MINUTES

Regular Meeting – Aurora City Council
Monday, August 21, 2017

CALL TO ORDER – REGULAR MEETING

Mayor Hogan convened the regular meeting of City Council at 4:30 p.m.

ROLL CALL

PRESIDING:	Mayor Hogan
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Cleland, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth
COUNCIL MEMBERS ABSENT:	None
OFFICIALS PRESENT:	City Manager Noe, City Attorney Hyman, City Clerk Blackston
COUNCIL MEMBERS ARRIVING AFTER ROLL CALL:	None

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

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

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

Voting Aye: Mayor Hogan, Berzins, Cleland, Lawson, LeGare, Mounier, Pierce, Richardson, Roth

Abstaining: None

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

1. **RECONVENE REGULAR MEETING OF AUGUST 21, 2017 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

3. **INVOCATION** Pastor CJ Counts, Living Tower Free Methodist Church

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

5. **APPROVAL OF THE MINUTES OF THE MEETING OF AUGUST 7, 2017**

   Motion by Roth, second by Berzins, to approve the minutes of August 7, 2017 as amended.

   Voting Aye: Mayor Hogan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

   Abstained: Bergan

6. **CEREMONY**

   a. Recognition of delegation from Seongman City, South Korea – Mayor Hogan

Mayor Hogan invited Mr. Jongbin Lee, Chief of the Seongnam City Trade and Exchange Team; Ms. Jihyun "Dana" Jeong, Senior Trade Officer, Seongnam City Trade and Exchange Team; Mr. Yeonwook Jeong, Seongnam City Trade and Exchange Team; Ms. Becky Hogan, Chair of the ASCI Korea Committee; Ms. Jennifer Kim, Korea Committee volunteer; Mr. Peter Lee, Korea Committee volunteer; and Ms. Karlyn Shorb, CEO, Aurora Sister Cities International, to come forward. Mayor Hogan recognized the delegation from Seongman City, South Korea. Each guest expressed appreciation for the proclamation.

Mayor Hogan recognized Boy Scout Troop 267.

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

Becky Hogan, Chair of the ASCI Korea Committee, presented hand-crafted traditional items to City Council.

Mayor Pro Tem Lawson accepted on behalf of the City Council.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-j**

General Business

a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Layne Inliner, LLC, Kiowa, Colorado in the amount of $1,135,200.00 for the CMP Rehabilitation Task 3-CIPP, Project No. 5587A. STAFF SOURCE: Steven Fiori, Project Delivery Service Manager, Aurora Water

b. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Concrete Express, Inc. (dba CEI), Denver, Colorado in the amount of $799,933.50 for the Colfax & Lansing Storm Sewer Improvements (RE-BID), Project No. 5550A. STAFF SOURCE: Steven Fiori, Project Delivery Service Manager, Aurora Water

c. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with Carollo Engineers, Inc., Broomfield, Colorado in the amount of $1,061,479.00 to add final design of Task 2, Chlorine Contact Chamber to the Wemlinger Water Purification Facility Treated Water Reservoir Project, R-1772. STAFF SOURCE: Steven Fiori, Project Delivery Service Manager, Aurora Water

d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Cabot Norit Americas, Inc., Marshall, Texas in the amount of $295,488.00 for the purchase of granular activated carbon water treatment media for the Binney Water Purification Facility (Invitation for Bid B-4250). STAFF SOURCE: Bobby Oligo, Manager of Water Treatment, Aurora Water

e. Consideration to AWARD CHANGE ORDER #1 TO THE SINGLE SOURCE CONTRACT with National Meter and Automation, Inc., Centennial, Colorado in the amount of $133,450.00 for the purchase of additional Badger water meters for 2017. STAFF SOURCE: Steven Sciba, Manager Water Service Operations, Aurora Water

f. Consideration to EXTEND A COMPETITIVELY BID CONTRACT to HD Waterworks Supply Ltd., Henderson, CO in the total not-to-exceed amount of $877,700.00 to purchase pipeline parts as required for the Water infrastructure through September 30, 2018. (B4175) STAFF SOURCE: Steven Sciba, Manager Water Service Operations, Aurora Water

g. Consideration to EXTEND A COMPETITIVELY BID CONTRACT to Ferguson Waterworks, Aurora, CO in the total not-to-exceed amount of $253,800.00 to purchase pipeline parts as required for the Water infrastructure through September 30, 2018. (B4175) STAFF SOURCE: Steven Sciba, Manager Water Service Operations, Aurora Water

h. Consideration to AWARD WORK PACKAGE NO. 2 of the Central Recreation Center to Adolfson & Peterson Construction, Aurora, Colorado in the amount of $2,805,653.00. R-5540A ***(Staff Requests a Waiver of Reconsideration)*** STAFF SOURCE: Lynne Center, Principal Engineer, Public Works

i. Consideration to AWARD SINGLE SOURCE CONTRACT to H&E Equipment Services, Henderson, Colorado in the amount of $570,890.00 for the purchase of one (1) Emergency One custom pumper fire truck. ***(Staff Requests a Waiver of Reconsideration)*** STAFF SOURCE: Mark Hinterreiter, Manager of Fleet Services, Internal Services

j. Consideration to AWARD A COMPETITIVELY BID CONTRACT to US Distributing, Inc., Denver, Colorado in the not-to-exceed amount of $80,000.00 for the purchase AC Delco OEM parts as required through August 31, 2018, for Fleet Services. (B-4259) STAFF SOURCE: Mark Hinterreiter, Manager of Fleet Services, Internal Services

Motion by Roth, second by Richardson, to approve items 9a – 9j with waivers of reconsideration on items 9h and 9i.

Voting Aye: Mayor Hogan, Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

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

a. **R2017-61**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, setting the date of a public hearing on the petition for organization of the Citadel on Colfax Business Improvement District and ordering the publication and mailing of a notice of such hearing. STAFF SOURCE: Gary Sandel, Project Manager, General Management

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

AMENDMENT I

Motion by Richardson, second by Bergan, to amend item 10a to provide that the time of the public hearing on September 11, 2017 shall be as designated by the Mayor; the City Attorney shall be tasked with the responsibility to insert the designated time in the notice provided for in the hearing.

Voting Aye: Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

b. **R2017-62**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, setting the date of a public hearing on the petition for organization of the Painted Prairie Business Improvement District Number One and ordering the publication and mailing of a notice of such hearing. STAFF SOURCE: Jacob Cox, Project Manager, General Management

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

AMENDMENT I

Motion by Richardson, second by Bergan, to amend item 10b to provide that the time of the public hearing on September 11, 2017 shall be as designated by the Mayor; the City Attorney shall be tasked with the responsibility to insert the designated time in the notice provided for in the hearing.

Voting Aye: Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

c. **R2017-63**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, setting the date of a public hearing on the petition for organization of the Painted Prairie Business Improvement District Number Two and ordering the publication and mailing of a notice of such hearing. STAFF SOURCE: Jacob Cox, Project Manager, General Management

Motion by Roth, second by LeGare, to approve item 10c.

AMENDMENT I

Motion by Richardson, second by Bergan, to amend item 10c to provide that the time of the public hearing on September 11, 2017 shall be as designated by the Mayor; the City Attorney shall be tasked with the responsibility to insert the designated time in the notice provided for in the hearing.

Voting Aye: Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

d. **R2017-64**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, setting the date of a public hearing on the petition for organization of the Parkside at City Centre Business Improvement District and ordering the publication and mailing of a notice of such hearing. STAFF SOURCE: Jacob Cox, Project Manager, General Management

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

AMENDMENT I

Motion by Richardson, second by Bergan, to amend item 10d to provide that the time of the public hearing on September 11, 2017 shall be as designated by the Mayor; the City Attorney shall be tasked with the responsibility to insert the designated time in the notice provided for in the hearing.

Voting Aye: Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

e. **R2017-65**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the Agreement between the City of Aurora and the Eagle Bend Metropolitan District Regarding Traffic Signal Reimbursement. STAFF SOURCE: Steven Gardner, Principal Engineer, Public Works

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

Voting Aye: Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

11. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

♦ a. **R2017-66**
Public Hearing and Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, submitting to a vote of the registered electors residing within the boundaries of the proposed Aerotropolis Regional Transportation Authority at the November 7, 2017, election, ballot questions regarding the establishment of the Authority, the levying of property and sales taxes and the issuance of debt by the Authority, and a revenue change under Article X, Section 20 of the Colorado Constitution. STAFF SOURCE: Jason Batchelor, Deputy City Manager, General Management

Mayor Hogan opened the public hearing on the item.

Jason Batchelor, Deputy City Manager, provided a summary of the item, noting it related to the establishment of a Regional Transportation Authority (RTA) for the area south of the airport. He stated City Council was asked to consider the ballot questions in that regard.

Council Member Richardson stated his support of the item and asked if it could be moved forward given the existing unanswered metro district questions related to total debt and length of the district. Mr. Batchelor answered affirmatively.

Council Member Berzins discussed the tax levying as it related to the RTA and stated her understanding that the RTA had one registered voter.

Mr. Batchelor concurred.

Council Member Mounier stated her understanding that the one registered voter was the developer's daughter.

Mr. Batchelor concurred.

Council Member LeGare explained how metro taxing districts were formed in Colorado, noting metro districts in the City started out as parcels of undeveloped dirt and the developers then carved out small parcels and those few developers would be the voters in the district.

Mr. Batchelor concurred.

Council Member LeGare asked if that was similar to an RTA. Mr. Batchelor answered affirmatively.

Mayor Hogan closed the public hearing on the item.

Motion by Richardson, second by Peterson, to approve item 11a.

Council Member Richardson raised the topic of the City of Prosper which was recently established on Aurora's eastern border, noting those living in Prosper would be driving on City roads they did not pay to maintain or create. He pointed out it was a wake-up call for the City Council that if they did not take action to put in their own infrastructure, then someone else would.

Mayor Pro Tem Lawson read a statement that related why she would not support the item. She stated the developers' daughter should not be the only vote to raise property tax for future citizens and sales taxes for all Aurora citizens, the plan failed all transparency tests, and violated Colorado revised statute 1-2-102.

Council Member Roth discussed infrastructure financing to support development and the need to find more creative ways to do so, noting this RTA provided that opportunity.

Council Member Berzins referenced Mayor Pro Tem Lawson's comments related to the item raising taxes for all citizens and asked staff if this item in fact impacted all Aurora citizens. Mr. Batchelor stated property taxes would impact only those living in the area and sales tax would impact anyone shopping in the area. Council Member Berzins asked if that were the case in other areas of the City. Mr. Batchelor answered affirmatively.

Voting Aye: Berzins, LeGare, Peterson, Pierce, Richardson, Roth

Voting Nay: Bergan, Lawson, Mounier

12. **ORDINANCES FOR INTRODUCTION**

♦ a. **2017-34**

Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, acting by and through its Utility Enterprise, to exercise the power of eminent domain for acquisition of certain properties in Park County, Colorado for a water reservoir project. STAFF SOURCE: Alexandra Davis, Deputy Director Water Resource, Aurora Water

Motion by LeGare, second by Peterson, to introduce item 12a.

Marshall Brown, Director, Aurora Water, provided a summary of the item, noting it related to a new reservoir project required for the City's system from Park County.

Council Member Roth stated he would not support the item. He stated he understood the importance and complexities of this project however he struggled with the City exercising eminent domain on personal property rights.

Council Member Peterson stated she would support the item, noting most of the property owners did not live in the state and some of them would settle for a property swap.

Council Member Mounier asked if this item related to the three properties that have said no to discussions with Aurora Water. Mr. Brown answered affirmatively. Council Member Mounier asked how the City of Aurora could condemn property in Park County.

John Dingess, City Attorney, stated the City of Aurora was a home rule municipality and thereby had the power of eminent domain for the betterment of its citizens regardless of where it was located.

Council Member Mounier asked if the City could condemn Aspen, Colorado. Mr. Dingess stated the City did not have any water facilities in Pitkin County nor were any proposed. He pointed out there had to be a legitimate need and public purpose for the City to enact eminent domain. Council Member Mounier asked if the City could condemn any property where they owned the water rights. Mr. Dingess answered no and reiterated it was a location where there was a need and public purpose for the City of Aurora. Council Member Mounier asked when the water rights were acquired. Mr. Dingess stated in 1954. Council Member Mounier asked if the reservoir could be reconfigured to exclude these three properties. Mr. Brown answered no. Council Member Mounier asked Mr. Brown to speak to how Aurora citizens were paying for the purchase of the three reservoirs.

Mr. Brown did so.

Council Member Mounier asked what percentage of a water bill payments went to future growth. Mr. Brown stated zero percent.

Council Member Bergan asked if there were three parcels whose owners were not interested in talking with the City. Mr. Brown answered affirmatively. Council Member Bergan stated her opinion that property rights should always be protected with the exception of when it benefitted the greater population. She pointed out there was a need for water to sustain the City into the future as well as to supply water to other jurisdictions. She asked if this item related to Aurora only in the grand scheme of things. Mr. Brown answered no, noting the City did provide reusable water to other metro entities but not this supply directly. Council Member Bergan stated she would support the item because she felt it was warranted in this case.

Council Member LeGare asked how many acres made up the three parcels. Mr. Brown stated 15 acres. Council Member LeGare asked if property owners received fair market value in the instance of eminent domain, noting it could be challenged in court if the property owners decided it was unfair. Mr. Brown answered affirmatively, noting the City offered the property owners slightly over fair market value. Council Member LeGare asked if the City paid for the appraisal of the property in that case.

Mr. Dingess answered affirmatively, noting it was required by state law.

Council Member LeGare stated the City paid for the appraisal to allow the property owner to prove their price might not agree with the City's price.

Mr. Dingess concurred.

Council Member LeGare stated the Supreme Court stated eminent domain was allowed because without it, many of the country's airports and highways would not be built.

Voting Aye: Bergan, Lawson, LeGare, Peterson, Pierce, Richardson

Voting Nay: Berzins, Mounier, Roth

13. **ORDINANCES FOR FINAL**

♦ a. **2017-30**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, to amend the Woodgate South General Development Plan to allow for a maximum height of 37 feet, a minimum lot size of 1,200 square feet, and 0 foot front, side, and rear setbacks in the single family attached district. STAFF SOURCE: Heather Lamboy, Planning Supervisor, Planning & Development Services

Motion by Roth, second by Berzins, to approve item 13a.

Council Member Bergan stated her understanding that the Planning Commission voted unanimously on this item.

Heather Lamboy, Planning Supervisor, Planning & Development Services, concurred. She stated the item related to a proposal for townhomes that would be market rate that were not related to the Shalom Park Senior Community and to amend the GDP to allow this product on the land at the density proposed.

Voting Aye: Bergan, Berzins, LeGare, Mounier, Peterson, Richardson, Roth

Voting Nay: Lawson, Pierce

♦ b. **2017-31**

Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending Section 146-711 Table 7.4 of the City Code of the City of Aurora as it pertains to the schedule of permitted uses within the Fitzsimons Boundary Area Zoning District. STAFF SOURCE: Mindy Parnes, Manager, Planning & Development Services

Motion by LeGare, second by Lawson, to approve item 13b.

Council Member Bergan asked if the item restricted the size of the convention center to 5000 square feet.

Heather Lamboy, Planning Supervisor, Planning & Development Services, stated this item related to the Fitzsimons Boundary area and allowed additional heights to the multi-family residential. She noted there was a hotel mixed-use component and the mixed-use was a part of the development.

Mayor Hogan pointed out a part of the item related to the assurance that there would be less competition for existing facilities.

Council Member Richardson stated he would not support the item until a new fire station was planned for that part of the City.

Voting Aye: Bergan, Berzins, Lawson, LeGare, Mounier, Pierce, Roth

Voting Nay: Peterson, Richardson

♦ c. **2017-33**

Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending the 2009 Aurora Comprehensive Plan by including the North East Plains-Central East Strategic Area. STAFF SOURCE: Karen Hancock, Planning Supervisor, Planning & Development Services

Motion by Richardson, second by Roth, to continue item 13c to the September 11, 2017 City Council meeting.

Duane Senn, President, Laredo Highline Neighborhood Association, Aurora, Colorado, spoke in opposition to the item and addressed comments made at the first public hearing of the Aurora Comprehensive Plan amendment proposal. He stated Aurora did not have the water for this item and current water fees would not cover all of the costs to acquire and deliver water to this area. He stated the item should not be amended until Aurora could address Aurora's structural deficiencies. He stated approval of five annexation applications was reliant on approval of this item.

Council Member Roth clarified the statement he made at the previous meeting was that a statement was "patently untrue" which could be because of misinterpretation or misrepresentation, noting he did not call out anyone as a liar.

Margaret Sobey, Aurora, Colorado, spoke in opposition to the item. She addressed comments made by various council members at the previous public hearing on the item.

Voting Aye: Berzins, LeGare, Peterson, Pierce, Richardson, Roth

Voting Nay: Bergan, Lawson, Mounier

14. **RECONSIDERATIONS AND CALL-UPS**

Motion by Richardson, second by Pierce, to call up the most recent version of the Employee Personnel Manual to the September 25, 2017 City Council meeting.

Voting Aye: Mayor Hogan, Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

15. **GENERAL BUSINESS**

a. Consideration to Approve an Agreement between the City of Aurora, Colorado, acting by and through its Utility Enterprise, for Delivery of Reusable South Platte Water to ConocoPhillips. STAFF SOURCE: Marshall Brown, Director, Aurora Water

Motion by LeGare, second by Roth, to approve item 15a.

Marshall Brown, Director, Aurora Water, provided a brief summary of the item, noting it was an agreement with Conoco Phillips due to their interest in areas that required water delivery located inside the City limits.

Council Member Pierce asked if there was any cost to the City. Mr. Brown stated Conoco Phillips would more than cover the City's costs.

Council Member LeGare stated this was not an intergovernmental agreement but was an agreement between a private entity and the City of Aurora.

Voting Aye: Mayor Hogan, Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

b. Consideration of the reappointment of two (2) people to the Aurora Library Board. STAFF SOURCE: Linda Blackston, City Clerk, General Management

Motion by Roth, second by Bergan, to reappoint Pat Colburn and Wendy Flax to the Aurora Library Board.

Voting Aye: Mayor Hogan, Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

c. Consideration of the removal of a member from the Aurora Immigrant and Refugee Commission. STAFF SOURCE: Linda Blackston, City Clerk, General Management

Motion by Roth, second by Mounier, to remove Muhammed Kahn from the Aurora Immigrant and Refugee Commission.

Voting Aye: Mayor Hogan, Bergan, Berzins, Lawson, LeGare, Mounier, Peterson, Pierce, Richardson, Roth

16. **REPORTS**

a. Report by the Mayor

Mayor Hogan discussed the success of the recent Global Fest and the implementation of the WISE Partnership and congratulated all those involved with both programs.

b. Reports by the Council

Council Member Richardson announced, on behalf of Council Member Cleland, the appointment of Garrett Walls to the Business Advisory Board.

Council Member Bergan discussed her attendance at the Global Fest reception and congratulated all those who received recognition and awards. She noted there was a young girl with a beautiful voice who sang at the reception. She asked Mayor Hogan to reconsider allowing Mr. Senn and Ms. Sobey to speak at the Public Invited to be Heard portion of the September 11, 2017 meeting because a number of people did comment twice at two different Sanctuary City meetings. Mayor Hogan stated he would meet with the applicant in that regard so they could prepare additional comments as well and agreed to take the request under advisement.

Council Member Roth discussed his attendance at Global Fest where he manned the Sister Cities International booth, noting there were many volunteers from the Korean and Ethiopian communities present helping out. He noted DRCOG hosted an Iraqi student delegation to discuss civic engagement and announced the Ward V Town Hall meeting was scheduled for Tuesday, August 22, 2017 at Shalom Cares at 6:00 p.m. where the presenters would be the four Council appointees.

Council Member Peterson invited all of the Ward II residents to the candidate forum scheduled for Monday, August 28, 2017 in the Aurora Room at 7:00 p.m.

Mayor Hogan stated one of the people recognized at Global Fest was Council Member Peterson, noting that was a very richly deserved award. He expressed appreciation for all she had done for Global Fest. He referenced Council Member Bergan's question related to speakers and discussed the standard process as it related to fairness.

Council Member Pierce discussed the opportunities people had to comment on an item in a public hearing, noting it was outside of the City process to allow them more opportunities and he stated his opinion that it should remain as it was intended. He expressed appreciation to Skip Noe, City Manager, for his efforts on behalf of the City and wished him well on his upcoming retirement. He discussed his attendance at the recent PROS' Plains Conservation Center tour.

Council Member Berzins recognized Council Member Peterson for her hard work for the City of Aurora, noting she was a very special person and would be missed.

Council Member Peterson stated she was very honored for the recognition and appreciation.

Council Member Berzins expressed appreciation to all those involved in the success of Global Fest and recognized Sergeants Novak and Petrus of the Aurora Police department for their presentation on what to do in an active shooter situation at the recent Ward III meetings.

Mayor Pro Tem Lawson discussed her attendance at the Sarco Annual Festival and the Colorado United Korean American Association's celebration of Korean Independence Day.

17. **<u>PUBLIC INVITED TO BE HEARD</u>**

None

18. **ADJOURNMENT**

Mayor Hogan adjourned the regular meeting of City Council at 9:19 p.m.

Stephen D. Hogan

STEPHEN D. HOGAN, Mayor

ATTEST:

Linda S. Blackston