

MINUTES

Regular Meeting – Aurora City Council Monday, February 5, 2018

CALL TO ORDER – REGULAR MEETING

Mayor Hogan convened the regular meeting of City Council at 5:15 p.m.

ROLL CALL

PRESIDING:	Mayor Hogan
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Gruber, Hiltz, Lawson, LeGare, Murillo, Richardson, Roth
COUNCIL MEMBERS ABSENT:	None
OFFICIALS PRESENT:	Interim City Manager Batchelor, City Clerk Blackston
COUNCIL MEMBERS ARRIVING AFTER ROLL CALL:	Johnston

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

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

Motion by Bergan, second by Gruber, to recess for executive session.

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

Abstaining: None

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

1. RECONVENE REGULAR MEETING OF FEBRUARY 5, 2018 AND CALL TO ORDER

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

2. ROLL CALL Linda S. Blackston, City Clerk

COUNCIL MEMBERS PRESENT:	Mayor Hogan, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, LeGare, Murillo, Richardson, Roth
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COUNCIL MEMBERS ABSENT:	None
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3. INVOCATION Reverend Ade Ajala, Kingdom Connection Christian Center

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

5. APPROVAL OF THE MINUTES OF THE MEETING OF JANUARY 22, 2018

Motion by Roth, second by Berzins, to approve the minutes of January 22, 2018 as amended.

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

- ◆ *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.*

Abstain: Bergan

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 board and commission members. Mayor Hogan and City Council congratulated the members and thanked them for their service to Aurora.

<u>Name</u>	<u>Board or Commission</u>
Duane Senn	Citizens Water Advisory Committee
Lourdes Calderon	Independent Review Board
Joshua Mohlman	Independent Review Board
Jerry Rainbolt	Independent Review Board
Joesph Schnurr	Independent Review Board
Lindsey Shaw	Independent Review Board
Yasmeen Watson-Yartley	Independent Review Board
Jim Weeks	Independent Review Board
Dan Stanley	Planning and Zoning Commission

- b. Proclamation presentation for Black History Month – Mayor Hogan

Mayor Hogan invited Eric Nelson, National Association for the Advancement of Colored People (NAACP) Aurora; Senator Rhonda Fields, Colorado State Senate District 29; Maurice Wade, NAACP Aurora and MLK Rodeo; Dr. Zelda DeBoyes, Court Administrator; Omar Montgomery, President, NAACP; Janice Napper, Assistant City Manager and former City Clerk; Chanell Reed, Council Management Analyst, Aurora Mayor/Council office; Barbara Shannon-Banister, Chief of the Community Relations Divison; Angela Lawson, Aurora City Council; Chartashia Miller, Secretary, NAACP Aurora and Aurora Race Forum; Deborah Wallace, former Aurora City Council member and Civil Service Commission; Patricia McMahon, Unites States Equal Employment Opportunity Commission; Len Brass, Aurora Gateway Rotary Club; and Paul Henrion, Second Vice-President, NAACP Aurora, to come forward. He read the proclamation declaring February 2018 as Black History Month. Each guest expressed appreciation for the recognition.

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

Emzy Veazy (MZBZ) III, Aurora, Colorado, presented research data and discussed small business capital formation forum, education bifurcation in public school education in the City, the need for more creative ideas in government and the Aurora Police Department pension plan.

Paquita Bartice, Aurora, Colorado, discussed the Second Chance Bicycle Shop's volunteer hours.

Todd Mowbray, Aurora, Colorado, discussed the great works of the Second Chance Bicycle Shop and its impending eviction.

Charlotte Griffen stated her family history and discussed the good work being done by Ernie Clark through his Second Chance Bicycle Shop.

Steve Mowbray, Aurora, Colorado, discussed the efforts being made for children at the Second Chance Bicycle Shop and the need for an affordable alternative building.

Ernie Clark, Second Chance Bicycle Shop, Aurora, Colorado, discussed the work accomplished for children in the community and the need for a new building to house the bicycle shop.

Jaquan Macalou, Aurora, Colorado, discussed the eviction of the Second Chance Bicycle Shop and requested the City Council help the business find a new location.

Nathan Berhe, Aurora, Colorado, discussed his experience being involved in the Second Chance Bicycle Shop.

Hector Bonilla, Aurora, Colorado, shared his experiences with the Second Chance Bicycle Shop.

Jon Perkins, Denver Area Labor Federation, discussed the Aurora Police Department's opportunity to determine, define and decide their retirement plans and encouraged the City Council to support the item.

Keithan Holiday, Aurora, Colorado, discussed Sage Recreation Center which served both the able and disabled community in Aurora and expressed appreciation to all those involved in that effort.

Margaret Sobey, Aurora, Colorado, discussed the recent City Council study session agenda item related to small lot sizes.

Council Member Roth asked staff to research and provide City Council with history on the City's previous and potential involvement with the Second Chance Bicycle Shop as it related to their relocation.

Council Member LeGare noted the owner of the shopping center, where the Second Chance Bicycle Shop was located, donated the space for the bike shop for two years with the knowledge that the center would be torn down and redeveloped after that time.

Mayor Hogan agreed there would be a staff report in that regard.

8. **ADOPTION OF THE AGENDA**

The agenda would be adopted as presented with item 12a removed.

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

General Business

- a. Consideration to EXTEND AN OPENLY SOLICITED CONTRACT with Air Conditioning Associates Inc. (ACA), Englewood, CO in the amount not to exceed \$229,300.00 to perform scheduled maintenance and on call repair for HVAC systems in Water facilities through December 2018. (R1797) STAFF SOURCE: Bobby Oligo, Manager, Water Treatment, Aurora Water
- b. Consideration to AWARD A SOLE SOURCE CONTRACT to Polydyne, Inc., Riceboro, Georgia in the not-to-exceed amount of \$330,000.00 for the purchase of the water treatment chemical Poly Electrolyte Cationic Clarifloc C-308P as required from March 1, 2018 through February 28, 2019. STAFF SOURCE: Bobby Oligo, Manager, Water Treatment, Aurora Water

- c. Consideration to award a SINGLE SOURCE CONTRACT to Dewberry Engineers, Inc., Denver, Colorado in the amount of \$472,990.00 for design engineering services associated with the Rampart Raw Water Delivery System Phase V Improvements Project. STAFF SOURCE: Kelley Neumann, Deputy Director Water Planning/Engineering, Aurora Water
- d. Consideration to AWARD A SINGLE SOURCE CONTRACT to Mike Naughton Ford, Inc., Aurora, Colorado, in the not-to-exceed amount of \$150,000.00 for the purchase of Ford OEM vehicle parts and repair services from March 1, 2018, through February 28, 2019. STAFF SOURCE: Mark Hinterreiter, Manager, Fleet Services, General Management
- e. Consideration to AWARD A SINGLE SOURCE CONTRACT to Wagner Equipment Company, Aurora, Colorado in the not-to-exceed amount of \$100,000.00 for the purchase of parts and repair services for Caterpillar and other miscellaneous heavy equipment from March 1, 2018, through February 28, 2019. STAFF SOURCE: Mark Hinterreiter, Manager, Fleet Services, General Management
- f. Consideration to AWARD SINGLE SOURCE CONTRACT to H&E Equipment Services, Henderson, Colorado, in the amount of \$3,057,948.51 for two (2) Emergency One pumper fire engines and two (2) Emergency One aerial fire engines. STAFF SOURCE: Mark Hinterreiter, Manager, Fleet Services, General Management
- g. Consideration to AWARD A SOLE SOURCE CONTRACT to Biological Mediation Systems, LLC, Fort Collins, Colorado, in the amount of \$134,856.00 for the purchase of two (2) permanent restrooms to be placed at Saddle Rock Golf Course. STAFF SOURCE: Douglas McNeil, Manager of Golf, Parks, Recreation & Open Space

Motion by Roth, second by Hiltz, to approve items 9a – 9g.

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

Final Ordinances

- h. **2018-02**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, adding Section 94-349 to the City Code related to prohibiting smoking in a motor vehicle when juveniles are present. STAFF SOURCE: Nancy Rodgers, Client Group Manager, City Attorney

ORIGINAL MOTION

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

Dr. Eiko Browning, Oncologist, Rocky Mountain Cancer Centers, spoke in opposition to the item, noting the better choice would be to provide tools to help people quit smoking rather than penalizing those who smoked in their vehicles with children present. She requested the City Council not approve the item and asked if they did however, that they take the Aurora Resident's for Transparency's suggestion to have the fines be on an income-based scale.

Juan Marcano, Aurora, Colorado, spoke in opposition to the item, and suggested several amendments for City Council to consider.

RJ Airs and Bob Doyle spoke in favor of the item.

Council Member Bergan congratulated the Girl Scout Troop for their efforts in this regard and discussed basic human rights as outlined in the United States Declaration of Independence. She stated the ban would disproportionately target the poor and the young and had the potential for targeting and profiling. She stated it was unenforceable and would take time away from the City's police and courts. She stated she could not support the item in good conscience but believed the Girl Scouts should receive recognition for their efforts. She reiterated the law would victimize the poor and would legislate how households were run. She stated the way to help children was through providing education and raising awareness to help everyone make good decisions for themselves and their children.

Council Member Hiltz noted she requested staff research her concerns related to the possibility of disproportionate enforcement and potential impacts on lower income communities or communities of color. She noted the research showed little to no disproportionate enforcement concerns or negative impacts.

Council Member Lawson expressed appreciation to the Girl Scout Troop for bringing the initiative to the City Council. She noted she voted in support of the item initially but after further research, has decided to not vote in support at this time. She discussed concerns related to the item being put into the criminal code even though it was a secondary offense, noting the potential for profiling. She discussed the community input questioning her role as a policy maker to step into someone's life in this regard, noting it also put a burden on the police department and City Attorney's Office.

Council Member Johnston expressed concerns related to the need for an education component and the lack of a warning system in this regard. She stated she spoke with Tri-County Health Department who declared their willingness to provide services to both officers and citizens.

AMENDMENT I

Motion by Johnston, second by Murillo, to amend item 9h to add the following recitals and language to Subsection e of Section 94-349 stating:

"Whereas by prohibiting smoking in a motor vehicle when juveniles are present, City Council is expressing its commitment to protect Aurora youth from the dangers of secondhand smoke and electronic smoking device aerosol; and whereas this ordinance will offer the City an opportunity to partner with the Tri-County Health Department (TCHD) in an effort to educate Aurora residents who use tobacco and ESDs on the effects of secondhand smoke and ESD aerosol; and whereas in particular TCHD will be able to assist the City in the following ways:

- a) community education to increase resident awareness of the new ordinance and its benefits to public health including utilizing grant funding for paid media, signs or other educational and awareness strategies;*
- b) information about and referrals to tobacco cessation resources available in the community;*
- c) supporting the City in providing an educational intervention for first offenders; and*
- d) supporting City staff in the development of a review of health related outcomes, whereas TCHD's education and awareness efforts would include the promotion of the Colorado Quit Line where coaches provide free cessation support to residents in English and Spanish and the Baby and Me Tobacco-Free program, a free cessation program in English and Spanish for pregnant women, and whereas to this end, the City Council acknowledges that the police department has the requisite authority to exercise discretion in the enforcement of this ordinance including the discretion to provide warnings and educational opportunities to offenders in lieu of issuing a summons and whereas the City Council finds and determines that it is appropriate for the police department to issue warnings only following the effective date of this ordinance until September 10, 2018 and thereafter to consider the same practice for first-time offenders as long as educational materials regarding the dangers of*

smoking in a motor vehicle when juveniles are present are provided along with such warning; and

- e) *active date of this ordinance up to and including September 10, 2018, no person shall be issued a summons for a violation of this section but rather shall be issued a warning and provided with educational materials regarding the dangers of smoking in a motor vehicle when juveniles are present. The City Council will evaluate the effectiveness of this ordinance and formally act to extend it or on February 28, 2020, the provisions of this section shall expire.*

Council Member Johnston stated this was a health and safety issue and discussed the various child advocacy groups that reached out to her in this regard.

Council Member Gruber discussed utilizing law enforcement to deal with a societal problem.

Council Member LeGare stated he would not support the amendment and asked City Council to consider the amendment previously approved. He stated the current amendment turned officers into smoking cessation advisors, noting that was not their job. He stated he would vote in opposition to the main motion if the amendment were approved and noted he did not have any concerns regarding Aurora judges abuse of the ordinance.

Council Member Hiltz reiterated the research did not support disproportionate police enforcement and noted she concurred with Council Member LeGare's comments regarding City of Aurora judges.

Council Member Gruber stated like other cities where this has been approved, the ordinance would be issued less than four times in the next two years which begged the question of why it was being approved when it would not be enforced.

Council Member Bergan stated the ordinance went too far when the percentages were so low, noting this was more about education rather than punishment.

Council Member Johnston stated the two issues were justice reform and the ordinance. She expressed her hope that warning and fine systems that could disproportionately affect low income communities would be addressed in the City moving forward.

VOTE ON AMENDMENT I

Voting Aye: Hiltz, Johnston, Murillo, Richardson

Voting Nay: Bergan, Berzins, Gruber, Lawson, LeGare, Roth

Council Member Richardson stated he had a liberty interest inside his vehicle and the government should not tell him that he had to wear a seatbelt, or that he could not safely text, noting he should be the one to determine if those are were safe. He stated that he should be able to have a martini in his car and drive around because he was a responsible drinker and he should be able to smoke as many joints in his car as he wanted because he would not want the government interfering inside his car. He pointed out the next thing a council member would propose would be a law that highly regulates and punishes massage parlors to the extent that it would oppress most of these small businesses. He stated let's not pass a stupid law that goes into a massage parlor that protects stupid people from doing something. He acknowledged that he was very passionate about this issue. He pointed out he has been working with the Girl Scouts for almost a year in this regard and did not buy the hallowed argument that the government had to stay out of people's cars.

Council Member Lawson addressed Council Member Richardson's massage parlor ordinance comments, noting her understanding that his jabs were directed at her because she planned to bring that ordinance forward. She stated that was his opinion and it was fine for him to

express it. She pointed out the intent behind the ordinance was not to subjugate any type businesses that were doing the right thing. She stated she had been subjected to the massage parlor matter as a public safety issue, noting Council Member Richardson was aware of her story. She stated she took offense at that Council Member Richardson would comment on a proposed ordinance that he has not fully reviewed. She acknowledged that Council Member Richardson took jabs at everyone and asked him to wait to make comments on the proposed ordinance until he has reviewed it. She stated she was aware he would be objective to it.

Council Member LeGare stated the amendment failed and he would support the original motion.

VOTE ON ORIGINAL MOTION

Voting Aye: Mayor Hogan, Berzins, Hiltz, Johnston, LeGare, Richardson

Voting Nay: Bergan, Gruber, Lawson, Murillo, Roth

10. **RESOLUTIONS**

- ◆ a. **R2018-08**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the Intergovernmental Agreement among the City of Aurora, Colorado, by and through its Utility Enterprise, The Urban Drainage and Flood Control District, the City and County of Denver, and the City of Lakewood regarding the joint funding of wet weather monitoring and other Colorado discharge permit system activities. STAFF SOURCE: Sean Lieske, Environmental Permitting Manager, Aurora Water

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

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

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

- ◆ a. **2018-03**
PUBLIC HEARING and Consideration of an ORDINANCE of the City Council of the City of Aurora, Colorado, rezoning 1.22 acres more or less in the area of South Peoria Street and South Parker Road from Highway Service District (B 3) to Transit-Oriented Development District-core (TOD-core) and amending the zoning map accordingly (Sharma Property Rezone) **Approval unanimously recommended, Staley absent at the January 10, 2018 Planning Commission meeting. (Case Number 2017-2007-00)** STAFF SOURCE: Heather Lamboy, Planning Supervisor, Planning & Development Service

Mayor Hogan opened the public hearing on the item.

Heather Lamboy, Planning Supervisor, Planning & Development Service, provided a summary of the item, noting it related to a rezoning request of 1.22 acres from Highway Service District (B 3) to Transit-Oriented Development District-core (TOD-core) which would amend the zoning map accordingly.

Mayor Hogan closed the public hearing on the item.

Motion by LeGare, second by Bergan, to approve item 11a.

- ◆ ***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.***

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

12. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

- a. PUBLIC HEARING to consider an appeal of a Site Plan for a Car Wash. Planning Commission unanimously approved at the December 13, 2017 meeting (Case Number 2017-6031-00) STAFF SOURCE: Heather Lamboy, Planning Supervisor, Planning & Development Service

ITEM REMOVED FROM THE AGENDA

13. **RECONSIDERATIONS AND CALL-UPS**

None

14. **GENERAL BUSINESS**

- a. Consideration to appoint one member to the Veterans Affairs Commission. STAFF SOURCE: Linda Blackston, City Clerk, General Management

Motion by Berzins, second by LeGare, to appoint Cynthia Francis to the Veterans Affairs Commission.

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

15. **REPORTS**

- a. Report by the Mayor

No report.

- b. Reports by the Council

Council Member Johnston announced the Ward II Town Hall meeting was scheduled for Thursday, February 22, 2018 at the Beck Recreation Center at 6:30 p.m., where public safety issues would be discussed. She discussed setting a date for the eastern part of Ward I to discuss metro districts.

Council Member Roth announced the Ward V Town Hall meeting was scheduled for Tuesday, February 20, 2018 at the Heather Gardens Clubhouse at 6:30 p.m., where the primary topics of discussion would be Aurora Fire & Rescue and an At-Large forum. He noted the Ward V Town Hall meetings were scheduled for the third Tuesday of every month with the exceptions of June, November and December.

Mayor Pro Tem Berzins announced the Ward III meeting was scheduled for Wednesday, February 4, 2018 at the Center for Active Adults at 6:00 p.m. where the bike share program would be discussed.

Council Member Bergan announced the Ward VI meeting was rescheduled to Wednesday, March 7, 2018 at the Heritage Eagle Bend Clubhouse at 6:00 p.m. where a retail presentation would take place.

Council Member Richardson stated he was okay with other council members calling him out at the meeting and noted however, he chose not to reciprocate.

Council Member Hiltz stated she would be taking over for Council Member Richardson at the upcoming Ward IV meeting scheduled for Thursday, February 15, 2018 at the Ecotech Institute at 6:30 p.m.

Council Member Murillo stated the Ward I Town Hall meeting was scheduled for Tuesday, February 20, 2018 at the MLK Library at 6:00 p.m., noting the At-Large Council Members were welcome to attend. She announced the appointment of Michael Himawan and Omar Montgomery to the Citizen's Budget Advisory Committee.

15. **PUBLIC INVITED TO BE HEARD**

Aly DeWills-Marcano, President, Aurora Residents for Transparency, stated the item 9h issue was complex and fraught with tension and expressed appreciation to those council members who engaged with the document presented by the Aurora Residents for Transparency in that regard.

16. **ADJOURNMENT**

Mayor Hogan adjourned the regular meeting of City Council at 9:14 p.m.



STEPHEN D. HOGAN, Mayor

ATTEST:



LINDA S. BLACKSTON, City Clerk