities to see their thoughts or looking at a vendor to do it for us. I don't believe we have the internal capabilities to do it.

Mr. Walls suggested that Commander Wright engage with CM Gruber, Gardner and Marcano on the M&F committee. They may help speed up the internal process.

Ms. Horiuchi asked when this would be implemented?

Commander Wright answered, "In addition, city council did not have questions about our cost recovery plans for fire inspection fees, we will work to implement these new fees by January 1, 2021" That is from the Fire Chief.

Trevor Vaughn with Tax & Licensing

First - it is a requirement of the liquor license, under state rules to comply with the public health orders. Myself and one of our inspectors went out in the evening to check on compliance with public health orders and we saw pretty broad and deliberate non-compliance or negligent non-compliance with the public health orders significant enough, that we're sending out seven notices of violations for different establishments. Very concerning in regard to viral transmission. So, we had a conversation with Tri County Health last week about this issue. Tri-County is also talking with the state about this issue, because I don't think this problem was just limited to Aurora.

Second - the new dial came out for public health orders. Arapahoe county is in a different phase of that dial than Adams County. The last call for alcohol now in Arapahoe county is midnight. So just a reminder, you know, to our businesses out there, we will check on these things.

Lastly - Colorado sales and use tax simplification system agreement. This is something that was authorized and paid for by the state for kind of a simplification system, one stop shop for businesses that have basic sales tax returns where they can go to one location and file for all jurisdictions within the state. The purpose of this is to make things a little bit simpler. And along with that, allows the state to get closer to compliance with the requirements under that Wayfair case that said, economic Nexus or internet retailers need to collect sales tax for states, even though they may not have a physical presence in that state. And so having a centralized

system helps it be more likely that Colorado will pass that simplification test. Implementing this system, Home Rule, cities have the opportunity to basically sign an IGA with the state to participate in this system and allow the state, basically the vendor here to collect the city's taxes for the retailers that want to file through that system.

We would recommend that city council adopt an ordinance for enforcing economic Nexus, again, those internet retailers. Now, we would recommend that with the simplification measures, internet retailers should also be subject to Aurora sales tax collection, if they have substantial Nexus. If they have Nexus with the state, they should also be subject to have sales tax collection in Aurora. And we'd recommend that change to the ordinance as part of this. And the city's implementation cost for integration with that is \$17,500 that they pass down. Our expectation is that the increased sales tax collections will more than offset that one-time cost and being able to require the commerce vendors to collect city sales tax.

Mr. Walls – First if you have any PSA announcements, if you could send that to me and I can get that to our board members, and we will help get that circulated.

Second – the \$17,500, that would primarily be covered by including enforcement of the marketplace facilitators, right? Or are you looking in further efficiency in how taxes collected overall, and that would boost revenue?

Mr. Vaughn - this is even a step further than marketplace facilitators. Now we're talking about the e commerce retailers that don't have a physical presence. Some of those may be marketplace facilitators. And don't have a physical presence here in Aurora. But they have enough sales into Aurora, that now we're going to say, you need to collect sales tax. The thing is that marketplace facilitator ordinance really applied to what we could enforce it on at the time, which was retailers with physical presence in Aurora like Amazon, you know, Amazon's got a warehouse, they have trucks. They are subject to Auroras laws. Now we're saying, we believe that we can pass the Wayfair test to even go a step further and maybe get some more internet retailers without a physical presence to collect tax and we believe that's what will offset that cost.

Mr. Walls - in determining that Nexus with the state and further a home rule jurisdiction, is there some sort of metric, like any delivery within a home rule city or within the state or Colorado qualifies them and that Nexus? Or is there a certain benchmark or threshold of sales, or how is the application of this?

Mr. Vaughn - \$100,000 in sales into the state of Colorado says that you then have Nexus within the state. We're saying that not only physical presence, but if you have physical presence **or** \$100,000, in sales into the state of Colorado, you need to collect tax for all jurisdictions within the state.

There was some discussion regarding businesses in Aurora collecting taxes for other cities that they are selling their product to and the time and expense this would cause the businesses. And there was a question regarding the location of the one stop shop.

Mr. Vaughn replied that the one stop shop in through the Department of Revenue's website; the sales and use tax simplification system. There is not a physical location.

The reason why you might say okay to this is that this is just the city of Aurora's participation in that. So the negative impact, it's probably better for Aurora to join on to protect Aurora businesses. So, say they don't go to 100%, at least Aurora would be in there collecting tax so that somebody outside of Aurora wouldn't be shipping something into Aurora without being subject to Aurora's enforcement. If you were to take the position of No, we don't want that

system to go in place at all, I think the issue with that and why the state did what they did within state was under the Commerce Clause, you can't discriminate against out of state businesses. So, the first step they had to do was say that all in state businesses, you all have Nexus inside the state of Colorado, So really what you should be doing is collecting tax statewide, because that's what we're going to require businesses out of state; So, we couldn't require something less of you. So that's the tradeoff; now they can enforce the businesses with substantial economic Nexus outside the state to collect tax, but the trade-off is you're going to have to collect it statewide.

Mr. Walls and other board members expressed that they think the benefits outweigh the risk of the complication or the impact to the small business owner that we need to make sure our e commerce companies are playing fair in the city of Aurora. They want to make sure that groups like the SBDC, and groups like that are receiving training from tax and license or from the state, so that they're really able to assist business owners with this transition, that they're able to implement this and make sure that the impact on our business owners, small businesses is as less as it could be, or the least amount of impact.

Mr. Walls moved to approve and recommend this item; Colorado sales and use tax simplification system and adoption of economic Nexus with the recommendation that it's implemented with some sort of a public outreach and training program.

Seconded – Regina Edmondson.

All in favor - none opposed.

ACTION: Mr. Walls and Ms. Vasconez will draft a statement this afternoon for Mr. Vaughn.

Andrea Amonick AER 2

The Aurora economic recovery program was geared towards providing people grants for reopening. We started taking applications in early June for this program. The program provided grants up to \$15,000 to reimburse businesses for items that were going to help the business either recover or pivot in response to COVID-19. Nonprofits were eligible for this grant program as well, which was new, because we hadn't previously given monies to nonprofits under AER1. We received a total of 634 applications during the weeklong application period. Of those, 484 businesses were eligible: 416 for profit and 68 nonprofit entities. We went back to the council and said, we have received all these applications. There's not enough money; initially \$6 million was allocated for the program. But given the number of businesses that were eligible for it, we decided that we would rather give grants to every single business and not try and cull the list this time. Because that was disheartening for businesses who needed it. We went back and asked for another million and a half dollars from the cares act through council; for every business that applied and was eligible, And the council allocated that to us, so that we could make grants to all the businesses. This program is run as a reimbursement program. And therefore, once they have a business license, they've been in business for a long time, and they are effectively reopening; once they met that eligibility requirement, then all they have to do to get the money, is submit eligible receipts for eligible expenses, which could be anything from adding touchless equipment to inventory so it funded different things than AER1 funded and things that were probably not funded through other grants programs, like the federal grant programs. They could do physical changes to their building, they could do inventory that was required, add more staff, or they could do any supplies or materials that are required to covid proof their new or pivoted business. As of this morning, we have distributed almost \$2 million thus far.

Mr. Walls asked if there was concern that at a disbursement level of \$2 million of a total of 7.5 million will the remaining funds get disbursed by the end of the program.

Ms. Amonick replied that we expect the month of October to be our busiest month.

Ms. Edmondson wanted to know for the businesses that didn't receive Federal funds, it seems the restrictions are strict and little punitive. Also commented that when the program was first introduced, businesses would be able to submit invoices for the city to pay and then that was rescinded. How are you combating that?

Ms. Amonick suggested that businesses could put the purchases on their credit cards and then submit the invoice for payment. The invoices were being paid promptly. Businesses can turn in receipts when they have them for prompt payment from the city. The city needs the receipts to turn in to the county so the city can be reimbursed for the invoices they made payments on. The city accounting system can not handle paying so many individual vendors. To get the payments out in a timely manner, it was decided to reimburse the business.

Ms. Horiuchi wanted to know how many ineligible applications there were.

Ms. Amonick replied there were 634 applications that were received and of the 484 were eligible. We'll see if we can't do something different because there were there were a number of businesses that started their businesses right before COVID hit through no fault of their own, but they didn't have any history.

Ms. Horiuchi added if you could just review those remaining 150 and see if they would now fit the program's requirements.

Marcia McGilley SBDC

We're working on the federal programs, PPP. Forgiveness is the main issue we are helping people make sure that businesses know that it actually goes through their banks. There is a tool that is available that we're giving out that came from the Association of CPAs to help with the PPP forgiveness.

Colorado did launch the energize Colorado gap fund, their first opening was 8-31. And they closed at the midnight on the 16th, which was Monday. It was a short thing. \$25 million originally was allocated and they got 3816 applications. They're hoping to have four rounds. That program is for minority women, veteran, Native American, and some money is set aside for tourism for those grants and loans.

Arapahoe county cares: we've been working with clients applying for and getting the rounds of the Arapahoe county cares.

AER 1 and 2; our staff is working with many of the clients for both of those programs.

We are working with the Colorado legal Relief Fund and any small businesses that have a COVID related issue that they need free legal advice, they can go through this program. It's put together with the Colorado legal Association and the SBDC. It cannot be in litigation. Spanish language accounting series, we did three parts.

We had an IRS webinar, which for small businesses.

Two programs that we've launched since the COVID. The first is the resiliency series, they're two to three hours more in-depth programs on issues that our clients are asking for. The second is business conversations. And it's about 20 to 30 minutes of one of our consultants, either full time or contractors that are getting 20 to 30 minutes of their expertise on a topic and then leaving the rest of the time open for questions. We'll do two English and one Spanish per month.

BAB Business Awards

We have received five or six nominees through the system that have come in through the summer. We do have some nominations for Business Awards. Clearly, we're not going to have the banquet, like we've had in years past. I threw out the idea of pushing it back to late January or early February and work with Aurora 8 TV, to do segments on each of the businesses that we decide are going to receive an award. Then we set up appointments with business owners with Aurora 8 and do like a handover of an award at their business location and just have a photo taken. And we have Aurora eight does they're marketing video for each one of these businesses. And then a photo of them receiving the awards. Then we get some time slated on Aurora 8, where this airs in a single segment, maybe as Aurora Business Award highlights or something like that.

Mr. Tarachand - I think we need to go out and recruit and look at some other businesses that could be sponsored. I'm on board to put it off to January, February. And I would actively look at sponsoring or nominating some businesses, additional to just five of them. I think it'd be fair to the other businesses to know they're not left out. We can recruit previous award winners, to be an extension of our arm, and give them the solicitation or the paperwork to say, see who you think would be adapt award winner for the city?

Ms. Edmondson - you can create an event and still have sponsors. Do similar to how other organizations do where you drop off that sponsorship packet, or that meal and maybe utilize some of the other small businesses to drop off those meals to those sponsors. And then take the opportunity to highlight what we do as a board and the resources and support that we offer to small businesses and get that messaging out there. So that if there are concerns, to your point about the minimum wage, a lot of businesses came forward, we need that type of turnout for any and all issues that come our way.

Mr. Walls - let's say five or six of these promo videos. And we work sort of backwards from their timeline to be able to set and it could potentially air. And I think what I'd like to do is a marketing push from the city and reopen the nominations for let's say, closing potentially our next board meeting is on the 19th of October, I'm just looking at my calendar closing then. And then by our November meeting, we would be able to vote on who the recipients are. That would give December and potentially January for Aurora eight to be able to put together these videos, I have no idea if that kind of timeline works for them.

Ms. Horiuchi - I like the standing the test of time or resiliency awards, because we know sales numbers are not going to be something that we can really focus on or growth of employees' growth or production. But I think that resiliency award could go a long way. I think we have quite a few businesses, we could celebrate, you know, the anniversaries of some sort during COVID.

EV to send out the application to Board members.

EV/GW to compile list of 5 years of Award winners. (FYI this is on the city website w/the videos of the winners.)

Minimum wage ordinance amendment

Officially being introduced at study session Tonight. Mr. Walls slated to speak on behalf of the business community representing opposition to the minimum wage ordinance. Council member Coombs, will be submitting and introducing tonight with two friendly amendments. I was worried about that third party clause, and I wanted there to actually be a definition to third party. So, she worked with the city attorney's office, and they created a definition to third party and also added in the definition of credible complaint. So those two things helped to narrow the scope a little bit to make sure that there isn't just a backlog of frivolous complaints that come in that then city staff is tasked with investigating those, and then the

business owner is tasked with potentially hiring an attorney defending themselves on something that might be a baseless or frivolous claim.

The second amendment has to do with some fiscal reporting and economic data. We want to edit in that city council has the ability or the mechanism to be able to hear on a yearly basis the impact of this particular ordinance and how businesses may be responding to it, how sales are doing, how employee accounts are doing those types of things. So the second amendment adds that mechanism to be able to actually have that reporting data presented to City Council on a yearly basis.

The primary concern and the concerns that I'll be representing tonight, are basically, this is the worst possible time that we could be talking about a minimum wage increase from the perspective of the business owner that it would be much better if we could work together on an initiative like this next year, potentially next summer, in working side by side with the business community, with any union representatives or labor representatives in community outreach, to minimum wage workers, and try and put together a plan together that solves both the need and the marketplace and has an impact on businesses that is able to be withstood and understood over the long period of time to help businesses adjust to that.

Further down the line. I believe Councilmember Coombs, if this fails tonight, I believe that she's intending on bringing it directly to full Council on October 5. So regardless, we'll probably see this at full a full city council meeting on October 5, in the event that it fails tonight.

Ms. Amonick made this comment: I just want to thank this board for all the work, 2 very long board meetings and the town hall and getting the input from the business community. I, in my 13 years with the city cannot remember a time when the board has been as active and as engaged in a business issue of this magnitude. Whatever the outcome, I want to express my appreciation for this board doing a fine job of really engaging the community. And really doing yeoman's work in terms of making sure the business community is hard. So, thank you all.

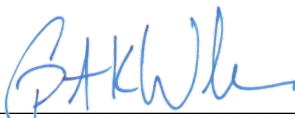
Mr. Walls asked for a motion to adjourn.

Mr. Tarachand moved to adjourn.

Ms. Pace Seconded.

Meeting adjourned at 12:52pm.

APPROVED:



Garrett Walls, Chairperson



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September 21, 2020

Mayor & City Council
City of Aurora
15151 E. Alameda Pkwy., 5th Floor
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Subject: Proposal for the Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus

Dear Mayor Coffman & Members of City Council:

The Business Advisory Board met on Monday, September 21, 2020 and heard Trevor Vaughn's presentation regarding the proposal for the Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus. After a lengthy discussion Board Members voted to unanimously support this proposal.

The Board feels that this proposal assures that e-commerce companies are playing fair in the City of Aurora. This in turn would level the playing field for all business owners that do business in our City.

The only concern expressed by numerous Board Members was regarding how businesses would comply with the Ordinance, the enforcement mechanism and outreach programs to educate business owners on how the system would work. The Board strongly recommends that the program be implemented with an outreach component, and a training/educational program from Tax and Licensing in collaboration with the SBDC and the BID, in order to reach to as many business owners as possible.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Garrett Walls".

Garrett Walls, Chairperson

GW/ev

CC: BAB Members
Elena Vasconez, Economic and Business Development Supervisor
Trevor Vaughn, Manager of Tax & Licensing