MINUTES

Regular Meeting – Aurora City Council
Monday, June 3, 2019

CALL TO ORDER – REGULAR MEETING

Mayor LeGare convened the regular meeting of City Council at 4:00 p.m.

ROLL CALL

PRESIDING:	Mayor LeGare
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson Murillo, Richardson, Roth, Watson
COUNCIL MEMBERS ABSENT:	None
OFFICIALS PRESENT:	City Manager Twombly, 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 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 JUNE 3, 2019 AND CALL TO ORDER**

   Mayor LeGare reconvened the regular meeting of City Council at 7:30 p.m.

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

   COUNCIL MEMBERS PRESENT: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

   COUNCIL MEMBERS ABSENT: None

3. **INVOCATION** Pastor Tom Tupito, Aurora First SDA

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

5. **APPROVAL OF THE MINUTES OF THE MEETING OF MAY 20, 2019**

   Motion by Johnston, second by Roth, to approve the minutes of the meeting of May 20, 2019, as amended.

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

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Abstaining: Gruber

6. **CEREMONY**

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

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.

Name	Board or Commission
Steven Gallegos	Career Service Commission
Brad Stratton	Open Space Board
Nadine Caldwell	Metro Wastewater
Dan Mikesell	Metro Wastewater
Jo Ann Giddings	Metro Wastewater

b. Proclamation declaring June 2019 Immigrant Heritage Month – Mayor LeGare

Mayor LeGare invited everyone involved with the proclamation to come forward. Mayor LeGare read the proclamation declaring June 2019 Immigrant Heritage Month. Everyone expressed appreciation for the proclamation.

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

Brandon Golston discussed the use and subsequent danger of Directed Energy Weapons including radio frequency and expressed the importance of instituting legislation in that regard.

Endale Getahun, KETO Ethiopian radio, expressed appreciation to the City Council for their support of the radio station. He discussed several challenges faced by the immigrant community throughout Aurora and the country.

Jonathan and Matthew Endale expressed appreciation on behalf of the Ethiopian community to the City Council for their support of the Ethiopian community and KETO radio station.

Doug Shriner, President, Murphy Creek III, expressed appreciation to City Council for denying the Murphy Creek East expansion proposal and for hearing the neighbors' related concerns.

Margaret Rash, Vice-President, Murphy Creek Metro District III, echoed Mr. Shriner's comments and discussed the residents' concerns in that regard.

Margaret Sobey echoed the previous comments related to her appreciation to City Council for their response to the Murphy Creek East expansion. She noted ways in which the applicant did not follow City procedure in that regard.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-k**

♦ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

General Business

a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to W.L. Contractors, Inc., Arvada, Colorado in the amount of $3,644,762.00 for the 2019 Traffic Signal Construction Services Project, Project Number 19015. STAFF SOURCE: Anna Bunce, Traffic Manager, Public Works

b. Consideration to AWARD A SOLE SOURCE CONTRACT to GE Digital LLC (formerly GE Intelligent Platforms), San Ramon, CA in the total amount of $74,322.37 for the annual renewal of software maintenance on the Water SCADA Information Management System through June 2020. STAFF SOURCE: Marena Lertch, Manager Water Service Operations, Aurora Water

c. Consideration to EXTEND A COMPETITIVELY BID CONTRACT to EJ USA, Inc., Denver, Colorado in the not-to-exceed amount of $75,500.00 for the purchase of manhole products as required by the Water Department through March 31, 2020. (B-4215) STAFF SOURCE: Marena Lertch, Manager Water Service Operations, Aurora Water

d. Consideration to award a SINGLE SOURCE CONTRACT to Black & Veatch Corporation, Denver, Colorado in the amount of $344,820.00 for engineering planning, coordination and inspection services for Rampart Tunnel No. 2. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water

e. Consideration to AWARD A CHANGE ORDER TO THE COMPETITIVELY BID CONTRACT with Velocity Constructors, Inc., Denver, Colorado in the amount of $275,030.00, for the Griswold Water Purification Facility (WPF) Air Scour Improvements Project, Project No. 5618A. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water

Motion by Roth, second by Berzins, to approve items 9a – 9e.

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

Final Ordinances

♦ f. **2019-19**
Consideration of AN ORDINANCE FOR ADOPTION 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

Motion by Roth, second by Berzins, to approve item 9f.

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

♦ g. **2019-20**
Consideration of AN ORDINANCE FOR ADOPTION 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 Roth, second by Bergan, to approve item 9g.

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

♦ h. **2019-21**
Consideration of AN ORDINANCE FOR ADOPTION 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

♦ i. **2019-22**
Consideration of AN ORDINANCE FOR ADOPTION 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

♦ j. **2019-23**
Consideration of AN ORDINANCE FOR ADOPTION 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 Gruber, second by Watson, to approve items 9h – 9j.

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

♦ k. **2019-24**
Consideration of AN ORDINANCE FOR ADOPTION 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 Richardson, to approve item 9k.

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

10. **<u>RESOLUTIONS</u>**

♦ a. **R2019-34**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, authorizing the execution of the oil and gas operator agreement between the city of aurora, Colorado, and ConocoPhillips company, a Delaware corporation and its subsidiaries and Burlington resources oil & gas company LP, a Delaware limited partnership, (COLLECTIVELY "OPERATOR"), a Colorado Limited Liability Company. ***(Staff Requests a Waiver of Reconsideration)*** STAFF SOURCE: Christine McKenney, Client Group Manager, City Attorney

Mayor LeGare opened the public hearing on the item.

Elizabeth Paranhos, Attorney, stated she was outside counsel for the City of Aurora on Oil & Gas matters and provided a presentation on the item.

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Council Member Johnston asked Ms. Paranhos if the comparison for the Colorado Oil & Gas Conservation Commission (COGCC) related to the previous COGCC whose mission it was to promote oil and gas development or the new COGCC whose mission was to regulate oil and gas that protected public health, safety, welfare and the environment. Ms. Paranhos stated any rules referenced were rules that were adopted by the prior COGCC.

Council Member Gruber asked if in addition to City staff, another attorney, Jeff Robbins, was a co-architect of the development agreements. Ms. Paranhos agreed Mr. Robbins represented the City prior to the operator agreement negotiations with ConocoPhillips. Council Member Gruber stated that was important to note because he and Council Member Johnston worked closely with Mr. Robbins during development of the item and presently, Mr. Robbins was named the Chairman of the COGCC. He pointed out his understanding that Mr. Robbins planned to take many of the things that have been discussed in that regard and make them state requirements, noting that meant Aurora was actually leading the COGCC in creating these requirements.

Council Member Johnston stated her appreciation that the City of aurora used outside counsel who was now the COGCC Chairman, however, she noted one could not assume what the COGCC was doing in terms of rulemaking and process at this point.

Council Member Bergan pointed out the agreement stated ConocoPhillips would abide by any new COGCC rules.

Ms. Paranhos concurred, noting ConocoPhillips would abide by any and all state and federal best practices.

Mayor Pro Tem Roth asked Ms. Paranhos if she was actively involved in putting together the Best Management Practices (BMP) for the City and County of Broomfield operator agreement. Ms. Paranhos answered affirmatively. Mayor Pro Tem Roth asked Ms. Paranhos if she was familiar with the structure and final product of the agreement. Ms. Paranhos answered affirmatively. Mayor Pro Tem Roth asked if the City's agreement was more robust in terms of air quality and groundwater monitoring than the City of Broomfield agreement. Ms. Paranhos answered affirmatively, noting ConocoPhillips agreed to install continuous air quality monitors at all phases of development and to pay for those monitors. Mayor Pro Tem Roth asked if that was so in any other agreement Ms. Paranhos was aware of. Ms. Paranhos answered no.

Council Member Johnston stated her understanding that Broomfield and other communities had a moratorium and asked if the City of Aurora was the only local government with an operator agreement that came so closely after the passage of SB 181. Ms. Paranhos stated the only other one she was aware of was Commerce City.

Council Member Watson referenced and read p. 273 of the staff report, noting it appeared the City of Aurora created more stringent rules than those found in SB 181.

Ms. Paranhos stated the bill itself did not set forth any specific rule requirements, noting it required the COGCC to significantly overhaul its regulations and to do specific types of rulemaking in the future. She stated her opinion that the agreement was in the spirit of SB 181.

Council Member Gruber asked Ms. Paranhos to describe the service site public participation process. Ms. Paranhos did so. Council Member Gruber stated Aurora residents would actively participate in the process as the item moved forward.

Ms. Paranhos concurred.

Council Member Hiltz asked if a penalty would be assessed to the City should a permit come in that required further review which thereby delayed approval. Ms. Paranhos noted a clear, relatively set schedule was made for permit review and confirmed there was some language in the agreement that allowed for that timeframe to be extended. Council Member Hiltz referenced the $1,000 per day penalty for a delay and asked if that was something the City was currently reimbursing to the operator or was that a new provision. Ms. Paranhos stated it was a new provision, noting it would be triggered if there were a delay in terms of denial of a permit application after everyone did what they were supposed to do

Council Member Gruber stated the reason operator agreements were reviewed in the first place was because there were a number of well sites being designed and the City had limited authority. He recalled City Council decided the City should work with the oil companies in terms of the City's preferred Best Management Practices and their request for accelerated support. He asked Ms. Paranhos to speak to that. Ms. Paranhos did so. Council Member Gruber pointed out the City received all of the benefits of the operator agreements with very stringent environmental protections and the understanding that any new changes developed by the state would be included.

Ms. Paranhos stated they were not the best environmental standards in the world but agreed they were certainly robust and did exceed state level requirements in Colorado.

Council Member Johnston stated she was a part of some of the earlier discussions and clarified she has often been supportive of operator agreements of Best Management Practices, she noted she has also been consistent in her concerns when highly industrial operations were going into residential zones. She stated this operator agreement did not relate to new construction only.

Council Member Hiltz stated concerns related to risk and liability were raised at the previous meeting related to an operator agreement. She asked how the situation developed from an agreement being sent back to staff to a new agreement being generated that included a new provision related to delay reimbursement where the City would absorb the risk.

Dan Brotzman, Interim City Attorney, stated the other extraction operator agreement did not move forward because it did not have acceptable remedy language which was not the case with the ConocoPhillips agreement. He noted the ConocoPhillips agreement did include a penalty that was significantly different from what was being proposed by the other operator.

Council Member Hiltz asked the specific remedy language in the prior ConocoPhillips agreement that caused the penalty language to be added. Mr. Brotzman stated they wanted to look at consequential damages for the infrastructure which related to hundreds of millions of dollars. He noted additionally, they indicated they would sue the City for all of the infrastructure costs for delaying the permit. Council Member Hiltz asked Mr. Brotzman if it was his legal opinion that this was the best way to minimize the risk. Mr. Brotzman answered affirmatively.

Council Member Watson read from the agreement, noting ConocoPhillips has agreed to limit its remedies against the City to delay reimbursement provisions.

Ms. Paranhos concurred, noting ConocoPhillips has agreed to not sue for any monetary damages related to delays.

Vanessa Thompson, Surface Land Supervisor, ConocoPhillips, gave a presentation on the item.

Council Member Lawson noted Ms. Thompson stated ConocoPhillips held 15 open house meetings in six years and asked Ms. Thompson to speak to what the neighborhood meetings looked like.

Max Blair, ConocoPhillips, did so.

Council Member Lawson asked if there was any type of follow-up with the residents that addressed their questions. Mr. Blair stated there was a mix of both direct conversations and ConocoPhillips reaching out.

Council Member Gruber asked Ms. Thompson to speak to the moratorium agreement entered into by ConocoPhillips and the City. Ms. Thompson did so, noting there were 10 well sites with submittals dating back to October 2018 with ConocoPhillips. Council Member Gruber asked if there has been a moratorium on ConocoPhillips since October. Ms. Thompson agreed it was fair to state there was a pause.

Council Member Watson asked if, in addition to the public meetings, tours of the site were offered. Ms. Thompson answered affirmatively.

Council Member Johnston clarified there has not been a moratorium and suggested it was irresponsible to state otherwise. She expressed appreciation to Ms. Thompson for her use of the term 'pause.' She also expressed appreciation for the tours that were offered and asked if there was a City process or meetings on the issue.

Jason Batchelor, Deputy City Manager, answered no, noting the operator agreements contemplated and included additional meetings around specific well sites as they moved through the permit process.

Mayor LeGare related the rules of order for speaking on the item. He asked those in support of the item present at the meeting to stand. He recognized approximately 160 people standing. He asked those in opposition to the item present at the meeting to stand. He recognized approximately 35 people standing.

Council Member Hiltz asked if the Mayor could ask how many people were present who were employed by the industry. Mayor LeGare answered no.

Valerie Rowe; Kevin Hougen; Terry Peltes; Chris McGowan; James Hopper; Rob Carroll; Ryan Seastrom; Michael Mead; Jessica Crespin; Jerry Cunningham; Dustin Dudley; Colton Loehr; Seth Lovelady; Amanda Martin; Scott Farkas; Brad Pierce; Polly Page; Jennifer Churchfield; Blaise Sims; John Wolfkill; Cameron Ming; Rita Connerly; Mark Archuleta; Doug Tisdale; Zach Neal; Daisie Young; Valerie Wells; and Ryan Foltz, spoke in favor of the item.

MAYOR LEGARE CALLED FOR A 13 MINUTE BREAK

Richard Radar; Adam Fung; Ellen Woo; Sarah Brockway; Edith Henke; Aimee Potter, Larry Scrima; Sandy Toland; Sonia Skakich-Scrima; Kristen Mallory; Randee Webb; Pat Dunn; Arnie Schultz; Tim Rash; Lucy Molina; Margaret Rash; and Margaret Sobey, spoke in opposition to the item.

Council Member Gruber noted assumptions have been made that Emerge candidates should not vote in this instance because Emerge has a pillar specifically against oil and gas. He asked the City Attorney to speak to that concern.

Council Member Hiltz clarified Emerge did not have a pillar of anti or pro anything and she contended the narrative that Emerge candidates were not free-thinking was disrespectful and rude. She noted she did not have a problem sharing where her campaign funding came from.

Mr. Brotzman discussed the Council Rules of Procedure, Voting Conflicts of Interest, as it applied to the situation, noting all council members must vote unless there a personal interest in the item was realized.

Council Member Murillo stated her frustrations that her opinions, as a woman, were grouped together with other women simply because of their gender. She stated the same could not be said for the male council members based on their gender, political party or ethnicity.

Council Member Johnston referenced BMP 34 in Class II, Underground Injection Wells, and expressed her understanding that the injection well and injection well approval that, while it was outside of the City of Aurora, it was within Arapahoe County and was therefore included in the BMP.

Ms. Thompson stated it was not a ConocoPhillips-operated well but the operator had lengthy conversations with City staff prior to it being included in the BMP as an exception.

Council Member Johnston asked how many of the wells would be using the injection well. Mr. Blair stated that information was not available at this time as that well was proposed and not approved or in service yet and any comment in that regard would be speculation. Council Member Johnston asked Mr. Blair if he was aware that the proposed site for the injection well was within five miles of the Lowry Superfund site. Mr. Blair answered affirmatively. Council Member Johnston asked if ConocoPhillips was aware that there was 138 million gallons of toxic chemicals within the Superfund site.

Ms. Thompson confirmed the Superfund site has been evaluated and ConocoPhillips has been very careful with their well siting as a result.

Council Member Johnston asked if the applicant was aware that the US Geological Survey.gov stated seismic activity could be induced within 10 miles of an injection well site. Mr. Ming reiterated it was not a ConocoPhillips well therefore the concern was between Arapahoe County and the company attempting to permit the injection well.

Council Member Johnston stated it may not be a ConocoPhillips well but it was included in the operator agreement. She pointed out the 140 million gallons of toxic chemicals was a major concern of the Superfund site and ConocoPhillips has insisted the injection well be included in the agreement. She asked if ConocoPhillips was willing to remove it. Mr. Ming stated it was not up to ConocoPhillips to do so. He stated that was up to the county and the company attempting to permit the well. Council Member Johnston stated ConocoPhillips could remove the BMP 24, Class II provision from the agreement and asked if they were willing to do so.

Ms. Thompson stated Expedition Water worked very closely with the City and the City agreed they were comfortable with the design of the well, noting ConocoPhillips could not speak specifically to the design of the well because it was not their well.

Council Member Johnston asked if ConocoPhillips would remove the injection well provision of BMP 34 from the operator agreement. Ms. Thompson clarified the ConocoPhillips team present at the meeting were not authorized to make those types of changes to the agreement, noting the agreement has been worked through carefully between the City and ConocoPhillips.

Mr. Ming suggested City staff might speak to the issue.

Ms. Paranhos did so, noting Aurora Water met with the company who planned to operate the injection well in Arapahoe County and Aurora Water was satisfied that the well would be operated in a safe manner and that any concerns related to earthquakes and aquifer contamination risks would be mitigated by the well construction. She stated that was why the provision that ConocoPhillips would use that particular injection well and not any other injection wells within a four-mile buffer of the City limits.

Council Member Johnston stated her understanding that the City took a position on the proximity which was four miles from the City's water infrastructure and that there was no Environmental Protection Agency (EPA) oversight for Class II underground injection wells and that that was under the Colorado Department of Public Health & Environment's (CDPHE) oversight. She asked if Expedition Water had any other injection wells near other Superfund sites. Ms. Paranhos stated she did not have that information.

Council Member Hiltz asked why hold a public hearing if changes could not made and if not at the meeting, when could those changes could be made. Mayor LeGare stated the public hearing was held to gain input on an Oil and Gas operator agreement that has been extensively worked on by City staff and the applicant. He pointed out that it was now up to City Council to determine whether or not the agreement was acceptable and then to vote accordingly. He asked the applicant representatives to restate their names for the record.

Vanessa Thompson; Maxwell Blair and Cameron Ming did so.

Council Member Bergan asked if the applicant held meetings in good faith to help locate the wells so that they did not impact development. Mr. Blair explained the well sites reflected in the operator agreement were a culmination of an arduous and extensive process.

Council Member Gruber asked the depth of the injection well. Mr. Ming reiterated it was not a ConocoPhillips well. Council Member Gruber pointed out the well was a distance away with a two mile depth.

Mr. Ming concurred.

Council Member Berzins noted there was a lot of testimony on both sides of the issue and asked the applicant and staff if there was anything either of them would like to address regarding the public comment.

Mayor LeGare acknowledged Mr. Batchelor's no gesture.

Ms. Thompson clarified ConocoPhillips was in compliance with the BMPs and the inspection provision in the operator agreement specifically, noting any safety event or other incident required immediate reporting by ConocoPhillips and the inspection was of a different nature.

Mr. Ming noted the location of ConocoPhillips pipelines was secret for safety reasons.

Mr. Blair noted that secrecy ensured the pipelines would be properly located and spotted if development occurred in any proximity to them.

Council Member Johnston expressed concerns that concerns related to permitting might be raised at the neighborhood meetings that would be held after the operator agreement was approved and asked how that would be addressed since the agreement stated 'the City shall not oppose or object in any form to any permits, applications or similarly related approvals related to the operator, oil, gas operations or any development of any new wells or well sites'. Ms. Thompson stated any comments from both the neighborhood meeting as well as the call for public comment as a result of the permit process would be administered back to ConocoPhillips and they would have a response requirement in order to further the permit process.

Council Member Murillo asked how many well pads versus wells were being proposed under the purview of the operator agreement. Ms. Thompson stated there were 45 well sites with a total potential well count of 310.

Council Member Lawson asked how a homeowner purchasing a home in the area would be notified of the pipeline location. Ms. Thompson stated the pipelines were located in a protected easement that were separate and apart from any home deeds. Council Member Lawson asked if the onus was on the homebuyer to find out if the pipeline was nearby. Ms. Thompson answered affirmatively.

Mr. Blair stated the pipeline would be well marked at any crossing and at intervals which provided an opportunity for homeowners to do research for their home when they purchased it.

Council Member Bergan asked if most of the well sites were located in undeveloped areas. Ms. Thompson answered affirmatively. Council Member Bergan asked the typical width of a utility easement. Ms. Thompson stated 50 feet.

Council Member Murillo asked the proposed increase of wells from what ConocoPhillips had currently. Ms. Thompson stated there were currently 25 constructed well pads with approximately 50 wells. Council Member Murillo noted that was a significant increase.

Mayor LeGare discussed the public hearing process and how it was changed through public notice to reflect that on the agenda. He closed the public hearing on the item.

Motion by Bergan, second by Gruber, to approve item 10a with a waiver of reconsideration.

Council Member Johnston clarified a waiver of reconsideration meant the item could not be reconsidered if new information were to be provided.

Council Member Bergan expressed appreciation to all those who attended the meeting. She stated she and her fellow council members wanted to protect the environment and the health of the community and therefore they took the issue very seriously, noting this has not been a brief process. She pointed out there were almost 50 BMPs for the agreement and any new regulations imposed by the state would be met by the operator. She suggested as such, other jurisdictions might view the City of Aurora as the model for how to do an operator agreement. She stated she would support the item.

Council Member Hiltz expressed appreciation to ConocoPhillips for taking the time and effort to learn the community needs and for going above and beyond since the May 20th meeting in their public outreach efforts. She stated she would not support the item because there was a lot that still needed to be considered and she felt there needed to be a longer public input process. She agreed there was a path forward but noted unfortunately this was not it.

Council Member Murillo stated it gave her great pause to know the operator agreement would be a legally binding contract where six times as many oil wells as there were currently. She pointed out the City had one opportunity to get it right and she did not feel the City has done its due diligence in terms of health and safety and public input in this instance. She stated she supported operator agreements in general because it was a way to create stability for the industry and to codify health and safety concerns. She noted she empathized with those who have a vested interest in ConocoPhillips however she did not think the City Council should be making decisions based on the perceived goodness of a company because this was policy. She stated she would not support the item for those reasons.

Mayor Pro Tem Roth noted in light of the transparency questions by the City, he spoke to the Colorado Municipal League's (CML) position on the item and the passing of SB 181.

Council Member Johnston addressed concerns related to SB 181. She stated CML's position on the bill was irrelevant to her because this was Aurora. She noted it was suggested the City might be held as a model for operator agreements and she expressed her hope that was not so because she did not think it was how public policy should be handled. She pointed out she represented the neighbors where the item was located and she could not support the item primarily because of the fast track and the location of the injection well site near the Superfund site. She expressed her disappointment and embarrassment that the City has not insisted on more robust feedback in this regard.

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

Voting Nay: Johnston, Hiltz, Lawson, Murillo

♦ b. **R2019-35**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Amendment to the Intergovernmental Agreement between the City of Aurora, Colorado, acting by and through its Utility Enterprise, and the Urban Drainage and Flood Control District, regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Easterly Creek Stormwater Pond. STAFF SOURCE: Sarah Young, Deputy Director of Planning and Engineering, Aurora Water

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

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

♦ c. **R2019-36**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an amendment to the Intergovernmental agreement between the City of Aurora, Acting by and through its Utility Enterprise, and the Urban Drainage and Flood Control District regarding final design, right-of-way acquisition and construction of drainage and flood control improvements for First Creek Detention Upstream of I-70 in the City of Aurora. STAFF SOURCE: Sarah Young, Deputy Director of Planning and Engineering, Aurora Water

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

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

♦ d. **R2019-37**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Amendment to the Intergovernmental Agreement between the City of Aurora, Colorado, acting by and through its Utility Enterprise, and the Urban Drainage and Flood Control District, regarding final design, right-of-way acquisition, and construction of drainage and flood control improvements for 22nd Avenue outfall to Westerly Creek. STAFF SOURCE: Sarah Young, Deputy Director of Planning and Engineering, Aurora Water

Motion by Watson, second by Roth, to approve item 10d.

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

♦ e. **R2019-38**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for the Agreement Regarding Member Funding Transfers Pursuant to the Aerotropolis Regional Transportation Authority Establishment Agreement. ***(Staff Requests a Waiver of Reconsideration) (This item will also appear on the June 3, 2019 Study Session) (Due to this item being dual listed, the backup is included in item 4b of the Study Session Packet.)*** **STAFF SOURCE: Michelle Gardner, Senior Assistant City Attorney, City Attorney**

Motion by Gruber, second by Roth, to approve item 10e with a waiver of reconsideration.

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

♦ f. **R2019-39**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, supporting and declaring June 7, 2019 as national gun violence awareness day. Sponsor: Council Member Johnston

Misty Glover, Aurora Moms Demand Action for Gun Sense in America, discussed her disappointment in the proclamation request denial by Mayor LeGare and the increased and recent gun violence in Aurora. She pointed out victims deserved leadership that supported them and noted her intention to vote for people to do that.

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Jamie Logan, Aurora Moms Demand Action for Gun Sense in America, discussed her disappointment in the Mayor's decision to not approve the gun violence awareness proclamation, the need to recognize victims of gun violence, and the increase in gun violence in Colorado. She named all of the Colorado cities in support of the proclamation. She expressed her hope that Council Member Johnston's resolution would be supported and addressed Mayor LeGare directly regarding children experiencing active shooter and lockdown drills at school.

ORIGINAL MOTION

Motion by Johnston, second by Hiltz, to approve item 10f.

AMENDMENT I

Motion by Johnson, second by Murillo, to amend item 10f to change 'President Obama's Inaugural Parade' to 'the Presidential Inaugural Parade,' 'the 100' to 'all' and strike 'was' before the words 'tragically.'

Council Member Berzins pointed out the '100' Americans killed every day included suicides, homicides and unintentional shootings.

Council Member Gruber expressed concerns that the reference to '100 Americans' included suicides and police officers and since the proclamation did not address mental health and the goal was not to take guns away from police officers, he stated he would support the proclamation if the '100 Americans' was changed to 'Americans.' He offered a friendly amendment in that regard.

Council Members Murillo and Johnston did not accept the friendly amendment.

VOTE ON AMENDMENT I

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

AMENDMENT II

Motion by Gruber, second by Roth, to amend item 10f to remove the '100' reference because it included suicide and police.

Council Member Hiltz suggested the language state 'more than 100' since everyone was being included.

Council Member Gruber clarified the '100' included suicide and police and he did not agree with that inclusion because the actual number of criminals shooting criminals was approximately 1/3 of that figure.

Council Member Johnston stated her opinion that all of those instances were episodes of gun violence and she would not support the change because these acts of violence increase each year.

Council Member Bergan stated her understanding that Council Members Berzins and Gruber were attempting to be accurate. She read the purpose of the proclamation and stated her support of it.

VOTE ON AMENDMENT II

Voting Aye: Gruber, Roth, Watson

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

Council Member Johnston stated her hope that there would be support for the item, noting it was not policy and was really important. She recognized Mayor LeGare's support of her moving forward with the resolution even when he did not agree to the proclamation.

Council Member Richardson stated the debate at the meeting demonstrated the need for a resolution rather than a proclamation. He stated Mayor LeGare made the right choice with regards to denying the proclamation request.

Mayor LeGare expressed appreciation to his colleagues for their support. He stated his understanding of proclamations was that they were Mayoral proclamations which meant it was the Mayor's decision whether or not to sign it. He clarified he did not regret not signing the proclamation and commended Council Member Johnston for turning it into a resolution because that was the way to get it done. He noted he did not have a problem signing a resolution even ones he did not agree with or vote on. He pointed out he was not offended by those who said he was terrible for not signing the proclamation because it was his choice to not do so.

VOTE ON ORIGINAL MOTION AS AMENDED

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

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

♦ a. **2019-27**
PUBLIC HEARING and Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, rezoning 20.41 acres more or less in the vicinity North of Colfax Avenue and East of Tollgate Creek from Mobile Home District (MH) and Residential-Agriculture District (RA) to Transit-Oriented Development District (TOD) and amending the zoning map accordingly. (POTOMAC VILLAGE REZONE) STAFF SOURCE: Stephen E. Rodriguez, Planning Supervisor, Planning & Development Services

Mayor LeGare opened the public hearing on the item.

Stephen Rodriguez, Planning Supervisor, Planning & Development Services, gave a presentation of the item, noting it related to a rezone request of 20+ acres from Mobile Home District (MH) and Residential-Agriculture District (RA) to Transit-Oriented Development District (TOD) and amended the zoning map accordingly.

Council Member Watson asked staff to speak to Council's ability to make changes as a quasi-judicial body as it related to code section 146-401(c).

Dan Money, Assistant City Attorney, confirmed the rezone was the same as all other rezones where development may or may not come later.

Council Member Murillo asked if poorly maintained water infrastructure on the property was considered in the rezoning criteria. Mayor LeGare clarified the park had old water infrastructure and there have been multiple water breaks over the years which left the tenants temporarily without water. He asked, if because of those issues, the 146 criteria could be used in this instance.

Mr. Money answered no, noting those issues were addressed during site plan review.

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Mr. Rodriguez concurred.

Phillip Ruschmeyer, representing the applicant, provided a brief summary of the item.

Council Member Lawson asked if there have been any proactive discussions regarding the four homes located underneath the overpass because they would be significantly impacted by the rezone. Mr. Ruschmeyer stated the property owner closed on three or four of those homes in the last 30 days with the hopes of being included in the rezoning.

Council Member Murillo stated that was new information and asked the number of units and price point for the homes. Mr. Ruschmeyer stated three or four with the median price of $350k.

Mayor LeGare stated they were single-family homes that were being offered for sale by investors.

Council Member Murillo asked how many acres were included in the adjacent property. Mr. Ruschmeyer stated each home occupied approximately 150k feet of ground.

Mayor LeGare stated City Council would ask staff to provide them with a list of homes in the area.

Paul Henrion discussed problems with the process and expressed concerns related to the lack of discussion on affordable housing in the process. He requested City Council vote against the item in order to work with the owner on an affordable housing plan.

Ellen Woo; Andrea Chiriboga-Flor, 9to5 Colorado; Cesiah Guadarrama, 9to5 Colorado; Luz Galicia; Nancy Flores; and Jason Legg expressed appreciation to the City for their efforts on behalf of the Denver Meadows residents, spoke in opposition to the item and echoed Mr. Henrion's comments related to affordable housing in Aurora.

Council Member Bergan asked when the process first started.

Jason Batchelor, Deputy City Manager, stated the formal rezoning application process began in 2016.

Council Member Bergan asked what actions were taken by the City in terms of outreach with the City's Homelessness Program. Mr. Bachelor stated relocation assistance was provided for those residents who were being displaced from the park.

Council Member Murillo stated her recollection that the City made the unprecedented move to step in to prevent a group of people from being displaced from Denver Meadows and then the owner stepped in after extensive conversations with the Mayor and City Attorney. She noted she wanted to disrupt the notion that that was a kind gesture on behalf of the owner. She stated it was a difficult decision on behalf of the City Council to provide those funds but the fact was no one else was stepping up to provide relief.

Council Member Berzins asked staff to speak to the steps that followed the rezone. Mr. Money did so. Council Member Berzins confirmed the item was a rezone.

Council Member Murillo referenced the backup information in the Council packet related to the rezoning criteria. She asked if the 2009 comprehensive plan criteria was being used.

Dan Brotzman, Interim City Attorney, answered affirmatively.

Council Member Murillo called out a few points relevant to the discussion related to smart growth and social sustainability, noting the discussion about affordable housing and rezoning was relevant to those points. She discussed the strong correlations between low income communities and communities of color sand pointed out when income was not considered in these instances then peoples' racial and ethnic connections were being ignored. She stated not incorporating affordability went against the 2009 comprehensive plan criteria. She asked if the Denver Meadows land was located in an opportunity zone. Mr. Batchelor answered affirmatively. Council Member Murillo asked if the property was the only land that was zoned for mobile homes located in an opportunity zone in the City. Mr. Batchelor answered affirmatively. Council Member Murillo asked if it was relevant to consider whether or not the property for the item was located in an opportunity zone.

Mr. Brotzman answered affirmatively.

Mayor LeGare commended Mr. Legg for his efforts in working with and representing the Denver Meadows residents. He made a commitment to continue to work with Mr. Legg to resolve any outstanding concerns in that regard.

Council Member Hiltz expressed appreciation to Mayor LeGare for his efforts in that regard as well.

Mr. Ruschmeyer stated his opinion that anyone that came in to develop the property understood the rezone was for mixed-use which had a much broader definition than it did in 2009. He pointed out affordable or workforce housing was addressed across the country and he suggested City Council and the public would have a lot to say about the site being developed with affordable housing when the item came back for site plan review.

Council Member Murillo asked Mr. Ruschmeyer if he was familiar with what was happening in Charlottesville, Virginia in terms of opportunity zones and mobile home parks. Mr. Ruschmeyer answered no. Council Member Murillo summarized the situation where for profit and nonprofit developers were creating the vision called out in the City's comprehensive plan.

Mayor LeGare closed the public hearing on the item.

Motion by Watson, second by Roth, to introduce item 11a.

Council Member Watson pointed out this was a rezone item and not a site plan or development review.

Council Member Murillo stated she was clear on the item being discussed, noting it was difficult to separate the idea that the rezone was removed from the FTP process. She argued that the City had what was needed to fulfill the mission of the comprehensive plan at this time. She stated the City was missing the opportunity to explore what an opportunity zone could actually look like or if the Charlottesville model could work in this instance.

Council Member Bergan reiterated Council Member Watson's comments that the item was a rezoning for private property because the property owner was closing the park and did not plan to redevelop it. She pointed out it would remain vacant without the rezone.

Council Member Watson pointed out there were not opportunity zones in 2009 and therefore were not a part of the discussion.

Council Member Murillo stated she outlined the policy points and where it directly applied to the criteria considered in the discussions, noting she has not heard the counter perspective at this time. She reiterated the City had what was needed to create equitable growth and social sustainability, noting doing so required public, private, nonprofit and community partnership to make it happen. She stated she did not want to see the opportunity zone lost for a low income community of color that deserved opportunity the same as anyone else.

Mayor LeGare reiterated the item was a rezoning and that while some council members wanted to address the affordable housing part of that, the discussion was better suited at the site plan level. He pointed out the process put the site on the radar for redevelopment and he believed it would require a substantial affordable housing component.

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

Voting Nay: Hiltz, Johnston, Lawson, Murillo

♦ b. **2019-28**
PUBLIC HEARING and Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, to amend the Waterford Place General Development Plan (GDP) to permit additional duplex units and remove assisted living from the use list. Planning Commission recommended approval at the May 22, 2019 meeting. (Case Number 1990-2012-03) (2225 S IOLA ST). STAFF SOURCE: Dan Osoba, Planner, Planning & Development Services

Mayor LeGare opened the public hearing on the item.

Dan Osoba, Planner, Planning & Development Services, provided a brief summary of the item, noting it related to a request to amend a GDP to allow for additional duplex units and to remove the assisted living use.

Mayor LeGare closed the public hearing on the item.

Motion by Gruber, second by Roth, to introduce item 11b.

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

12. **ORDINANCES FOR INTRODUCTION**

♦ a. **2019-29**
Consideration of AN ORDINANCE FOR INTRODUCTION of the City Council of the City of Aurora, Colorado, amending Section 2-148 of the City Code pertaining to preservation of records to include mandatory direction on processing requests under the Colorado Open Records Act. Sponsors: Council Members Lawson and Richardson

Motion by Richardson, second by Lawson, to defer item 12a to the June 24, 2019 City Council agenda.

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

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13. **ORDINANCES FOR FINAL**

♦ a. **2019-25**
Consideration of AN ORDINANCE FOR ADOPTION 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. ***(Ordinance 2019-25, Introduced 7-2 (Berzins, Roth voting no) at the May 20, 2019 Council Meeting)*** STAFF SOURCE: Greg Hays, Budget Officer, Finance

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

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

Voting Nay: Roth

14. **RECONSIDERATIONS AND CALL-UPS**

Motion by Bergan, second by Watson, to reconsider Murphy Creek FDP at the July 1, 2019 City Council due to new information provided by the applicant.

Council Member Johnston stated her opposition to the item because the environmental information was inconclusive.

Council Member Bergan stated a call up would allow the discussion related to new reports that has been going on through email to continue, noting it would also open the door to address other concerns regarding the housing product.

Council Member Johnston stated a neighborhood discussion already occurred and further discussed the irony of the situation with regards to extended discussion and input.

Council Member Bergan stated the McGinnis report was provided to Council the day of the meeting and therefore could not be properly reviewed.

Council Member Johnston pointed out questions were asked at the hearing in that regard.

Mayor LeGare stated Council Member Bergan was requesting a reconsideration based on new information and the worst thing that could happen was there would be more discussion.

Council Member Johnston stated that meant more discussion from oil and gas lobbyists and representatives. She suggested there were residents who might not be able to attend particularly in the numbers seen at the previous meeting, noting it was not fair to the Murphy Creek residents to rescind the good news they were given last week.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Roth, Watson

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

15. **GENERAL BUSINESS**

a. Consideration to appoint one (1) member to the Veterans Affairs Commission. STAFF SOURCE: Stephen Ruger, City Clerk, General Management

Motion by Gruber, second by Watson, to appoint Ralph Charlip to the Veterans Affairs Commission.

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

16. **REPORTS**

a. Report by the Mayor

No report.

b. Reports by Council

Council Member Berzins reminded everyone that the two Ward III meetings scheduled for June 12 and June 20 were budget meetings.

Council Member Bergan expressed appreciation to Rick Crandall for his efforts with the success of the recent Colorado Freedom Memorial ceremony and expressed sincere condolences for the loss of Aurora Police K-9 Draco.

Council Member Hiltz expressed appreciation to her colleagues for voting in support of impact fees.

Council Member Murillo announced the Ward I Town Hall meeting was scheduled for Thursday, August 22, 2019, noting the Ward I residents voted to hold an At-Large and Mayoral candidate forum. She wished everyone a happy Pride Month and noted Colorado's first gay governor signed a conversion therapy ban for minors in the state of Colorado which was a huge way to celebrate the LGBTQA+ community.

17. **PUBLIC INVITED TO BE HEARD**

None

18. **ADJOURNMENT**

Mayor LeGare adjourned the regular meeting of City Council at 1:51 a.m.

____
BOB LEGARE, MAYOR

ATTEST:

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