

MINUTES

Regular Meeting – Aurora City Council Monday, September 26, 2016

CALL TO ORDER – REGULAR MEETING

Mayor Hogan convened the regular meeting of City Council at 4:45 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, 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, Mounier, Peterson, Pierce, Richardson, Roth

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

1. **RECONVENE REGULAR MEETING OF SEPTEMBER 26, 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, Mounier, Peterson, Pierce, Richardson, Roth
COUNCIL MEMBERS ABSENT:	None
OFFICIALS PRESENT:	City Manager Noe, City Attorney Hyman, Assistant City Manager/City Clerk Napper

3. **INVOCATION** Rev. M. N. Thomas-Thomas Ministries

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

5. **APPROVAL OF THE MINUTES OF THE MEETING OF SEPTEMBER 12, 2016**

Motion by Peterson, second by Lawson, to approve the minutes of September 12, 2016 as presented.

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

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Abstained: None

6. **CEREMONY**

a. Appoint Shawn Day as Presiding Municipal Court Judge – Mayor and City Council

Motion by LeGare, second by the remainder of Council, to appoint Shawn Day as the Chief Presiding Municipal Court Judge.

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

b. Swearing in of Presiding Judge Shawn Day – District Court Judge Patricia Herron

District Court Judge Patricia Herron administered the oath of office to Shawn Day, Presiding Municipal Court Judge. Judge Day expressed appreciation for the appointment. Mayor Hogan and City Council congratulated Judge Day and thanked him for his service to Aurora.

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-j**

General Business

a. Consideration to AWARD A SINGLE SOURCE CONTRACT to Colorado Designs, Inc., Centennial, Colorado in the amount of \$748,925.00 for the Jewell Park Renovation Project. STAFF SOURCE: Tracy Young, PROS Planning, Design & Construction/Parks Planning and Design/Design Services

b. Consideration to AWARD A COMPETITIVELY BID CONTRACT to PSI Construction Management, LLC, Centennial, Colorado in the amount of \$892,450.00 for the 2016 Median Pilot Project, Project Number 5512A. **(STAFF REQUESTS A WAIVER OF RECONSIDERATION)** STAFF SOURCE: Tracy Young, PROS Planning, Design & Construction/Parks Planning and Design/Design Services

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

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

c. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with JHL Constructors, Inc., Centennial, Colorado in the amount of \$1,511,796.00 for the award of the People's Building Renovation Work Package No. 2 Project, Project Number 5496A. **(STAFF REQUESTS A WAIVER OF RECONSIDERATION)** STAFF SOURCE: Andrea Amonick, Development Services/AURA Manager, Planning & Development Services

Council Member Lawson asked if the art space including 185 seats was proposed as an additional arts venue.

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Andrea Amonick, Development Services/AURA Manager, Planning & Development Services, stated the art space was a large event space that included the installation of 185 retractable seats.

Council Member Lawson noted the large number of art investments within the City and asked if any thought had been given to the creation of an entrepreneurial hub rather than using spaces for the arts. Ms. Amonick answered affirmatively, noting entrepreneurial hubs were a popular alternative and a number of innovation office spaces were being constructed in the City.

Council Member Roth stated this was a good example of the Construction Manager General Contractor (CMGC) method of contracting working very well.

Council Member Bergan asked if the \$1.8M included the land acquisition. Ms. Amonick answered no. Council Member Bergan asked the cost of the land. Ms. Amonick stated \$850k. Council Member Bergan stated that was a substantial investment and expressed her hope that this would be something that was viable and sustainable in the community.

Motion by Roth, second by Mounier, to approve item 9c with a waiver of reconsideration.

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

- d. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Commercial Roofing and Weather Proofing, Englewood, Colorado in the amount of \$114,692.00 for the Utah Pool Recreation Building Roof Replacement Project, Project Number 5538A. STAFF SOURCE: Chris Carnahan, Deputy Director Public Works Operations, Public Works
- e. Consideration to AWARD A COMPETITIVELY BID CONTRACT to American West Construction, LLC, Denver, Colorado in the amount of \$196,745.00 for construction of the 2016 Miscellaneous Stormwater Rehabilitation Project, Project Number 5513A. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water
- f. Consideration to AMEND A SINGLE SOURCE CONTRACT to Black & Veatch Corporation, Denver, Colorado in the amount of \$979,793.00 for providing design engineering and permitting assistance services for Work Package No. 4 for the Pump Stations Rehabilitation Project. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water
- g. Consideration to AWARD A SINGLE SOURCE CONTRACT to geosUAS, Inc., Reno, Nevada, in the not-to-exceed amount of \$100,000.00 for on-call professional consulting services associated with the wetlands determination for the Box Creek Reservoir Project. STAFF SOURCE: Gerald Knapp, Regional River Basin Program Manager, Aurora Water
- h. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Revolution Foods, Commerce City, Colorado in the amount of \$82,170.00 for providing food vendor services for the 2016 At-Risk After School Meals Program, B-4187. **(STAFF REQUESTS A WAIVER OF RECONSIDERATION)** STAFF SOURCE: Byron Fanning, Recreation Services Manager, Parks, Recreation & Open Space

Motion by Cleland, second by Pierce, to approve items 9d – 9h with a waiver of reconsideration on 9h.

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

Final Ordinances

- ◆ i. **2016-43**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, organizing the Porteos Business Improvement District; providing for an election of the Board of Directors of the district; and approving the 2017 operating plan and budget for the district. STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management
- ◆ j. **2016-44**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, authorizing the issuance and sale by the City of Aurora, Colorado, acting by and through its utility enterprise, of first-lien sewer refunding revenue bonds, series 2016, in an aggregate principal amount not to exceed \$32,000,000, for the purpose of financing, in whole or in part, the cost of refunding obligations outstanding with respect to the sewer system operated by the utility enterprise, pledging certain funds and revenues of the enterprise to the payment of such bonds. Prescribing the form of such bonds, and providing other details in connection therewith. STAFF SOURCE: Mike Shannon, Debt and Financing Administrator, Finance

Motion by Roth, second by Cleland, to approve items 9i and 9j.

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

10. **RESOLUTIONS**

- ◆ a. **R2016-71**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the amended and restated Intergovernmental Agreement between the City of Aurora, Colorado, 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 1-70, No. 9-11.06G. STAFF SOURCE: Vern Adam, Engineering Services Manager, Aurora Water

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

Council Member Roth wished Executive Director of Urban Drainage, Paul Hindman, well on his retirement.

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

- ◆ b. **R2016-72**
Consideration to APPROVE A RESOLUTION of City Council of the City of Aurora, Colorado, approving the Intergovernmental Agreement between the City of Aurora, Colorado, by and through its Utility Enterprise and Buckley Air Force Base to jointly fund a remediation study of the East Toll Gate Creek and Plains Drainage. STAFF

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SOURCE: Kelley Neumann, Deputy Director Water Planning/Engineering, Aurora Water

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

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

- ◆ c. **R2016-73**
Consideration to APPROVE A RESOLUTION of City Council of the City of Aurora, Colorado, expressing its support for the location of any lawful and legitimate industry within the City. STAFF SOURCE: Michael Hyman, City Attorney

Motion by Richardson, second by Peterson, to table item 10c.

Council Member Pierce stated he brought the item forward because it was a useful resolution, noting he would not support the motion.

Voting Aye: Berzins, Cleland, Mounier, Peterson, Richardson

Voting Nay: Mayor Hogan, Bergan, Lawson, LeGare, Pierce, Roth

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

Nicole Johnston, Pat Dunn, Sonia Skakich-Scrima, and Margaret Sobey, Aurora, Colorado, spoke in opposition to the item, noting it was arbitrary, capricious, and discriminating to other businesses in Aurora and showed favor to the oil and gas industry over other industries.

Council Member Bergan stated while she was pro-business and welcomed responsible oil and gas development, she would not support the item because it was unnecessary and did not serve a good purpose.

Mayor Pro Tem Peterson stated Aurora was all for business therefore the resolution was unnecessary. She asked Council Member Mounier to stand with her in helping the citizens that would be affected by this issue and questioned why Council Member Pierce brought the item forward.

Council Member Lawson concurred with Council Member Bergan's comments, noting she would not support the item.

Council Member Pierce stated he brought the resolution forward because it was a very straightforward and simple statement that Aurora recognized and wanted to have all businesses in Aurora.

Voting Aye: LeGare, Pierce

Voting Nay: Bergan, Berzins, Cleland, Lawson, Mounier, Peterson, Richardson, Roth

Mayor Hogan recognized the Boy Scout Troop #127 from Fox Hollow Elementary School in attendance.

11. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

- ◆ a. **R2016-74**

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Public Hearing and Consideration to INTRODUCE AN ORDINANCE of the City Council of the City of Aurora, Colorado, to amend the Hampden Town Center general development plan to remove the limitation on minimum unit size over the parcels described as tract B filing 1, lot 1 block 3 filing 5, lot 3 block 1 filing 6, and lot 4 block 1 filing 6, generally located north of I-225 between Boston Avenue and Dallas Street in the Cities of Aurora and Greenwood Village, County of Arapahoe, State of Colorado. (Hampden Town Center GDP Amendment) STAFF SOURCE: Anthony Avery, Planner I, Planning & Development Services

Mayor Hogan opened the public hearing on the item.

Anthony Avery, Planner I, Planning & Development Services, provided a summary of the item, noting it related to the amendment of the Hampden Town Center general development plan (GDP). He stated the City Attorney advised him to bring the item to City Council for a vote because, while Greenwood Village attempted to utilize the 90 day opt out provision, the deadline to do so had passed.

Mike Hyman, City Attorney, stated his findings that the City of Aurora had jurisdiction with the application and there was not sufficient evidence that the agreement had been properly terminated in accordance to state law.

Council Member Richardson asked when the 90 day termination of the intergovernmental agreement (IGA) was complete. Mr. Avery stated September 7, 2016. Council Member Richardson stated his assumption that fire and police services were not being provided to this location considering Greenwood Village cancelled the agreement.

Skip Noe, City Manager, stated Greenwood Village's termination was on the City's planning authority and did not change the other agreements.

Council Member Richardson stated the IGA language did not allow them to pick what they wanted to cancel, noting this interruption was intentional and that intent should be considered.

Council Member Cleland asked when the 90 days began. Mr. Avery stated June 8, 2016. Council Member Cleland asked if something could have been done to make the agreement valid within the 90 days. Mr. Avery stated the applicant had been working with Greenwood Village towards a resolution.

Council Member LeGare asked for clarification regarding the 90 units not being built because of the sewer line capacity. Mr. Avery stated the sanitary sewer analysis determined the storm sewer system could not support the potential number of units allowed at full buildout.

Council Member Pierce noted one of the amendments would remove the minimum unit size and asked what size of unit would be provided. Mr. Avery stated no proposals were set forth in that regard, noting the developer would be required to meet the minimum building code. Council Member Pierce discussed the importance of maintaining the open space and transition zone at this location and asked if the site plan would go through the normal planning process. Mr. Avery answered affirmatively, noting it would be heard by the Planning Commission.

Glen Barnard, representing the applicant, gave a presentation on the item.

Council Member Cleland asked if the applicant could have submitted a site plan to the City of Aurora within the 90 days. Mr. Barnard answered no, noting it was not practical to do so.

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Council Member LeGare asked if the process started in April. Mr. Barnard stated the GDP amendment was filed in mid-April. Council Member LeGare asked when Greenwood Village gave notice of the termination. Mr. Barnard stated that was done mid-June. Council Member LeGare asked if the 90 units that were not constructed would ever be included in the capacity. Mr. Barnard stated those units were planned as a continuation of the condos located on east Dallas Street, adding that a different higher density product would be built at that location. Council Member LeGare asked if 90 units were factored into the sewer report. Mr. Barnard answered no. Council Member LeGare asked if the metro district was responsible for sewer capacity issues.

Larry Jacobson, representing the applicant, stated the sewer system was studied extensively.

Council Member LeGare asked who would be responsible to correct the sewer lines if the sewer flow were to increase and the lines were to overload in the future.

Marshall Brown, Director, Aurora Water, stated the City of Aurora would be responsible for collection issues.

Council Member Richardson asked that the September 23, 2016 letter from Dayton Station investors and the July 5, 2016 letter from CBRE be made a part of the official record because they were received prior to the 24 hour cutoff.

Mayor Hogan concurred.

Council Member Richardson stated his disbelief that the City of Aurora continued to provide police and fire services to the Dayton Street TOD and expressed his frustration with the City of Greenwood Village over this issue.

David Foster, representing the applicant, addressed the sewer capacity issue, noting it was always contemplated that there would be more density on the property. He stated the 90 days had not yet begun therefore there was not a termination of the IGA.

Mayor Hogan closed the public hearing on the item.

Motion by Richardson, second by LeGare, to introduce item 11a.

Council Member LeGare stated his support of the item, noting his hope that doing so would bring the Dayton Street Station TOD plan closer to the initial goals of mega density with extended building heights.

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

12. **ORDINANCES FOR INTRODUCTION**

- ◆ a. **2016-45**
Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, for an Ordinance repealing Section 2-588 of the City Code of the City of Aurora, Colorado, regarding the establishment of special revenue abatement fund. STAFF SOURCE: Nancy Wishmeyer, Controller, Finance

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

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

13. **PLANNING MATTERS**

- a. PUBLIC HEARING to consider a Conditional Use for a fueling station in a B-1 Zone District for Maverik Convenience Store, generally located at the southwest corner of Mississippi Ave and Potomac Street. The Conditional Use was approved at Planning Commission on August 24, 2016 with a vote of 5 to 0 with Commissioner Traynor absent and one abstention. Councilmember Richardson called up the Conditional Use at the September 12, 2016 Council Meeting. **(Case Number 2016-6013-01)** STAFF SOURCE: Devin Yoder, Planner I, Planning & Development Services

Mayor Hogan opened the public hearing on the item.

Council Member Richardson asked Mayor Hogan to poll the audience to determine if anyone present was opposed to the project.

Mayor Hogan did so, noting no one stated their opposition.

Council Member Richardson stated he called up the item at the request of a neighborhood activist who was not present.

Mayor Hogan closed the public hearing on the item.

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

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

14. **RECONSIDERATIONS AND CALL-UPS**

Motion by Cleland, second by Richardson, to reconsider item 9e, related to awarding a software development contract, from the September 12, 2016.

Council Member LeGare stated he would not support the motion because staff went through an extensive process to study this system.

Council Member Bergan asked Council Member Cleland her reasoning behind the call-up. Council Member Cleland stated she not think it was handled fairly and this was the same contract as the one they had with Denver that had issues.

Council Member Richardson asked if there was a protest process for the award contract.

Michelle Wolfe, Deputy City Manager, stated there was not a codified formal process but there was a protest process in place.

Council Member Roth pointed out the difference between the Aurora and Denver processes in this regard.

Council Member Bergan asked if staff had reached out to Denver to determine if the software met their expectations.

Aleta Jeffress, Director, Information Technology, answered affirmatively, noting they have stated they have fixed the issues and would use the company again.

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Council Member Roth asked how many municipalities used this software. Ms. Jeffress stated 54 counties and cities in the Front Range area.

Council Member Richardson asked if this item was presented to Council as a sole source contract. Ms. Jeffress answered no.

Ms. Wolfe clarified it was a competitive process but not a sealed bid process.

Voting Aye: Cleland, Richardson

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

Mayor Hogan noted this was a seven figure contract and more would be coming before Council in the future. He stated his assumption that would provide more opportunity for disgruntled people to protest a contract award and suggested it would be necessary to establish a formal award contract process.

Ms. Wolfe stated that process was underway.

15. **GENERAL BUSINESS**

- a. Consideration of the reappointment of two (2) members to the Historic Preservation Commission. STAFF SOURCE: Karen Goldman, Deputy City Clerk, General Management

Motion by LeGare, second by Roth, to reappoint Lynne Evans and Ruth Fountain to the Historic Preservation Commission.

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

- b. Consideration of the reappointment of two (2) members to the Library Board. STAFF SOURCE: Karen Goldman, Deputy City Clerk, General Management

Motion by Berzins, second by Mounier, to reappoint Cheryl Eddings and Mary Mollicone to the Library Board.

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

- c. Consideration of the appointment of eleven (11) youth to the Aurora Youth Commission. STAFF SOURCE: Karen Goldman, Deputy City Clerk, General Management

Motion by LeGare, second by Bergan, to appoint Christopher Daneau; Ebelyn Garcia; Bethame Hailu; Damien Johnson; Langston Kelly; Lukas Keller; Leslie Ramos; Angelina Rivera; Olympia Salazar; Nalleli Sanchez and Emmanuel Sogunle to the Aurora Youth Commission.

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

- d. Consideration of the appointment of two (2) adult members to the Aurora Youth Commission. STAFF SOURCE: Karen Goldman, Deputy City Clerk, General Management

Motion by Bergan, second by Lawson, to appoint Joe Lewis and William McCartin to the Aurora Youth Commission

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

Voting Nay: Cleland

- e. Consideration of the appointment of one (1) person to the Judicial Performance Commission. STAFF SOURCE: Karen Goldman, Deputy City Clerk, General Management

Motion by Roth, second by Mounier, to appoint Wesley Nickelson to the Judicial Performance Commission.

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

- f. Consideration to APPROVE AN AGREEMENT between the City of Aurora and the International Association of Fire Fighters, Local 1290 for the years 2017-2018. STAFF SOURCE: Dan Quillen, Director, Internal Services

Motion by Richardson, second by Cleland, to approve item 15f.

Council Member LeGare stated he would vote in opposition to the item because the reduction of the workweek from 56 hours to 48 hours for firefighters in exchange for not getting a raise would ultimately be costly for the taxpayers.

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

Voting Nay: LeGare

16. **REPORTS**

- a. Report by the Mayor

Mayor Hogan discussed the success of the recent Cherry Arts Festival at the Stanley Marketplace.

- b. Reports by the Council

Council Member Lawson discussed her attendance at the recent *Up with People* performance and announced the At-Large meeting was scheduled for Thursday, October 13, 2016 at Tallyn's Reach Library where a zoning code update would be provided.

Council Member Mounier noted, in addition to the Cherry Arts Festival, two blocks on Clinton Street were dedicated with a street mural and invited all those interested in attending to the Ward I Town Hall meeting scheduled for Thursday, October 6, 2016 at the MLK Library where Robert Ferrin, Parking & Mobility Manager, would discuss the parking and mobility program.

Council Member Berzins invited all those interested in attending to the Ward III meeting scheduled for Wednesday, October 12, 2016 at the Aurora Chamber office at 6:00 p.m. where Planning Department representatives would be present to provide an update.

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Council Member Roth announced the Ward V Town Hall meeting was scheduled for Tuesday, October 18, 2016 at the Heather Gardens Clubhouse at 6:00 p.m. where the annual candidate forum would take place.

Council Member Bergan announced the Ward VI Town Hall meetings were scheduled for Wednesday, September 28, 2016 at the Tallyn's Reach Library at 6:30 p.m. and Thursday, November 17, 2016 at the Mission Viejo Library. She extended congratulations to the City's Communications Department on the receipt of top honors.

17. **PUBLIC INVITED TO BE HEARD**

None

18. **ADJOURNMENT**

Mayor Hogan adjourned the regular meeting of City Council at 9:38 p.m.

STEPHEN D. HOGAN, Mayor

ATTEST:

JANICE NAPPER, City Clerk

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