

MINUTES

**Regular Meeting – Aurora City Council
Monday, August 8, 2016**

CALL TO ORDER – REGULAR MEETING

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

ROLL CALL

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

Assistant City Manager/City Clerk Janice Napper 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, Bergan, Berzins, Cleland, Lawson, LeGare, Peterson, Pierce, Roth

Voting Nay: Richardson

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

1. **RECONVENE REGULAR MEETING OF AUGUST 8, 2016 AND CALL TO ORDER**

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

2. **ROLL CALL**

PRESIDING:	Mayor Hogan
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Cleland, Lawson, LeGare, Peterson, Pierce, Richardson, Roth
COUNCIL MEMBERS ABSENT:	Mounier
OFFICIALS PRESENT:	City Manager Noe, City Attorney Hyman, Assistant City Manager/City Clerk Napper

3. **INVOCATION** Pastor Al Combs-Christ's Church Apostolic

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

5. **APPROVAL OF THE MINUTES OF THE MEETING OF JULY 25, 2016**

Motion by Bergan, second by Roth, to approve the minutes of July 25, 2015 as presented.

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

6. **CEREMONY**

- ♦ *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.*

- b. Swearing in of newly appointed Boards and Commission members – Presiding Judge Richard Weinberg

Judge Richard Weinberg 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>
Debra Washington	Aurora Fox Arts Center Board
Mark Christopher	Open Space Board
Dan Staley	Planning Commission

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

None

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-c**

General Business

- a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to 53 Corporation, LLC, Sedalia, Colorado in the amount of \$435,293.00 for the Sand Creek Park Parking Lot Project, Project Number 14081. ***(Staff Requests a Waiver of Reconsideration)*** STAFF SOURCE: Cindy Colip, Transportation Project Delivery Manager, Public Works
- b. Consideration to AWARD A COMPETITIVELY BID CONTRACT to HD Supply Waterworks Ltd., Henderson, Colorado in the total not-to-exceed amount of \$897,040.00 to purchase pipeline parts as required for the Water infrastructure through September 30, 2017. (B-4175) STAFF SOURCE: Steven Sciba, Manager Water Service Operations, Aurora Water
- c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Ferguson Waterworks, Aurora, Colorado in the total not-to-exceed amount of \$234,460.00 to purchase pipeline parts as required for the Water infrastructure through September 30, 2017. (B-4175) STAFF SOURCE: Steven Sciba, Manager Water Service Operations, Aurora Water

Motion by Roth, second by Pierce, to approve items 9a – 9c with a waiver of reconsideration on 9a.

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

10. **RESOLUTIONS**

- ◆ a. **R2016-59**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the Intergovernmental Agreement between the City of Aurora, Colorado, and Adams-Arapahoe 28j School District for cooperation in the administration of the grant from Great Outdoors Colorado to partially fund the construction of the Clyde Miller p-8 school renovation project. STAFF SOURCE: Tracy Young, Manager of Planning, Design, Construction, Parks, Recreation & Open Space
- ◆ ***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.***

Motion by Peterson, second by Cleland, to approve item 10a

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

- ◆ b. **R2016-60**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, to set the Public Hearing for Introduction of an Ordinance for the formation of the Porteos Business Improvement District. STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

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

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

- ◆ c. **R2016-58**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the Amended and Restated Consolidated Service Plan for Murphy Creek Metropolitan District Nos. 1-4, the service plan for Murphy Creek Metropolitan District No.5, and authorizing the execution of the amended and restated Intergovernmental Agreement between the City and Murphy Creek Metropolitan Districts Nos. 1-5. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Mark Geyer, Development Project Manager, General Management

Motion by LeGare, second by Berzins, to approve item 10c with a waiver of reconsideration.

Margaret Sobey, Aurora, Colorado, spoke in opposition to the item and asked City Council to postpone the item. She expressed appreciation to Council Member Richardson and City staff for their efforts with regards to helping to obtain a legal definition for the board of director qualifications.

Council Member Richardson asked Ms. Sobey if anyone from the applicant's team reached out to her after the last City Council meeting. Ms. Sobey answered no.

Council Member Bergan asked Ms. Sobey if she received an answer regarding her questions related to the board of director qualifications. Ms. Sobey confirmed she received a written legal opinion.

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

Voting Nay: Peterson, Richardson

Council Member Cleland discussed the difficulty with which she made her vote, noting she was not pleased with how the applicant has worked with the association and neighborhood.

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

- ◆ a. **2016-38**
PUBLIC HEARING and Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, rezoning 4.5 acres more or less at 1901 South Chambers Road, City of Aurora, County of Arapahoe, State of Colorado, from AOD (Administrative Office District) to B-1 (Retail Business District), and amending the zoning map accordingly (Nick's Garden Center Rezone) STAFF SOURCE: Anthony Avery, Planner I, Planning & Development Services

Mayor Hogan opened the public hearing on the item.

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Anthony Avery, Planner I, Planning & Development Services, provided a brief summary of the item, noting the rezoning request was offered in order to bring forth a site plan proposal to expand the Nick's Garden Center retail facility.

John Treinen, Aurora, Colorado, Treasurer, Chaddsford, Crestridge, Woodrim Neighborhood Association (CCWNA), spoke in support of the item.

Motion by Cleland, second by Lawson, to introduce item 11a.

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

12. **ORDINANCES FOR INTRODUCTION**

- ◆ a. **2016-36**
Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, Chapter 130 of the City Code of the City of Aurora, Colorado, by the addition of a new Article IX establishing an Infill Development Incentive Program for the city. STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

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

Voting Aye: Bergan, Berzins, Cleland, Lawson, LeGare, Pierce, Richardson, Roth

Voting Nay: Peterson

- ◆ b. **2016-37**
Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, authorizing the acquisition by eminent domain of fee and easement interests in real property situated in the County of Arapahoe, State of Colorado, for the purpose of constructing the 6th Avenue Parkway extension. STAFF SOURCE: Kevin Wegener, Deputy Director Public Works Engineering, Public Works

Motion by Peterson, second by Roth, to approve item 12b.

Council Member Bergan asked if the plan was to initially install a roundabout that would eventually be replaced by a traffic signal.

Kevin Wegener, Deputy Director Public Works Engineering, answered affirmatively.

Council Member Bergan expressed concerns regarding the cost related to doing so and asked why a traffic signal was not proposed to be installed initially. Mr. Wegener stated it was because the project would connect into a state highway which was subject to review and approval by the state. He noted the cost would be significant and agreed to provide Council Member Bergan with that information.

Council Member Pierce stated the ordinance would authorize the use of eminent domain which, if used, would come back to Council for review on a case-by-case basis.

Jack Bajorek, Assistant City Attorney, stated most of the funding for property acquisition was provided for and the item would only be returned to City Council if there were exceptions to the funding.

Council Member Pierce asked if a parcel proposed to be condemned would come back before Council for review. Mr. Wegener answered affirmatively, noting it would be discussed fully with Council in advance at executive session as a part of the negotiation process.

Mayor Hogan concurred.

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Council Member Bergan asked if there were any single-family homes located on the property that might be considered for eminent domain. Mr. Wegener answered no.

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

- ◆ c. **2016-39**
Consideration for INTRODUCTION 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 Cleland, second by Roth, to introduce item 12c.

Margaret Sobey, Aurora, Colorado, spoke in opposition to the item.

Duane Senn, President, Aurora, Colorado, Laredo Highline Neighborhood Association, spoke in opposition to the item.

Mayor Hogan stated the item was a unique ordinance that would amend the comprehensive plan and as such, required seven affirmative votes to move forward.

Mayor Pro Tem Peterson stated she would not support the item. She discussed the traffic issues along Gun Club Road and 6th Avenue and expressed concerns that building more homes in the area would exacerbate an existing problem. She noted the future of water was a concern and approval of the annexation would only make a handful of investors realize an increase in their property values. She asked Council to consider the Aurora residents to the east when voting on the item.

Council Member Richardson referenced page 241, legal comments, in the backup material and asked staff to speak to the 2/3 vote requirements because he stated that he understood it would take eight affirmative votes to pass the item rather than seven as stated by Mayor Hogan.

Mike Hyman, City Attorney, explained the rationale for the seven vote requirement was due to the fact that the Mayor did not vote ordinances.

Council Member Richardson asked if that were the case every time a 2/3 vote was mentioned in the code. Mr. Hyman answered no, noting it only related to the passing of ordinances and resolutions.

Council Member Cleland stated she would vote in support of the item because she was concerned that Arapahoe County would eventually build a city next to Aurora's city limits that Aurora citizens would pay for if the land were not a part of the City's planning area.

Council Member Pierce concurred with Council Member Cleland's comments, noting he would support the item.

Council Member LeGare stated he would support the item because doing so would allow Aurora to have input in the inevitable eventual growth to the east.

Council Member Roth stated Aurora was in the best shape for urban growth boundary of any municipality of the 56 represented in DRCOG.

Council Member Richardson asked if there would be a negative financial impact.

Karen Hancock, Planning Supervisor, Planning & Development Services, answered affirmatively.

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Council Member Richardson asked if Council had tools to effect the negative impact in terms of demanding less public service uses.

Brian Duffany, Vice President, Economic & Planning Systems, Inc., answered affirmatively, noting however that the market would build what was in demand for that location.

Council Member Richardson asked if mechanisms were in place for Council to set up framework for what was allowed that would reduce the per residential unit cost for public service. Mr. Duffany agreed City Council had many land use tools at its disposal, noting however that zoning had to be responsive to the market in order to work. Council Member Richardson noted police and fire would not be utilized if nothing was built.

Mr. Duffany agreed, noting however that the result would be a large amount of variance requests due to the fact that the zoning did not work.

Mayor Pro Tem Peterson stated the residents in eastern Aurora were very concerned about this issue. She discussed the water study where Aurora Water found that there would not be enough water in 20 years and she asked City Council to think about the future and to reconsider their support for the item.

Council Member Bergan stated the item related to approval of boundary changes and not the annexation.

Mayor Hogan concurred.

Council Member Bergan stated the comprehensive plan would not be completed until late 2017 and the area of Prosper did not want to be a part of the City of Aurora.

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

Voting Nay: Bergan, Lawson, Peterson

MOTION FAILED

13. **ORDINANCES FOR FINAL**

- ◆ a. **2016-34**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending Chapter 134 of the City Code of the City of Aurora, Colorado, relating to parking and mobility. STAFF SOURCE: Robert Ferrin, Parking Program Manager, Public Works

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

Voting Aye: Bergan, Berzins, Cleland, Lawson, LeGare, Pierce, Richardson, Roth

Voting Nay: Peterson

- ◆ b. **2016-35**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending various sections of Chapter 54 of the City Code of the City of Aurora, Colorado, related to elections. STAFF SOURCE: Karen Goldman, Deputy City Clerk, General Management

Motion by Pierce, second by Roth, to approve item 13b.

Council Member Richardson expressed appreciation to the City Clerk's office for addressing an issue that arose during his Ward IV race.

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Council Member LeGare noted he had voted in opposition in the initial reading of the item because he opposed the inclusion of an 'individual' in the definition of 'independent expenditure committee', noting he has since learned from the City Attorney that an individual human being could spend whatever amount they chose on a ballot issue without creating an independent expenditure committee.

Mike Hyman, City Attorney, concurred, noting the individual expenditure committee related to support of a candidate and not a ballot issue.

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

14. **RECONSIDERATIONS AND CALL-UPS**

None

15. **GENERAL BUSINESS**

None

16. **REPORTS**

a. Report by the Mayor

Mayor Hogan discussed his attendance at the recent opening of Colorado Early Colleges, a new charter school in Aurora, and welcomed them to the City.

b. Reports by the Council

Council Member Lawson discussed the success of the recent Aurora Relay for Life event.

Council Member Berzins echoed Council Member Lawson's comments on the success of the Relay for Life event, noting the charity had raised over \$4M. She discussed the success of the recent backpack/school supply packing event and expressed appreciation to the sponsors, volunteers and Council Members Cleland, Lawson, Mounier and Richardson for their efforts in this regard. She announced the Ward III meeting was scheduled for Wednesday, August 10, 2016 at the Aurora Chamber office at 6:00 p.m. where upcoming ballot issues would be discussed.

Council Member Pierce discussed his experience with Relay for Life and the success of the recent National Night Out event.

Council Member LeGare discussed the recent citizenship ceremony where brand new citizens were sworn in and took the oath of citizenship for the United States.

Mayor Pro Tem Peterson invited everyone to attend the upcoming Global Fest event scheduled for Saturday, August 20, 2016 at the Aurora Municipal Center at 1:00 p.m.

Council Member Roth announced the Ward V Town Hall meeting was scheduled for Tuesday, August 16, 2016 at the Heather Gardens clubhouse at 6:00 p.m. where representatives from Tri-County Health and the Aurora Fox Theater would be present. He noted topics discussed at a recent DRCOG workshop.

Council Member Bergan expressed appreciation to Greg Hayes, Budget, Vinessa Irvin, Development Services and Police Chief Metz for their presence and presentations at the recent Ward VI Town Hall meeting. She stated the next meeting was scheduled for Tuesday, September 28, 2016 at the Tallyn's Reach library at 6:30 p.m. where Gary Wheat, Visit Aurora, would be present and the development presentation would be repeated. She noted

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her attendance at the recent naturalization ceremony and welcomed all of the new Americans. She discussed her attendance at the Relay for Life event, noting cancer affected so many lives and life was a gift.

Council Member Richardson asked the City Manager and City Attorney to provide a status report on where the puppy mill ban was in the system and stated his intent to address serious mobility shortcomings in relation to the Iliff light rail station at the August 22 City Council meeting.

17. **PUBLIC INVITED TO BE HEARD**

Jonathon Pena, Aurora, Colorado, discussed problems he has experienced at his home related to leaks, and higher than usual gas bills, and presented a petition signed by his neighbors in this regard.

Mayor Hogan directed him to speak with Jason Batchelor, Deputy City Attorney, for assistance.

18. **ADJOURNMENT**

Mayor Hogan adjourned the regular meeting of City Council at 8:51 p.m.

STEPHEN D. HOGAN, Mayor

ATTEST:

JANICE NAPPER, City Clerk