

MINUTES

Regular Meeting – Aurora City Council Monday, May 20, 2019

CALL TO ORDER – REGULAR MEETING

Mayor Pro Tem Roth convened the regular meeting of City Council at 3:31 p.m.

ROLL CALL

PRESIDING:	Mayor Pro Tem Roth
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Hiltz, Johnston, Lawson Murillo, Richardson, Watson
COUNCIL MEMBERS ABSENT:	Mayor LeGare, Gruber
OFFICIALS PRESENT:	Deputy City Manager Batchelor, Interim City Attorney Brotzman, City Clerk Ruger
COUNCIL MEMBERS ARRIVING AFTER ROLL CALL:	None

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

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

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

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo,
Richardson, Watson

Abstaining: None

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

1. RECONVENE REGULAR MEETING OF MAY 20, 2019 AND CALL TO ORDER

Mayor Pro Tem Roth reconvened the regular meeting of City Council at 7:30 p.m.

2. ROLL CALL Stephen Ruger, City Clerk

COUNCIL MEMBERS PRESENT: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz,
Johnston, Lawson, Murillo, Richardson, Watson

COUNCIL MEMBERS ABSENT: Mayor LeGare, Gruber

3. INVOCATION Pastor CJ Counts, Grace of the Lord

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

5. APPROVAL OF THE MINUTES OF THE MEETING OF MAY 6, 2019

Motion by Watson, second by Murillo, to approve the minutes of the meeting of May 6, 2019, as presented.

Voting Aye: Mayor Pro Tem Roth, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson,
Watson

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Abstaining: Bergan

6. **CEREMONY**

- a. Rotary Club of Aurora Presentation of donation check \$263,000 – Mayor Pro-Tem Roth

Mayor Pro Tem Roth invited Tracy Young, Manager, Parks, Recreation and Open Space (PROS); Tom Barrett, Director, PROS, Jim Bickford, President, Aurora Rotary Club; and Rick Richards, Chair, Aurora Rotary Foundation to come forward. Ms. Young discussed the Red-tailed Hawk Park inclusive playground project. Everyone spoke in appreciation for the project. Mr. Richards presented Mayor Pro Tem Roth and the City with a check in that regard. Mayor Pro Tem Roth expressed appreciation to everyone involved in the project.

- b. Proclamation declaring May 2019 Asian/Pacific American Heritage Month – Mayor Pro-Tem Roth

Mayor Pro Tem Roth invited Sum Nguyen, AKCRT; Adam Fung, Human Relations Commission; Alice Moy, ICCNA; Ambay Tessema, Aurora Asian Pacific Community Partnership; Debbie Stafford, Chair, ICCNA; Naureen Singh, APDC; Sukie Kang, AuMH; Peter Lee, Aurora Korean War Veterans Memorial; Yarmin Huang; Cosmas Agwin; Stephanie Nghiem; and Gigi De Gala, Asian Pacific Development Center, to come forward to accept the proclamation. He read the proclamation declaring May 2019 Asian/Pacific American Heritage Month. Ms. De Gala expressed appreciation for the proclamation.

- c. Proclamation recognizing the Civil Air Patrol Mile High Cadet Squadron Wreaths Across America program

Mayor Pro Tem Roth invited Council Member Watson and Civil Air Patrol Mile High Cadet Squadron members to come forward to accept the proclamation. He read the proclamation recognizing the Civil Air Patrol's contribution to Veterans. Council Member Watson expressed appreciation for the proclamation.

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

Sonia Skakich-Scrima discussed SB 181 and the need to have public input on any modifications the City planned to make in that regard.

Jeffrey McNeil discussed his proposal to mitigate the National Debt.

Pat Dunn discussed Oil & Gas operating agreements and confidentiality, noting there should be citizen input in that regard.

Randee Webb discussed SB 181 and the City's compliance in that regard. She stated the operator agreement the City recently approved removed democracy from the equation.

Sandy Toland, What the Frack Arapahoe, discussed SB 181 and the City's responsibility to protect Aurora citizens.

Amanda Whitworth, Aurora Moms Demand Action for Gun Sense in America, discussed the Wear Orange campaign and the group's request of the City for a gun violence awareness proclamation to honor and recognize victims of gun violence, which was denied by Mayor LeGare due to its political nature. She invited the City Council to attend the Wear Orange event.

Barbara Niederhoff, Aurora Moms Demand Action for Gun Sense in America, discussed the proclamation and the need to recognize victims of gun violence.

Kate Rothgeb, Aurora Moms Demand Action for Gun Sense in America, discussed her disappointment that Mayor LeGare denied the proclamation request and expressed her concerns related to growing gun violence in the City.

Jamie Logan, Aurora Moms Demand Action for Gun Sense in America, discussed her disappointment in the proclamation request denial, the need to recognize victims of gun violence and the increase in gun violence in Colorado.

Andrea Herbert, Aurora Moms Demand Action for Gun Sense in America, discussed her children's experience with lockdowns in their schools and the increase of gun violence in Aurora.

Abbey Winter, Aurora Moms Demand Action for Gun Sense in America, discussed her experiences with gun violence as a teacher.

Misty Glover, Aurora Moms Demand Action for Gun Sense in America, discussed her disappointment in the Mayor's denial of the proclamation request and the increased gun violence in Aurora.

Jessica Price, Aurora Moms Demand Action for Gun Sense in America, read the National Gun Violence Awareness proclamation aloud. She asked those present who supported the proclamation to stand.

Council Member Johnston expressed appreciation to the Aurora Moms Demand Action members for attending the meeting and stated her intent to move forward with this important issue.

Alison Coombs discussed health and safety issues vital to the City of Aurora and echoed previous comments regarding the City's responsibilities to its citizens regarding Oil and Gas and the passing of SB 181.

Council Member Bergan stated she was never approached or made aware of the proclamation or the Mayor's decision in that regard.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented with the deferral of item 13g.

9. **CONSENT CALENDAR - 9a-i**

General Business

- a. Consideration to EXTEND A COMPETITIVELY BID CONTRACT with Keesen Landscape Management, Inc., Englewood, Colorado in the not-to-exceed amount of \$210,000.00 for Weed Mowing and Trash Removal Services (Abatement Services) as required through March 31, 2020, B-4205. STAFF SOURCE: Malcolm Hankins, Director, Neighborhood Services
- b. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Revolution Foods, Commerce City, Colorado in the amount of \$105,000.00 for providing food vendor services for the 2019 Summer Food Program, B-4413. STAFF SOURCE: Keith Bailey, Acting Manager of Recreation, Parks, Recreation & Open Space

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- c. Consideration to AWARD CHANGE ORDER No. 3 to a competitively bid contract with Musco Sports Lighting, LLC, Oskaloosa, Iowa in the amount of \$49,027.00 for the Olympic Park Lights Project, Project Number 5656A. STAFF SOURCE: Tracy Young, Planning, Design, Construction Manager, Parks, Recreation & Open Space
- d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to American West Construction, LLC., Denver, Colorado in the amount of \$5,641,000.00 for the Harvest Road Improvements - North of Orchard Project. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Matthew Kozakowski, Acting Transportation Project Delivery Manager, Public Works
- e. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Veolia ES Technical Solutions, Henderson, CO in the amount of \$61,345.38 for hazardous waste collection, transport, and disposal services at the Household Chemical Roundup Event on September 7, 2019. (R-1965) STAFF SOURCE: Sean Lieske, Environmental Permitting Manager, Aurora Water
- f. Consideration to AWARD A SOLE SOURCE CONTRACT to West Safety Solutions Corp., Longmont, Colorado in the amount of \$255,335.50 to upgrade hardware and software for the City's 911 answering system in the main and backup communication centers. STAFF SOURCE: Aleta Jeffress, Chief Information & Digital Officer, Information Technology
- g. Consideration to AWARD WORK PACKAGE NO. 2 of the Tollgate Creek Confluence Project, Project No. R-5669A, to Concrete Express, Inc., Denver, Colorado in the amount of \$4,674,178.21. STAFF SOURCE: Sarah Young, Water Planning Services Manager, Aurora Water

Motion by Bergan, second by Berzins, to approve items 9a – 9g with a waiver of reconsideration on 9d.

Council Member Watson stated he did not pull item 9b because it was something Council would vote on regardless, however he pointed out it was another situation where a contract was being renewed with Commerce City to provide food in City parks rather than utilizing companies in Aurora.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

Final Ordinances

- ♦ h. **2019-17**
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, appropriating sums of money in addition to those appropriated in ordinance Nos. 2017-50, 2018-15, and 2018-63 for the 2018 fiscal year and Ordinance No. 2018-56 for the 2019 fiscal year. STAFF SOURCE: Jackie Ehmann, Budget Finance Program Manager, Finance

Motion by Bergan, second by Richardson, to approve item 9h.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ i. **2019-18**
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, amending Sections 94-313 and 94-61 of the City Code related to alcohol and glass bottles in public places or parks. STAFF SOURCE: Patricia Schuler,

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Manager of Open Space & Natural Resources Operation, Parks, Recreation & Open Space

Motion by Watson, second by Berzins, to approve item 9i.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

10. **RESOLUTIONS**

- ♦ a. **R2019-25**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the acquisition of certain real property located in Weld County from the City of Thornton for the Prairie Waters North Campus well field expansion project. STAFF SOURCE: Hector Reynoso, Manager of Real Property Services, Public Works

Hector Reynoso, Manager of Real Property Services, Public Works, provided a brief summary of the item, noting it related to purchasing property to enlarge well capacity and put more water in the pipeline.

Council Member Watson asked if this was similar to acquiring water rights. Mr. Reynoso answered affirmatively.

Council Member Bergan asked if the item helped the City meet future water demands. Mr. Reynoso answered affirmatively.

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

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ b. **R2019-26**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the lease agreement between the City of Aurora and Denis B. Clanahan, Trustee of the Crabb Trust. STAFF SOURCE: Hector Reynoso, Manager Real Property Services, Public Works

Motion by Watson, second by Bergan, to approve item 10b.

Council Member Watson stated this related to acquiring water rights because more water would be needed as the City's population grew.

Hector Reynoso, Manager of Real Property Services, Public Works, concurred.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ c. **R2019-27**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement Between the City of Aurora and the State of Colorado Department of Transportation (CDOT) for Highway Safety Improvement Program (HSIP) Grant Funding. STAFF SOURCE: Anna Bunce, Traffic Manager, Public Works

Motion by Watson, second by Bergan, to approve item 10c.

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Council Member Watson stated this item related to a study that was done that showed certain areas of the City that could use these funds for intersections.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ d. **R2019-28**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for the Intergovernmental Agreement Between the City of Aurora and the State of Colorado Department of Transportation (CDOT) for Colfax and Peoria Intersection Improvements. STAFF SOURCE: Anna Bunce, Traffic Manager, Public Works

Motion by Berzins, second by Murillo, to approve item 10d.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ e. **R2019-29**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, finding a petition for annexation of a certain parcel of land located in the Southeast Quarter of Section 19, Township 5 South, Range 66 West of the Sixth Principal Meridian, County of Arapahoe, State of Colorado, to be in substantial compliance with Section 31-12-107(1), C.R.S., and giving notice of a public hearing on the proposed annexation (Smoky Hill I 1.588 ACRES) STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

Mayor Pro Tem Roth recognized Jim Bickford, representing the applicant, who was present to answer questions.

Vinessa Irvin, Manager of Development Assistance, General Management, gave a brief summary of the items, noting they related to annexation requests that would meet state contiguity requirements.

Motion by Bergan, second by Watson, to approve item 10e.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ f. **R2019-30**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, finding a petition for annexation of a certain parcel of land located in the Southeast Quarter of Section 24, Township 5 South, Range 66 West of the Sixth Principal Meridian, County of Arapahoe, State of Colorado, to be in substantial compliance with Section 31-12-107(1), C.R.S., and giving notice of a public hearing on the proposed annexation (Smoky Hill II) 2.11 ACRES STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

Motion by Bergan, second by Watson, to approve item 10f.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ g. **R2019-31**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, finding a petition for annexation of a certain parcel of land located in the Southeast Quarter of Section 24, Township 5 South, Range 66 West of the Sixth

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Principal Meridian, County of Arapahoe, State of Colorado, to be in substantial compliance with Section 31-12-107(1), C.R.S., and giving notice of a public hearing on the proposed annexation (Smoky Hill III) 5.168 ACRES STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

Motion by Watson, second by Bergan, to approve item 10g.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ h. **R2019-32**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, finding a petition for annexation of a certain parcel of land located in the Southeast Quarter of Section 24, Township 5 South, Range 66 West of the Sixth Principal Meridian, County of Arapahoe, State of Colorado, to be in substantial compliance with Section 31-12-107(1), C.R.S., and giving notice of a public hearing on the proposed annexation (Smoky Hill IV) 8.749 ACRES STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

Motion by Bergan, second by Watson, to approve item 10h.

Council Member Bergan noted this was the first of many required actions approving resolutions that were in compliance with statutory requirements.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ i. **R2019-33**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the acquisition of Certain Real Property located in Weld County for the Prairie Waters North Campus Well Field Expansion Project. STAFF SOURCE: Hector Reynoso, Manager of Real Property Services, Public Works

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

Hector Reynoso, Manager of Real Property Services, Public Works, stated the item related to land acquisitions for water expansion once water rights were retained.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

- ♦ a. **2019-19**
PUBLIC HEARING and INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, to Amend and Rename The Park Chambers Combined General and Preliminary Development Plan to The Aurora Ready Mix Crushing Facility general development plan in order to permit rock crushing operations on the site and update site conditions within the plan (READY MIX GDP AMENDMENT) STAFF SOURCE: Stephen E Rodriguez, Planning Supervisor, Planning & Development Services

Mayor Pro Tem Roth opened the public hearing on the item.

Stephen Rodriguez, Planning Supervisor, Planning & Development Services, provided a brief summary of the item, noting it related to a request to allow a concrete crushing facility at the existing site. He confirmed the item met City requirements.

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Council Member Johnston pointed out her constituents expressed concerns related to dust and traffic and asked Mr. Rodriguez to speak to how those concerns were mitigated. Mr. Rodriguez did so, noting watering and other methods were required to keep the dust down. Council Member Johnston asked the size of the trucks that were hauling concrete in and out of this site. Mr. Rodriguez suggested the applicant could better speak to that. Council Member Johnston noted there were additional concerns related to wear and tear on roads, costs to the City and possible mitigation.

Council Member Bergan referenced the operating hours and asked whether there was a code in place that addressed noise in that regard. Mr. Rodriguez clarified there was a noise ordinance in the City. Council Member Bergan asked if the noise ordinance applied to the item. Mr. Rodriguez stated the ordinance applied to decibel levels. Council Member Bergan noted the 8:30 p.m. closing time seemed late to her.

Alex Schatz, representing Ready Mix, agreed heavy construction traffic would have impact because this consolidated operations in a heavy industrial area, noting the understanding that the need to mitigate that concern was significant.

Ed Zebrowski, representing the applicant, agreed traffic was initially a concern and noted the process would minimize truck traffic and would be of use to the City. He pointed out there was also a revenue positive for the City.

Council Member Bergan noted the 6:30 a.m. start time was early and the 8:30 p.m. closing time was late and asked if there was any flexibility in that timeframe. Mr. Zebrowski stated the applicant was being consistent with what was currently allowable in City code at that location and pointed out the applicant was not asking for extended hours.

Dan Money, Assistant City Attorney, stated there was a noise ordinance from 7:00 a.m. to 9:00 p.m. where this use would get 70 – 80 decibels in planned development.

Mr. Schatz noted the site had two uses and allowed crushing on the site which had other limiting factors. He suggested this was basically a daytime operation and agreed the hours could be listed as a condition on the GDP if necessary.

Council Member Bergan asked which roads trucks would use to haul the material in and out of the site. Mr. Zebrowski stated load-out was consistent with what was going on out there currently. He stated the site was prepped and cleaned up at the end and beginning of the day and that concept was built into the plan.

Mr. Schatz stated he would read up on Aurora's code with regards to noise but he agreed they would be sensitive to residential neighbors.

Council Member Watson asked if this was a new use at this site. Mr. Money answered affirmatively, noting the crushing was a new use. Council Member Watson stated the hours of operation currently related to the existing business.

Mr. Schatz concurred, noting there needed to be flexibility in operations for these types of materials. He pointed out 6:00 a.m. was called out in the existing GDP which also allowed flexibility to operate 24 hours a day.

Mr. Rodriguez agreed the GDP referenced a 6:00 a.m. start time.

Mayor Pro Tem Roth asked if the existing operations began at 6:00 a.m. Mr. Rodriguez answered affirmatively.

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Council Member Watson suggested the start time be verified because 7:00 a.m. was early enough for the crushing operations to begin, noting garbage operations began at 7:00 a.m. in residential areas.

Council Member Johnston asked if there was a City code for airborne dust or particulates. Mr. Money answered no.

Council Member Johnston stated her appreciation for the business the applicant provided, noting however, there was a concern when industrial uses were adjacent to residential. She asked if the hours of operation were flexible. Mr. Zebrowski stated the GDP addressed the Colorado Clean Air Act which regulated local air quality therefore the particulates were closely monitored.

Mr. Money stated the City code made a very general mention of dust and agreed it was primarily the state that reviewed air and dust issues.

Mr. Rodriguez concurred.

Council Member Johnston stated this was a big concern for residents that needed to be addressed at this time to ensure compliance.

Mr. Zebrowski confirmed the state required monitoring for putrid dust and noise quarterly. He discussed on-site wind monitoring that allowed for immediate action if a problem should arise.

Council Member Johnston asked what information was submitted quarterly. Mr. Schatz stated monitoring the system around the perimeter for dust. He reiterated the start time of 6:00 a.m. was needed to prep the site, noting the crushing operation hours could be cut down to 7:00 p.m.

Mayor Pro Tem Roth stated the current ordinance allowed for the starting time of 7:00 a.m. and the applicant was requesting a 6:00 a.m. start time, noting the decibel levels were the key to whether this was acceptable or not. He asked if the acceptable decibel levels would be exceeded between 6:00 a.m. and 7:00 a.m. Mr. Zebrowski stated 7:00 a.m. was a noise compliant threshold and noise would not be a problem prior to 7:00 a.m. He pointed out the applicant proposed to add GDP conditions related to hours of operation that were specific to the crushing operation.

Council Member Richardson asked if the crushing operation hours could be from 7:00 a.m. to 5:00 p.m. Mr. Schatz stated the applicant proposed hours of 6:00 a.m. to 7:00 p.m.

Dave Sheltergin, Henderson Recycling, stated the crushers were shut off and on throughout the day and did not run that long. He stated the loaders would start earlier to warm up and be ready for when the trucks arrived. He agreed the applicant would not crush concrete before 7:00 a.m. or after 5:00 p.m.

Council Member Johnston asked if the applicant agreed to limit concrete crushing to occur between the hours of 7:00 a.m. and 5:00 p.m. Mr. Sheltergin answered affirmatively. Council Member Johnston asked if the applicant would be willing to adjust truck traffic hours. Mr. Sheltergin stated the trucks get in before rush hour, were quiet and would not be leaving until 7:00 a.m. Council Member Johnston asked how long the trucks would be going in and out. Mr. Sheltergin stated not past 5:00 p.m.

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Mayor Pro Tem Roth closed the public hearing on the item.

Council Member Johnston stated she would support the item because of the applicant's willingness to adjust the crushing and truck hours. She noted her plan to work with staff to address the City's code enforcement on dust and particulates.

Motion by Johnston, second by Richardson, to approve item 11a as amended.

Council Member Watson asked Mr. Money if he was concerned about the motion. Mr. Money stated anything stated at the meeting under Section 1 allowed the ordinance to be approved as is but as amended was fine.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

12. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

- a. PUBLIC HEARING to consider an FDP Amendment to Modify Land Use Plan Areas on 171-acre site, update Public Improvement Plan, and Increase Number of Permitted Small Lots. (Murphy Creek East) STAFF SOURCE: Heather Lamboy, Planning Supervisor, Planning & Development Services

Mayor Pro Tem Roth opened the public hearing on the item.

Heather Lamboy, Planning Supervisor, Planning & Development Services, provided a brief summary of the item, noting it related to an amendment request to update the Public Improvement Plan and increase the number of permitted small lots.

Bill Mahar, Norris Design, gave a presentation on the item.

Council Member Lawson referenced the Unified Development Ordinance (UDO) code that has not yet been approved and yet the City allowed developers to request waivers. She stated she did not think it was best practice to assume the code would be approved.

Ms. Lamboy stated the waivers would be in compliance with current code and that while the UDO code was a point of discussion, it was not a part of the approval.

Council Member Richardson asked if there were any three-story walk ups in this project. Mr. Lamboy explained the proposed houses on green courts and motor courts were planned to be three-story residential single-family detached units in the case of motor court and single-family attached units in the case of green courts. She confirmed there were not any apartment-style walk-ups.

Council Member Watson asked if this project was similar to those planned for Adonia. Ms. Lamboy agreed the project was similar but noted the developer was different. Council Member Watson stated this type of development was currently being constructed in the City of Aurora.

Ms. Lamboy concurred.

Council Member Bergan referenced Harvest Road and asked if it would connect with Quincy. Ms. Lamboy stated the intervening property was in the City and County of Denver therefore Harvest Road would dead-end at the intersection.

Mayor Pro Tem Roth called for a five minute recess.

Teresa Weber expressed concerns related to how the project would negatively impact traffic, noise, density and schools. She stated her opposition to the item due to incompatibility with existing neighborhoods.

Margaret Sobey asked those present in opposition to the item to please stand.

Mayor Pro Tem Roth recognized approximately 30 people standing.

Ms. Sobey spoke in opposition to the item and discussed the applicant's history of not following City procedures. She noted the incompatibility of design with adjacent residential and noted the use would better serve a more urban area with public transportation.

Krista Bayless Wiggins spoke in opposition to the item, noting the homes were too close to Dad's Landfill.

Margaret Rash spoke in opposition to the item, noting the density was not compatible with the existing golf course community.

John Smolen, on behalf of his wife, Paula Smolen, spoke in opposition to the item because it did not meet the Murphy Creek standards, did not comply with the Murphy Creek FDP and did not complement the existing adjacent homes.

Todd Welch; Doug Shriner; Daniel Adema; and Nancy Slinkard spoke in opposition to the item.

Bonnie Radar discussed the Lowry Landfill Superfund Site study and its impact on Aurora water. She suggested the City place a temporary moratorium on construction between Jewell and Yale to determine the impact the plume might have on residents.

Richard Radar echoed Ms. Radar's comments related to the environmental impacts of the Lowry Landfill Superfund Site and the study samples as they related to the item, noting the risk to the residents was unacceptable.

Tom Kraus seconded Ms. Radar's request to establish a construction moratorium, noting the proximity to Murphy Creek was too close and should therefore be reevaluated.

Lane Lyon spoke in support of the item and discussed the millennial homebuyer market in the City of Aurora and how the project would have a positive impact.

Jessica Reed spoke in opposition to the item and discussed the existing density and traffic issues on Gun Club Road.

Ms. Lamboy confirmed staff complied with all City processes and strived to respond to all concerns that were raised.

Mr. Mahar discussed the 'three-story walkup' model and confirmed the product would have an interior stairwell. He concurred with Ms. Lamboy regarding meeting process demands and pointed out the project was a decrease in density from what the original GDP allowed. He stated the applicant has worked with City staff to ensure they were meeting or exceeding

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all code requirements for fire access, guest parking and vehicle movement. He noted the plume was more than a half mile away and the Environmental Protection Agency (EPA) recommended the inclusion of EPA-approved vapor systems in construction even though it has been deemed safe.

Council Member Bergan asked whether the applicant would be involved in the widening of Gun Club Road. Ms. Lamboy stated Gun Club Road was a state highway and would require coordination with the Colorado Department of Transportation (CDOT). She noted the improvements would be paid for by the adjacent development in part and there has not been any adjacent development to the west at this time.

Council Member Johnston asked if the developer or the future metro district paid for the road construction. Mr. Mahar agreed the applicant was actively pursuing the plans for the construction and imagined there would be some distribution of the funding sources for its completion.

Council Member Johnston expressed concerns related to increased traffic and density. She stated her opinion that the environmental study was not very adequate because it did not include any real communication or reference to the EPA. She asked Mr. Mahar to speak to the EPA-recommended vapor systems. Mr. Mahar did so, noting his understanding that the EPA made the recommendation to include the vapor systems as a precaution.

Ms. Lamboy concurred, noting there has not been any evidence of impact at this location however the installation of this mitigation system would protect the residents in the case of any future impact.

Council Member Johnston stated she was a previous member of the Community Advisory Group and stated her understanding that the only thing that would prevent impact from the plume was an interception system rather than a vapor system. She noted the EPA continued to conduct studies.

Ms. Lamboy concurred.

Council Member Johnston stated the study that was done did not address the fact that the EPA studies continued.

Ms. Lamboy noted the environmental assessments were provided as a courtesy.

Council Member Johnston reiterated her concerns related to density, traffic, lack of mass transit, walkability, etc., and noted that her biggest concern was that this might be an environmental justice issue. She pointed out these were more affordable home options and that put homebuyers in an area that the EPA was saying needed more studies.

Council Member Richardson stated there was a difference in his mind between the three-story walkup and the green and motor courts.

Council Member Bergan referenced the old FDP and asked if it allowed multi-family development such as apartments. Ms. Lamboy answered affirmatively. Council Member Bergan asked if the applicant was proposing apartments. Ms. Lamboy answered no, noting single-family attached green courts were proposed for the areas in the far north and south of the site where multi-family development was allowed. Council Member Bergan stated her struggle was between the need for workforce housing, the market and choice, noting she

heard and understood everyone's comments and concerns. She noted a grocery store could not go in without enough rooftops and asked if the site would remain empty if the item were not approved. Ms. Lamboy stated the applicant could use the existing entitlement to put in multi and single-family development if the item were not approved at this time. Council Member Bergan stated the applicant could come in with apartments and single-family homes with no waivers if the item were not approved.

Ms. Lamboy concurred.

Council Member Watson asked if the EPA gave any indication of a timeframe for continuing the study.

Karen Hancock, Environmental Planner, Planning and Development Services, noted the studies took years to do and these findings were based on information that came out in 2017. She suggested there were many moving parts and estimated it would take years rather than months to complete.

Council Member Watson asked if the Superfund site leak could impact this site. Ms. Hancock stated it was unknown at this point.

Council Member Berzins asked how many neighborhood meetings were held to address the neighbors' concerns. Mr. Mahar stated one.

Ms. Lamboy confirmed the neighborhood meeting was held at the recommendation of staff before the application was made. She stated the subsequent neighborhood and community responses have been to the application reviews and have been incorporated as a part of the staff exhibits in the backup material provided to City Council.

Council Member Berzins expressed concerns related to the number of residents who came out to speak in opposition to the item and how it has happened in the past where residents spoke against something that was approved without their concerns being addressed.

Council Member Lawson asked when the last community meeting was held. Ms. Lamboy reiterated there was only one meeting and those attendees have been kept abreast of the application review process. Council Member Lawson asked if there were any outstanding community issues that the City Council has not been made aware of. Ms. Lamboy stated Ms. Sobey's submitted exhibits were the only ones submitted since the Planning Commission hearing.

Council Member Johnston asked if an answer to the neighbors' questions was ever submitted in writing from the neighborhood meeting. Mr. Mahar answered no, noting the applicant did extend their contact information to the neighbors for follow-up. Council Member Johnston discussed residents' frustrations that their comments were not addressed when they went through the process and stated her disappointment that was handled similarly in this case.

Mayor Pro Tem Roth closed the public hearing on the item.

Council Member Richardson stated he would not support the item because he felt he was not in the minority and a denial allowed the item to be reconsidered sooner than six months. He stated he would not vote to approve anything being built south of Jewell unless it was senior housing or a grocery store.

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Mayor Pro Tem Roth stated the item died for lack of a motion and suggested a substitute motion be made.

Motion by Johnston, second by Richardson, to deny item 12a.

Council Member Bergan asked if the item could be called up for reconsideration if it were denied. Mayor Pro Tem Roth stated those on the prevailing side of the question had the ability to call it up.

Council Member Watson suggested the applicant take the opportunity to reach out to the community to address their questions and concerns.

Mayor Pro Tem Roth discussed the City's development application process, noting the applicant followed the process and the project was approved by the Planning Commission. He pointed out the City Council needed to have a sound legal reason to deny it.

Council Member Bergan pointed out waivers were requested.

Mayor Pro Tem Roth noted those waivers were approved by the Planning Commission.

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

Voting Nay: Mayor Pro Tem Roth

13. **ORDINANCES FOR INTRODUCTION**

- ♦ a. **2019-20**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, amending Section 134-422 relating to Authority for Administration of the Parking and Mobility Program. STAFF SOURCE: Tom Worker-Braddock, Senior Planner, Planning & Development Services

Motion by Murillo, second by Bergan, to introduce item 13a.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ b. **2019-21**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, excluding certain property identified as PA 5A from the boundaries of the Porteos Business Improvement District. STAFF SOURCE: Mark Geyer, Project Manager, General Management

Motion by Bergan, second by Johnston, to introduce item 13b.

Mayor Pro Tem Roth recognized Nicole Finco who was present to answer questions.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ c. **2019-22**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, excluding certain property identified as PA 6A North from the boundaries of the Porteos Business Improvement District. STAFF SOURCE: Mark Geyer, Project Manager, General Management

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Motion by Berzins, second by Watson, to introduce item 13c.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ d. **2019-23**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, excluding certain property identified as PA 6A South from the boundaries of the Porteos Business Improvement District. STAFF SOURCE: Mark Geyer, Project Manager, General Management

Motion by Watson, second by Johnston, to introduce item 13d.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ e. **2019-24**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, vacating a portion of the public right-of-way for East Gibraltar Court, within the King's Point Master Plan Development, City of Aurora, County of Arapahoe, State of Colorado (EAST GIBRALTAR COURT STREET VACATION) STAFF SOURCE: Heather Lamboy, Planning Supervisor, Planning & Development Services

Motion by Bergan, second by Berzins, to introduce item 13e.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ♦ f. **2019-25**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, amending Chapter 146 of the City Code of the City of Aurora, Colorado, regarding the levy and assessment of capital impact fees on residential development in the city. STAFF SOURCE: Greg Hays, Budget Officer, Finance

Greg Hays, Budget Officer, Finance, provided a brief summary of the item, noting the item related to capital impact fees on residential development and were a result of an update of City code to mirror the City's population.

Heidi Williams, Homebuilders Association of Metro Denver (HBA), spoke in opposition to the item. She requested an amendment be made to include a five year phase-in, adoption of only 70 percent of the fees and a tiered model that charged a per foot fee.

Council Member Hiltz clarified this was not a rushed decision and she would support it because it was a compromise. She noted the importance of understanding the difference between impact fees and an ongoing discussion about affordable housing. She stated many options have been discussed with homebuilders related to incentivizing affordable housing and skimping on police and fire services and parks was not one of them. She noted the HBA's proposal was reviewed at the City Council workshop and the majority of Council voted to not move it forward.

ORIGINAL MOTION

Motion by Hiltz, second by Johnston, to introduce item 13f.

Council Member Bergan agreed impact fees should be increased in order to meet the shortfalls particularly in police and fire. She noted new information has been presented and

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she suggested the item be deferred to June 1 to continue the conversation based on the new information.

SUBSTITUTE MOTION

Motion by Bergan, second by Watson, to defer item 13f to June 3, 2019.

Council Member Murillo asked for clarification as to who received the information and what the information entailed.

Council Member Hiltz noted the discussion has been going on for over a year and selective information appeared to be more about lobbying efforts rather than agreeing on impact fees. She stated any new information should have gone to the Budget Director and full Council.

Council Member Richardson stated he would not support the item because the time between introduction and final approval allowed for more discussion.

Council Member Bergan stated the deferral was to allow the opportunity for the full Council to consider other options within the two week timeframe.

Council Member Johnston expressed concerns related to the inequity of making allowances for one stakeholder group and not all of them.

VOTE ON SUBSTITUTE MOTION

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Watson

Voting Nay: Hiltz, Johnston, Lawson, Murillo, Richardson

Council Member Bergan asked if an amendment could be introduced. Mayor Pro Tem Roth answered affirmatively.

Council Member Hiltz suggested an amendment could also be introduced at second reading.

Daniel Brotzman, Interim City Attorney, concurred, noting it was substantive change and would therefore require two readings.

Mayor Pro Tem Roth discussed the amendment process.

Council Member Bergan asked if she could make another amendment on the final reading if the amendment she made tonight failed. Mr. Brotzman answered affirmatively.

AMENDMENT I

Motion by Bergan, second by Berzins, to amend item 13f to approve the impact fee with 100 percent of the police and fire immediately and the allowance of 70 percent for square footage up to 3000 sf for everything else.

Council Member Hiltz stated that was a significant departure from the flat fee determined by the majority of Council and stated her preference that a conversation take place rather than an amendment so that budget and impact fees effects could be determined.

Mayor Pro Tem Roth asked Council Member Hiltz if she considered the amendment to be a friendly amendment. Council Member Hiltz answered no.

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Council Member Bergan pointed out that was why she made a motion to defer for two weeks, noting the impact fees proposed were a substantial increase which subsequently increased the cost to the consumer.

Council Member Richardson stated his opinion that growth should pay its own way and not only 70 percent of its way.

Council Member Bergan withdrew the amendment and requested City Council consider an amendment on the final reading.

VOTE ON ORIGINAL MOTION

Voting Aye: Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

Voting Nay: Mayor Pro Tem Roth, Bergan

- ♦ g. **2019-26**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, amending chapter 1 of the City Code of the City of Aurora, Colorado, by the addition of a new Article II establishing a Code of Ethics.
Sponsor: Council Member Richardson

ITEM 13g REMOVED FROM THE AGENDA

Mayor Pro Tem Roth noted item 13g would be included on the June 24, 2019 study session agenda.

Council Member Johnston stated a compromise was reached in this regard and the item would be addressed at study session.

14. **RECONSIDERATIONS AND CALL-UPS**

None

15. **GENERAL BUSINESS**

- a. Consideration to reappoint one (1) and appoint two (2) members to the Open Space Board. STAFF SOURCE: Stephen Ruger, City Clerk, General Management

Motion by Watson, second by Bergan, to appoint Susan Bruce and Brad Stratton and reappoint Mark Christopher to the Open Space Board.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- b. Consideration to reappoint two (2) members and appoint one (1) member to the Metropolitan Wastewater Reclamation District Board. STAFF SOURCE: Stephen Ruger, City Clerk, General Management

Motion by Berzins, second by Bergan, to reappoint Nadine Caldwell and Dan Mikesell and appoint Jo Ann Giddings to the Metropolitan Wastewater Reclamation District Board.

Voting Aye: Mayor Pro Tem Roth, Bergan, Berzins, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

16. **REPORTS**

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a. Report by the Mayor

Mayor Pro Tem Roth announced the Ward V Town Hall meeting was scheduled for Tuesday, May 21, 2019 at the Heather Gardens Clubhouse at 6:30 p.m., where a presentation on the budget would be provided. He discussed his nomination as a Leukemia & Lymphoma Society's Man of the Year candidate, a philanthropic competition to support blood cancer research. He expressed appreciation to 'Team Roth', the sponsors and all those involved with this wonderful fundraising effort.

b. Reports by Council

Council Member Johnston announced the Ward II Town Hall meeting was scheduled for Thursday, May 23, 2019 at 6:30 p.m. at Beck Recreation Center where Greg Hayes, Budget Manager, would provide a budget overview.

Council Member Bergan congratulated all of the 2019 high school graduates.

Council Member Murillo announced the Ward I Town Hall meeting was scheduled for Thursday, May 23, 2019 at the Village Exchange Center at 6:00 p.m. where the Arapahoe County Assessor and a Code Violation representative would be present.

18. **PUBLIC INVITED TO BE HEARD**

None

19. **ADJOURNMENT**

Mayor Pro Tem Roth adjourned the regular meeting of City Council at 12:02 a.m.

BOB ROTH, MAYOR PRO TEM

ATTEST:

Stephen Ruger, City Clerk