

## **MINUTES**

### **Regular Meeting – Aurora City Council Monday, October 24, 2016**

#### **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, Cleland, Lawson, LeGare, Peterson, Pierce,
COUNCIL MEMBERS ABSENT:	Mounier, Richardson, Roth
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 Berzins, second by Pierce, to recess for executive session.

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

Abstaining: None

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

#### 1. **RECONVENE REGULAR MEETING OF OCTOBER 24, 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
COUNCIL MEMBERS ABSENT:	Mounier, Roth
OFFICIALS PRESENT:	City Manager Noe, City Attorney Hyman, Assistant City Manager/City Clerk Napper

#### 3. **INVOCATION** Renie Peterson, Aurora City Council

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

#### 5. **APPROVAL OF THE MINUTES OF THE MEETING OF OCTOBER 10, 2016**

Motion by Bergan, second by Pierce, to approve the minutes of October 10, 2016 as presented.

- ◆ *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: Mayor Hogan, Bergan, Berzins, Cleland, Lawson, LeGare, Peterson, Pierce, Richardson

Abstained: None

6. **CEREMONY**

No ceremonies.

Mayor Hogan recognized Ryan Drazga from Boy Scout Troop #127.

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

None

8. **ADOPTION OF THE AGENDA**

Mayor Hogan noted the City Manager requested items 12c and 12i be deferred to the November 14, 2016 City Council agenda.

Council Member Richardson stated his objection to the deferment of items 12c and 12i. He referenced the Rules of Order and Procedure for the Aurora City Council, Section B-2, Agendas, which stated "Although items may be requested by other parties, Council Members, City Manager, City Attorney, Chief Public Defender, Presiding Judge, and Court Administrator are the only ones who have authority to place items on the agenda and the item shall indicate the party requesting the item," noting that was not the case in this instance. He stated this was an attempt by the initiator to defer an item that has been approved for introduction by the City Council to a date when all council members were present in order to garner a favorable vote.

Council Member Cleland concurred. She stated allowing the City Manager to remove an item because two council members were absent sets a precedent. She suggested the item be deferred rather than removed considering the items have been introduced per the Council rules.

Council Member LeGare agreed the items should be removed from the agenda because they would not pass. He asked staff if the action of removing the item and returning them to the agenda at a later date was subject to a legal challenge as suggested by Council Member Richardson.

Mike Hyman, City Attorney, stated the rule was subject to interpretation, noting it was a reasonable interpretation that items could be pulled off up until the agenda was adopted. He suggested a different statement would be in that section if Council intended a different rule. He stated his opinion that the initiator could pull the item from the agenda and return it at a later date with no legal challenge. He pointed out the only legal challenge would be if there were not six votes because six votes were required to pass the ordinance. He stated he did not foresee any legal issues with the action and noted he would be happy to defend it.

Council Member Cleland stated she did not know who the initiator was.

Skip Noe, City Manager, stated his assumption that, per other sections of the rule, he was the initiator of all items because he approved staff members putting the items on the agenda. Therefore as the initiator, he could remove items as well. He noted the water item, which was generated through the budget process by Aurora Water, had his approval to be put on the agenda so in essence he was the initiator of that item and could therefore have it removed.

- ◆ ***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.***

Council Member Richardson asked Mr. Noe if, under that assumption, he could remove the item again if it did not receive six votes. Mr. Noe answered affirmatively, noting all 11 council members were present at the time of introduction and the majority adopted it at that time therefore waiting for all of council to be present to approve it made sense.

The agenda was adopted as presented with the removal of items 12c and 12i.

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

**General Business**

- a. Consideration to AWARD A SOLE SOURCE CONTRACT to West Safety Solutions Corp, Longmont, Colorado in the amount of \$104,295.00 to implement the ACD and PowerOps capabilities for the City's 911 Viper Call Handling System. STAFF SOURCE: Aleta Jeffress, Director, Information Technology
- b. Consideration to AWARD CHANGE ORDER NUMBER THREE TO A COMPETITIVELY BID CONTRACT to Layne Heavy Civil, Inc., Denver, Colorado in the amount of \$367,289.56 for additional construction services to complete the Sable City Center Improvements Phase II Project. STAFF SOURCE: Kelley Neumann, Deputy Director Water Planning/Engineering, Aurora Water
- c. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Air Conditioning Associates Inc. (ACA), Englewood, Colorado in the not-to-exceed amount of \$223,700.00 to perform scheduled maintenance and on-call repairs for HVAC systems in Water facilities through November 2017. (R-1797) STAFF SOURCE: Bobby Oligo, Manager of Water Treatment, Aurora Water
- d. Consideration to AWARD A SINGLE SOURCE CONTRACT to Municipal Treatment Equipment Inc., Golden, Colorado in the not-to-exceed amount of \$82,000.00 for Evoqua Water Technology (formally Siemens) equipment, parts, and certified technical services for the annual upkeep of chlorine, chlorine dioxide, and ammonia systems at the Griswold, Wemlinger, and Binney Water Purification Facilities as required from November 1, 2016, through October 31, 2017. STAFF SOURCE: Bobby Oligo, Manager of Water Treatment, Aurora Water

Motion by Pierce, second by Peterson, to approve items 9a – 9d.

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

**Final Ordinances**

- ◆ e. **2016-47**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, approving the First Amendment to a Development Agreement between the City of Aurora, Colorado, and LNR CPI High Point, LLC, containing provisions for a vested property right pursuant to Article 68 of Title 24, C.R.S. for certain lands located in Sections 1, 2, 3, 10 and 12 Township 3 South, Range 66 West, and Section 7, Township 3 South, Range 65 West of the 6th principal meridian, City of Aurora, County of Adams, State of Colorado (Highpoint) 1200 acres more or less. STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management
- ◆ f. **2016-49**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, establishing the Tax Levy on all taxable property within the corporate limits of the City of Aurora, Colorado, for the tax collection year beginning
- ◆ ***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.***

January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Greg Hays, Budget Officer, Finance

- ◆ g. **2016-53**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, creating the parking and mobility fund. STAFF SOURCE: Nancy Wishmeyer, Controller, Finance

Motion by LeGare, second by Bergan, to approve items 9e – 9g.

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

***For purposes of considering the following item 9h, the City Council will be acting ex officio as the Board of Directors of the Aurora Conference Center 2-2011, respectively.***

- ◆ h. **2016-58**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, of General Improvement District 2-2011 (Aurora Conference Center) adopting an operating budget, establishing the tax levy, and appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Mike Shannon, Debt & Treasury Manager, Finance

Motion by LeGare, second by Lawson, to approve item 9h.

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

## 10. **RESOLUTIONS**

- ◆ a. **R2016-78**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an addendum to an Agreement between the City of Aurora and Arapahoe County, Colorado, for the Quincy Avenue/E-470 Ramp Reconfiguration Study - Funding of Project Work. STAFF SOURCE: Cindy Colip, Transportation Projects Delivery Manager

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

Council Member Bergan stated her understanding that the study was done at a shared cost between various entities and asked why the continuous flow for the intersection was not entertained in the original study.

Steve Gardner, Project Engineer, stated this item was just a matter of timing regarding getting all of the entities together for a traffic evaluation.

Council Member Bergan stated she would support the item, but noted her disappointment that the City's share resulted in \$900k and suggested a contingency for future design be included moving forward.

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

- ◆ b. **R2016-79**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, Acting by and Through Its Utility Enterprise Approving the Water

- ◆ ***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.***

Management Plan. STAFF SOURCE: Gregory Baker, Manager Aurora Water Public Relations, Aurora Water

Motion by Pierce, second by Bergan, to approve item 10b.

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

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

- ◆ a. **2016-61**  
PUBLIC HEARING AND INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, rezoning a parcel of land from O (Open Zone District) to M-2 (Medium Industrial District) and amending the zoning map accordingly (17050 East Smith Road - Tower Pointe Rezone) Case Number 2016-2011-00. STAFF SOURCE: Jonathan Woodward, Planner II - Planning & Development Services

Mayor Hogan opened the public hearing on the item.

Jonathan Woodward, Planner, Planning & Development Services, provided a brief summary of the item, noting it related to the rezone of a seven acre parcel from O (Open Zone District) to M-2 (Medium Industrial District) and amending the zoning map accordingly.

Mayor Hogan closed the public hearing on the item.

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

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

12. **ORDINANCES FOR FINAL**

- ◆ a. **2016-48**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, adopting an Operating and Capital Improvements Projects Budget for the fiscal year beginning January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Greg Hays, Budget Officer, Finance

Motion by LeGare, second by Pierce, to approve item 12a.

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

Voting Nay: Peterson

- ◆ b. **2016-50**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2017 and ending December 31, 2017. STAFF SOURCE: Greg Hays, Budget Officer, Finance

Motion by LeGare, second by Lawson, to approve item 12b.

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

Voting Nay: Peterson

- ◆ *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.*

- ◆ d. **2016-52**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, creating the marijuana tax revenue fund. STAFF SOURCE: Nancy Wishmeyer, Controller, Finance

Motion by Cleland, second by LeGare, to approve item 12d.

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

***For purposes of considering the following items 13e-h, the City Council will be acting ex officio as the Board of Directors of the General Improvement Districts 1-2007, 1-2008, 3-2008, and Pier Point 7 2-2009 respectively.***

- ◆ e. **2016-54**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, of general improvement district 1-2007 (Cherry Creek Racquet Club) adopting an operating budget, establishing the tax levy, and appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Mike Shannon, Debt & Treasury Manager, Finance

Motion by LeGare, second by Pierce, to approve item 12e.

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

Voting Nay: Peterson

- ◆ f. **2016-55**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, of General Improvement District 1-2008 (Peoria Park) adopting an operating budget, establishing the tax levy, and appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Mike Shannon, Debt & Treasury Manager, Finance

Motion by Lawson, second by LeGare, to approve item 12f.

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

Voting Nay: Peterson

- ◆ g. **2016-56**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, of General Improvement District 3-2008 (Meadow Hills Country Club) adopting an operating budget, establishing the tax levy, and appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Mike Shannon, Debt & Treasury Manager, Finance

Motion by Pierce, second by Bergan, to approve item 12g.

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

Voting Nay: Peterson

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- ◆ h. **2016-57**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, of Pier Point 7 General Improvement District 2-2009 adopting an operating budget, establishing the tax levy, and appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2017, and ending December 31, 2017. STAFF SOURCE: Mike Shannon, Debt & Treasury Manager, Finance

Motion by Bergan, second by Pierce, to approve item 12h.

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

Voting Nay: Peterson

- ◆ j. **2016-60**  
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending Chapter 2, Article VII, of the City Code related to disposition of unclaimed property. STAFF SOURCE: Nancy Wishmeyer, Controller, Finance

Motion by LeGare, second by Peterson, to approve item 12j.

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

Voting Nay: Richardson

13. **RECONSIDERATIONS AND CALL-UPS**

None

14. **GENERAL BUSINESS**

- a. Consideration of the reappointment of one (1) member and the appointment of one (1) person to the Citizens Advisory Committee on Housing and Community Development – K. Goldman

Motion by LeGare, second by Peterson, to reappoint Teri Marquantte and appoint Nicholas Onyszczak to the Citizens Advisory Committee on Housing and Community.

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

- b. Consideration of the reappointment of one (1) member to the General Employees Retirement Plan Board – K. Goldman

Motion by LeGare, second by Pierce, to reappoint Helen DiBartolomeo to the General Employees Retirement Plan Board.

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

- c. Consideration of the reappointment of five (5) members and the appointment of two (2) persons to the Human Relations Commission – K. Goldman

Council Member Cleland nominated Maya Wheeler for reappointment.

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Council Member LeGare nominated Hashim Tarik Coates for reappointment.

Council Member Peterson nominated Robert Joseph for reappointment.

Council Member Berzins nominated Toni Baruti for appointment.

Council Member Cleland nominated Nicole Rodriguez for reappointment.

Council Member LeGare nominated Charlene Wisher-Howard and Stephanie Clement for appointment.

Motion by Cleland, second by Pierce, to close the nominations.

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

Motion by Cleland, second by Peterson, to reappoint Maya Wheeler, Hashim Tarik Coates, Robert Joseph and Nicole Rodriguez and appoint Toni Baruti, Charlene Wisher-Howard and Stephanie Clement to the Human Relations Commission.

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

15. **REPORTS**

a. Report by the Mayor

No report.

b. Repots by Council

Council Member Lawson expressed appreciation to Greg Hayes, Budget Manager, Finance and Don Elliott, Director, Clarion Associates for their attendance at the recent At-Large meeting.

Council Member Berzins discussed her attendance at several ribbon cutting events.

Council Member Pierce reported on the third quarter business license activities and urged everyone to exercise their right to vote in the presidential election as well as important local races.

Council Member Cleland expressed appreciation to Council Member Berzins for her service to the Aurora Mental Health board for the last eight years and discussed the talent of the Aurora Mental Health art contest artists. She echoed Council Member Pierce's comments related to the importance of voting in national and local elections.

Council Member LeGare mentioned the success of the FallFest and Punkin Chunkin events and expressed his appreciation to City staff for their efforts in that regard.

Council Member Bergan expressed appreciation to Sorrel Ranch Homeowners Association for the invitation to speak at their recent HOA meeting.

16. **PUBLIC INVITED TO BE HEARD**

None

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17. **ADJOURNMENT**

Mayor Hogan adjourned the regular meeting of City Council at 8:15 p.m.

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STEPHEN D. HOGAN, Mayor

ATTEST:

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