

## **MINUTES**

### **Regular Meeting – Aurora City Council Monday, February 4, 2019**

#### **CALL TO ORDER – REGULAR MEETING**

Mayor LeGare convened the regular meeting of City Council at 4:02 p.m.

#### **ROLL CALL**

|                                              |                                                                           |
|----------------------------------------------|---------------------------------------------------------------------------|
| PRESIDING:                                   | Mayor LeGare                                                              |
| COUNCIL MEMBERS PRESENT:                     | Bergan, Berzins, Gruber, Hiltz, Lawson<br>Richardson, Roth, Watson        |
| COUNCIL MEMBERS ABSENT:                      | None                                                                      |
| OFFICIALS PRESENT:                           | City Manager Twombly, Interim City Attorney<br>Brotzman, City Clerk Ruger |
| COUNCIL MEMBERS ARRIVING<br>AFTER ROLL CALL: | Johnston, Murillo                                                         |

City Clerk Ruger announced the proposed items for discussion at executive session.

#### **CONSIDERATION TO RECESS FOR EXECUTIVE SESSION**

Motion by Roth, second by Watson, to recess for executive session.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo,  
Richardson, Roth, Watson

Abstaining: None

The executive session was recorded pursuant to the requirements of state law.

#### **1. RECONVENE REGULAR MEETING OF FEBRUARY 4, 2019 AND CALL TO ORDER**

Mayor LeGare reconvened the regular meeting of City Council at 7:34 p.m.

#### **2. ROLL CALL Stephen Ruger, City Clerk**

|                          |                                                                                                         |
|--------------------------|---------------------------------------------------------------------------------------------------------|
| COUNCIL MEMBERS PRESENT: | Mayor LeGare, Bergan, Berzins, Gruber, Hiltz,<br>Johnston, Lawson, Murillo, Richardson, Roth,<br>Watson |
|--------------------------|---------------------------------------------------------------------------------------------------------|

|                         |      |
|-------------------------|------|
| COUNCIL MEMBERS ABSENT: | None |
|-------------------------|------|

#### **3. INVOCATION Bishop Kevin Foreman, Harvest Church**

#### **4. PLEDGE OF ALLEGIANCE TO THE FLAG (all standing)**

#### **5. APPROVAL OF THE MINUTES OF THE MEETING OF JANUARY 28, 2019**

Motion by Gruber, second by Roth, to approve the minutes of the meeting of January 28, 2019, as amended.

Voting Aye: Mayor LeGare, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson,  
Roth, Watson

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Abstaining: Bergan

6. **CEREMONY**

- a. Swearing in of newly appointed Boards and Commission members – Presiding Judge Shawn Day

Presiding Judge Shawn Day administered the oath of office to the newly appointed board and commission members. City Council congratulated the members and thanked them for their service to Aurora.

| <u>Name</u>        | <u>Board or Commission</u>            |
|--------------------|---------------------------------------|
| Alula Arega        | Aurora Immigrant & Refugee Commission |
| Marlon Erazo       | Aurora Immigrant & Refugee Commission |
| Abukar Muhumed     | Aurora Immigrant & Refugee Commission |
| Linda Skelley      | Aurora Immigrant & Refugee Commission |
| Kevin Vargas       | Aurora Immigrant & Refugee Commission |
| Jackie Zvejnieks   | Aurora Immigrant & Refugee Commission |
| Kristina Lance     | Aurora Youth Commission               |
| Don Seven          | Citizens Advisory Budget Committee    |
| Jim Weeks          | Civil Service Commission              |
| Pastor Almer Combs | Independent Review Board              |
| Michelle Limbaugh  | Independent Review Board              |
| Thomas Mayes       | Independent Review Board              |
| Joshua Reddell     | Independent Review Board              |
| Jason Schneider    | Independent Review Board              |
| Marcia Todd        | Independent Review Board              |
| Sunny Trujillo     | Independent Review Board              |

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

Michael Terry spoke in opposition to Aurora's breed specific ordinance and discussed his personal experience and situation in that regard. He pointed out the focus should be placed on the dog owner rather than the breed and asked for the issue to be put on the City Council's agenda so that it could be addressed.

Jessica Meadows and Sabina Lawson spoke in opposition to breed specific legislation and petitioned City Council to put the breed specific ordinance on the next ballot for City of Aurora citizens to vote on.

Abade Lrizarry discussed false charges and arrests he experienced at the hands of City of Aurora police.

Eric Brandt discussed discrimination, false arrests and police brutality by the City of Aurora police.

Arturo Aquirre; Lourdes Cruz; Laura Garcia; Carmen Burcuaga; Naomi Herrera; and Solash Lopez, Denver Meadows residents, asked the City Council for help with the relocation costs for Denver Meadows residents.

Ismael Garcia discussed the discriminatory and unsafe practices taking place at the Hillcrest Mobile Home Park.

Mayor LeGare stated someone would follow-up with Mr. Garcia's concerns.

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Shawny Olivas, Denver Meadows resident, asked the City Council for financial help with the relocation of the Denver Meadows residents.

Council Member Watson asked Ms. Olivas if she received a letter from the City that provided mitigation information. Ms. Alevis answered no. Council Member Watson asked Ms. Alevis if she has reached out to City resources for help. Ms. Alevis answered no.

Mayor LeGare directed Ms. Olivas to speak with Jason Batchelor, Deputy City Manager.

Cesiah Guadarrama, Chapter Housing Organizer, 9to5 Colorado, spoke about the reality facing the Denver Meadows residents and their need for relocation assistance.

Council Member Watson asked Ms. Guadarrama if she has provided the Denver Meadows residents with contact information for the City's Homelessness Program. Ms. Guadarrama answered affirmatively.

Council Member Bergan reiterated Council Member Watson's comments related to City resources and encouraged Ms. Guardarrama to continue to provide the related information to those who might need it.

Juana Armijo discussed problems related to discrimination, drainage, fencing, towing of vehicles and increased rent that existed in trailer parks in the City of Thornton.

Mayor LeGare stated the City of Aurora City Council did not have jurisdiction in the City of Thornton.

Ms. Armijo asked for direction as to who could help her. Mayor LeGare asked Ms. Armijo to provide the City Clerk with her information for follow-up.

Council Member Richardson referenced the Homelessness sub-fund which stated there was an unassigned revenue of \$2.3M and asked staff if that figure was correct.

Jason Batchelor, Deputy City Manager, answered affirmatively.

Council Member Richardson noted there was \$2.3M in the Homelessness sub-fund and all of these people were about to be homeless.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-h**

**General Business**

- a. Consideration to AWARD CHANGE ORDER NO. 1 to Work Package No. 3 of the Central Recreation Center Project to Adolfson & Peterson Construction, Aurora, Colorado in the amount of \$432,999.55 for additional construction services associated with the Core and Shell, R-5540A. STAFF SOURCE: Lynne Center, Facilities Project Delivery Manager, Public Works
- b. Consideration to AWARD CHANGE ORDER NO. 1 to Work Package No. 4 of the Central Recreation Center Project to Adolfson & Peterson Construction, Aurora, Colorado in the amount of \$132,898.45 for additional construction services associated with the Tenant Improvements, R-5540A. STAFF SOURCE: Lynne Center, Facilities Project Delivery Manager, Public Works

- c. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with Populous Group LLC, Kansas City, Missouri in the amount of \$68,520.00 for additional architect and engineering services associated with the Central Recreation Center Project, R-1773. STAFF SOURCE: Lynne Center, Facilities Project Delivery Manager, Public Works
- d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Garney Companies, Inc. in the amount of \$24,992,000.00 for the Wemlinger Water Purification Facility (WPF) CT Chamber Project, Project Number 5652A. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Kelley Neumann, Deputy Director Water Planning/Engineer, Aurora Water
- e. Consideration to AWARD A SOLE SOURCE CONTRACT to Priority Dispatch, Salt Lake City, Utah in the amount of \$70,730.00 for annual maintenance on the Dispatch Control Software System for the City's 911 answering system in the main and backup communication centers through February 2020. STAFF SOURCE: Aleta Jeffress, Chief Information Officer, Information Technology
- f. Consideration to AWARD A SOLE SOURCE CONTRACT to West Safety Solutions Corp., Longmont, Colorado in the amount of \$151,800.00 for annual maintenance and support for the City's 911 answering system in the main and backup communication centers through February 8, 2020. STAFF SOURCE: Aleta Jeffress, Chief Information Officer, Information Technology
- g. Consideration to AWARD A SOLE SOURCE CONTRACT to Superior LLC, Lake Mary, Florida in the amount of \$96,134.66 for annual software support on the Water billing system through January 31, 2020. STAFF SOURCE: Jo Ann Giddings, D/D Water Financial Administrator, Aurora Water
- h. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Richdell Construction, Inc., Broomfield, Colorado in the amount of \$835,955.50 for the Triple Creek Trailhead Project, Project Number 5547A. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Tracy Young, PROS Planning, Design, Construction Manager, Parks, Recreation & Open Space

Motion by Roth, second by Berzins, to approve items 9a – 9h with a waiver of reconsideration on items 9d and 9h.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

## 10. **RESOLUTIONS**

- ♦ a. **R2019-05**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, authorizing the execution and delivery of the water connection fee Incentive Agreement between the City of Aurora, Colorado, acting by and through its utility enterprise, and Parkside Aurora, LLC, a Colorado Limited Liability Company. STAFF SOURCE: Jennifer Orozco, Project Manager, Planning & Development Services

Motion by Berzins, second by Watson, to approve item 10a.

Council Member Bergan asked staff to provide an explanation of the purpose, balance and terms of the fund and also what projects could qualify.

Andrea Amonick, Development Services/AURA Manager, did so, noting the fund water connection fee incentive program was established in 2013 where the City set aside \$4M to stimulate mixed-use development in urban centers and transit station areas. She confirmed

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approximately \$2.2M remained in the incentive fund and nearly \$1.8M has been allocated previously for two projects. She explained the individual incentive process and how projects met the eligible criteria. She noted the remaining \$2.2M would be allocated to projects on a first-come, first-served basis and this project met those requirements.

Council Member Bergan confirmed the project met the requirements.

Ms. Amonick concurred.

Council Member Bergan noted the contract expired but was extended and asked if the remaining funds would be used for projects that met the criteria that were already in the pipeline. Ms. Amonick answered affirmatively.

Council Member Johnston asked if the criteria was established in 2013. Ms. Amonick answered affirmatively. Council Member Johnston stated considering there was a new council, the City Council planned to take the opportunity at the next workshop to evaluate current goals and policies, therefore she would not support the item because of concerns she had related to sales tax, supporting incentives, higher paying jobs and benefits, commitment to affordable housing and bonus points for ownership opportunities.

Council Member Berzins stated her understanding that this incentive program related to water and not housing.

Ms. Amonick concurred, noting the program was developed to incentivize mixed-use, residential commercial structures at urban centers or TODs (transit stops).

Council Member Berzins stated the incentives related to connection fees.

Ms. Amonick concurred, noting it was an automatic deferral of water fees that would otherwise have to be paid by the project.

Council Member Johnston stated she was aware the item related to water and tap fees but she maintained the criteria developed in 2013 was not something she supported.

Council Member Murillo stated it could not be classified as a water incentive only when the goal was to incentivize mixed-use development.

Voting Aye: Bergan, Berzins, Gruber, Lawson, Richardson, Roth, Watson

Voting Nay: Hiltz, Johnston, Murillo

- ♦ b. **R2019-06**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, amending the 2019 Operating Plan and Budget for the Parkside at City Centre Business Improvement District to allow for debt issuance in 2019, and the expansion of the BID inclusion area, contingent upon City Council approval of appropriate legislation. ***(This item also appears on the February 4, 2019 Study Session) (Due to this item being dual listed, the backup is included in item 2f of the Study Session Packet.)*** STAFF SOURCE: Andrea Amonick, Development Services/AURA Manager, Planning & Development Services

Motion by Berzins, second by Roth, to approve item 10b.

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Voting Aye: Bergan, Berzins, Gruber, Hiltz, Lawson, Murillo, Richardson, Roth, Watson

Voting Nay: Johnston

11. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

- ♦ a. **R2019-07**  
Public Hearing and Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the First Amendment to the Service Plan for Velocity Metropolitan Districts No. 1-9 and to the associated Intergovernmental Agreement to increase the debt limit. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Mark Geyer, Project Manager, General Management

Mayor LeGare opened the public hearing on the item.

Mark Geyer, Project Manager, General Management, provided a summary of the item, noting it related to a debt limit increase request for all of the Velocity Metro Districts due to the increased construction costs and pace of the development.

Mayor LeGare noted the January 15, 2019 Management & Finance (M&F) meeting minutes were not included in Council's backup material and asked if they have been uploaded to the City website.

Stephen Ruger, City Clerk, answered affirmatively.

Mayor LeGare asked the applicant's representative to come forward.

Bill Wichterman, Porteos Development, did so.

Mayor LeGare asked Mr. Wichterman to speak to the cause behind the debt limit increase request. Mr. Wichterman did so, noting the districts were initially formed back in 2006 with debt limits of between \$50M - \$75M. He noted the cost has increased considerably since then and each of the districts must have a debt limit that is an amount equal to the total debt issued by all of the districts in order to issue the debt. He pointed out the hope was that in a few years, when it would be necessary to refinance or add additional infrastructure, they would not have to come back and ask permission to increase the debt.

Council Member Gruber expressed appreciation to Mr. Wichterman for his attendance at the recent M&F meeting. He asked what the total borrowing authority would be if the debt limit was increased. Mr. Wichterman discussed each district's current indebtedness, noting it would be unlikely that the total amount would exceed \$100M. Council Member Gruber noted another item that was discussed at the meeting was the difference between the City granting the districts the authority to assume that much debt and whether or not they actually would. He asked how much time the districts would have to spend the money if a bond was issued. Mr. Wichterman stated three years. Council Member Gruber stated this was similar to a credit card limit and the districts would borrow money as needed with the understanding that the mill levy payback would be the same. He pointed out the applicant's company has been very successful in bringing businesses to the City and this would help them bring in more and that was why the additional investment was necessary.

Mr. Wichterman concurred.

Mayor LeGare closed the public hearing on the item.

Motion by Watson, second by Gruber, to approve item 11a with a waiver of reconsideration.

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Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

12. **ORDINANCES FOR INTRODUCTION**

- ♦ a. **2019-03**  
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, including certain properties into the boundaries of the Parkside at City Centre Business Improvement District. STAFF SOURCE: Andrea Amonick, Development Services/AURA Manager, Planning & Development Services

Motion by Berzins, second by Richardson, to introduce item 12a.

Council Member Bergan asked staff to explain the different incentives and why it was necessary to have 100 percent over the three-year construction period regarding the use tax, why this would be done in a mixed-use residential as it related to property tax and why a 20-year term was necessary as it related to sales tax.

Andrea Amonick, Development Services/AURA Manager, Planning & Development Services, did so, noting those were incentives limits contained within the Public Financing & Redevelopment Agreement and part of the overall Parkside at City Center plan. She explained the developer wanted to bond through their Business Improvement District for the public improvements on the site and this item related to expanding the inclusion area to include all of the property on the first level of the site to fund a public improvement fee through the retail property. She pointed out in order to support the debt, the financing incentives have been broken into three categories of use, property and state taxes. She stated the construction and materials use tax would be given at a rate of 100 percent for the first three years during the construction phase because there needed to be revenue streams to pay back the debt immediately upon borrowing. She stated the property tax came into the project later and was at 80 percent and would cover debt and would not come out until the residential project was completed and would go in and finance the offset that was not covered by the Public Improvement fee. She stated the last phase was the retail sales tax which came into the project when it was 70 percent leased and was being offered at 75 percent of sales tax.

Council Member Bergan stated her understanding that the City did these incentives in blighted areas and that as a result, there would be required demolition for structured parking and vertical capacities. She asked if the vertical would be five stories. Ms. Amonick stated the building was five stories on podium and confirmed there would be significant public improvement in structured parking to accommodate the retail and residential structures. She pointed out there would be additional improvements related to rerouting water because this sat right on the train line so the developer was borrowing \$15M to put in all of those public improvements for the project. Council Member Bergan asked if the developer was establishing a bid that would allow them to impose a tax or a fee on the sale of goods and services to generate revenue. Ms. Amonick answered affirmatively. Council Member Bergan asked if the development would have happened in this TOD desirable area without the incentives. Ms. Amonick stated the cost for the project was such that the development would be unlikely to occur as envisioned with 200+ units and 35k square feet of retail without incentives.

Council Member Lawson asked what type of commercial retail and casual dining were proposed for the project. Ms. Amonick stated the project was not a drive-through type development and the developer was looking to bring in first-to-market restaurants. Council

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Member Lawson asked if co-op spacing would be considered. Ms. Amonick stated there was not any office space within the development to do so at this time.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Lawson, Murillo, Richardson, Roth, Watson

Voting Nay: Johnston

- ♦ b. **2019-04**  
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, authorizing the use of lease-purchase financing to acquire certain equipment during the 2019 fiscal year pursuant to the terms of an Equipment Lease-Purchase Agreement by and between the Aurora Capital Leasing Corporation, as lessor, and the City of Aurora, Colorado, as lessee; authorizing officials of the City to take all action necessary to carry out the transactions contemplated hereby; declaring the intent of the City to reimburse itself with the proceeds from such lease and related matters. (Rolling Stock) STAFF SOURCE: Mike Shannon, Debt and Financing Administrator, Finance

Motion by Gruber, second by Hiltz, to introduce item 12b.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

13. **RECONSIDERATIONS AND CALL-UPS**

None

14. **GENERAL BUSINESS**

- a. Consideration to appoint one (1) Member to the Public Defenders Commission. STAFF SOURCE: Stephen Ruger, City Clerk, General Management

Motion by Bergan, second by Berzins, to appoint Johanna Cartledge to the Public Defenders Commission.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

15. **REPORTS**

- a. Report by the Mayor

No report.

- b. Reports by Council

Councilmember Watson discussed the success of the recent Dawn of Opportunities fundraiser and what City Council has been working on recently in terms of budget management and providing funding for the City. He stated his decisions were based mainly on what would make Aurora a better city.

Council Member Johnston referenced the earlier speakers who gave offensive speech. She stated her understanding that their statements were protected by the First Amendment and noted that was difficult. She stated she was sorry to those council members who were singled out and expressed appreciation to the Aurora Police Department for all that they did for the City.

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Council Member Gruber concurred, noting offending people for the sake of offending people was never the right thing to do. He applauded the Aurora Police officers who were present for their show of restraint and patience.

Council Member Lawson expressed appreciation to Council Member Johnston for her comments and to the Aurora Police officers for watching over the Council and for everything they did.

Mayor Pro Tem Roth expressed appreciation to Council Member Johnston for her comments. He stated the gentleman who spoke has been escorted out of several Council Chambers throughout the Metro area and was very well known for very bad reasons. He announced the Ward V Town Hall meeting was scheduled for Tuesday, February 19, 2019 at the Heather Gardens Clubhouse at 6:30 p.m., where the two primary presenters would be from the American Heart Association and the Bridge House Ready-to-Work Program. He added he would also provide an update on the happenings throughout the City and officers would be present to discuss trends in Ward V.

Council Member Berzins expressed appreciation to Aurora Police and City Council for their patience during the tirade and stated her hope that the threats would not be carried out. She also expressed appreciation to the new commission members and all City volunteers for volunteering their time to the City. She referenced her husband's recent accident and, on a note of personal privilege, thanked all those who sent cards, flowers, plants, texts and phone calls, noting it was very appreciated. She announced the next Ward III meetings were scheduled for Wednesday, February 13, 2019 at the City Café; Thursday, February 14, 2019 at the Town Center of Aurora at 9:00 a.m.; and Thursday, February 21, 2019 at the Tin Cup restaurant at the Aurora Hills Golf Course at 7:15 a.m.

Council Member Bergan discussed her attendance at the recent E-470 retreat where board responsibilities, strategic operations, financial stability plans and workforce ideas were discussed. She stated her attendance at the recent Cops Fighting Cancer fundraising event and noted its success.

Council Member Richardson stated the two gentlemen speakers provided an interesting experience from a constitutional law perspective. He pointed out the situation was a set-up to specifically try to get the Mayor to order their arrest or removal. He stated the Mayor and City Council passed the test. He noted the protocol in that instance was to call a recess to allow the officers to warn the gentleman of the state statute on disrupting a public assembly and then the police would have probable cause to make the arrest should the speakers not adhere to the warning once the meeting was back in session.

Council Member Hiltz echoed the Council's comments regarding her appreciation for the Aurora Police Department. She discussed her attendance at the recent Coffee with a Cop event and the work the Cold Weather Activation Team did in terms of helping homeless people get off the street when the temperature was under 20 degrees. She listed the donations needed for this effort and requested those interested in donating money with a credit/debit card could do so at Spirit of Aurora Colorado.

Council Member Murillo expressed her shock at the previous speakers' use of offensive language and apologized for that occurrence. She announced the Ward I Town Hall meetings were scheduled for Saturday, February 3, 2019 at the Village Exchange Center, where she would be co-hosting with Shontel Lewis, RTD District Director for Adams County

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and Thursday, February 28, 2019 at Fire House #2. She stated the City Council voted to discuss potential relocation solutions for the Denver Meadows community and stated her understanding the item would be discussed at the upcoming workshop. She noted there has been some confusion related to that understanding and asked if that was when it was scheduled. Mayor LeGare answered no, noting it would be on the next study session agenda.

Mayor Pro Tem Roth stated the workshop has been planned for quite a while and staff has worked hard to prepare the agenda therefore he did not think it was fair to staff to change it at this point with only a five-day notice.

Council Member Murillo expressed appreciation to Mayor Pro Tem Roth for his consideration of staff's time and energy, noting she too respected their time, however, she pointed out due to the timeliness of the situation that it was worth adding the item to the workshop agenda because residents' displacement was a more important concern.

Mayor LeGare referenced the earlier speakers and stated it was their constitutional right to speak at the meeting. He expressed appreciation to the police department for being present and a little bit of a stronger presence at the meeting. He stated that while the City Council might have to listen to someone speaking the way they did in Chambers, he stated he was not certain the City was required to put their comments online therefore he would ask staff if the City could legally delete their tirades from the video so that those watching would not be subjected to that offensive display. He reiterated Council Member Richardson's comments that the speakers' goal was to have the police remove them from the Chambers so they could videotape the arrest. He expressed apologies to the audience as well, noting it was however a free country.

16. **PUBLIC INVITED TO BE HEARD**

None

18. **ADJOURNMENT**

Mayor LeGare adjourned the regular meeting of City Council at 9:29 p.m.



BOB LEGARE, MAYOR

ATTEST:



Stephen Ruger, City Clerk