

MINUTES

Regular Meeting – Aurora City Council Monday, December 5, 2016

CALL TO ORDER – REGULAR MEETING

Mayor Pro Tem Peterson convened the regular meeting of City Council at 4:00 p.m.

ROLL CALL

PRESIDING:	Mayor Pro Tem Peterson
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Cleland, Lawson, LeGare, Mounier, Pierce, Richardson, Roth
COUNCIL MEMBERS ABSENT:	Mayor Hogan
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 Cleland, second by Mounier, to recess for executive session.

1. **RECONVENE REGULAR MEETING OF DECEMBER 5, 2016 AND CALL TO ORDER**

Mayor Pro Tem Peterson reconvened the regular meeting of City Council at 7:30 p.m.

2. **ROLL CALL**

PRESIDING:	Mayor Pro Tem Peterson
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Cleland, Lawson, LeGare, Mounier, Pierce, Richardson, Roth
COUNCIL MEMBERS ABSENT:	Mayor Hogan
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 NOVEMBER 21, 2016**

Motion by LeGare, second by Roth, to approve the minutes of November 21, 2016 as amended.

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

Abstained: None

6. **CEREMONY**

a. Swearing in of newly appointed Boards and Commission members – Presiding Judge Shawn Day

- ♦ *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.*

Judge Shawn Day administered the oath of office to the board and commission members. Mayor Pro Tem Peterson and City Council congratulated the members and thanked them for their service to Aurora. Each expressed appreciation for the appointment.

<u>Name</u>	<u>Board or Commission</u>
Alexander Maller	Cultural Affairs Commission
Senaye Gebre-Michael	Immigrant and Refugee Commission
Muhammed Kahn	Immigrant and Refugee Commission
Martha Lugo	Immigrant and Refugee Commission
Jeannette Rodriguez	Immigrant and Refugee Commission
Silvia Tamminen	Immigrant and Refugee Commission
Leela Timsina	Immigrant and Refugee Commission
Susan Turnquist	Immigrant and Refugee Commission
William Wiggins	Immigrant and Refugee Commission
Sandra Whitcomb	Judicial Performance Commission
Dani Perea	Library Board

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

Kate Tauer and Greg Chase, Aurora, Colorado, representing the Aurora History Museum Foundation, presented ornaments depicting the trolley trailer to City Council and thanked them for their support.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-k**

General Business

- a. Consideration to EXTEND AN OPENLY SOLICITED CONTRACT with Custom Environmental Services, Arvada, Colorado in the not-to-exceed amount of \$99,500.00 for abandoned waste emergency response services throughout Aurora during 2017. (R-1673) STAFF SOURCE: Karen Hancock, Planning Supervisor, Planning & Development Services
- b. Consideration to AWARD A SOLE SOURCE CONTRACT to Lynker Technologies, LLC, Boulder, Colorado in the amount of \$58,466.00 for raw water supply model support services. STAFF SOURCE: Sarah Young, Water Planning Services Manager, Aurora Water
- c. Consideration to AWARD A SINGLE SOURCE CONTRACT to Adrenalin Inc., Denver, Colorado in the amount of \$270,000.00 for professional consulting services to support the City's 2017 Branding and Marketing Project. STAFF SOURCE: Kim Stuart, Director, Communications

Motion by Bergan, second by Roth, to approve items 9a – 9c.

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

- d. Consideration to APPROVE A LEASE AGREEMENT with ConocoPhillips for city-owned mineral rights within Section 14, Township 3 South, Range 65 West, 6th PM, Adams County consisting of approximately 8.73 acres. STAFF SOURCE: Hector Reynoso, Manager Real Property Services, Public Works

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Nicole Johnston, Aurora, Colorado, Oil and Gas Advisory Committee, spoke in opposition to the item due to forced pooling.

Council Member Richardson stated this item made a sham out of the entire process of the Oil and Gas Committee's efforts. He discussed the legal comments as they related to directing City Council to make decisions in this regard based on the best interests of the municipality. He pointed out no one on City Council had expertise in this area and considering the charge of the Oil and Gas Committee was to advise and make recommendations to the City Council regarding oil and gas development within the City, he recommended the item be sent to the Oil and Gas Committee for their review.

Council Member LeGare discussed his experience as a landlord in signing an oil lease on property that was considerably larger than the item presented. He explained the options were to negotiate a lease upfront which would result in garnering a percentage of the minerals and cash upfront or potentially being force pooled by the state, which meant all the minerals could be kept but the wait was much longer and there was the potential of getting no dollars at all. He suggested sending the item to the Oil and Gas Committee would be a charade considering the majority of City Council has voted on oil leases in the past.

Council Member Pierce asked staff to speak to the appropriateness of sending the item to a policy committee.

Mike Hyman, City Attorney, did so, noting the idea when creating the Oil and Gas Committee was for them to advise and provide recommendations to City Council on land use aspects of oil and gas drilling, noting it was not intended to put real property transactions before the Committee. He stated how the City managed its property should remain between the Real Property section and City Council and he advised against negotiating such business transactions in a public setting. He confirmed Council Member LeGare's comments regarding forced pooling were accurate.

Council Member Richardson stated the City Attorney cast the Oil and Gas Committee as the City Council's nemesis and asked where it was stated in the ordinance that the Committee was limited to land use issues only. Mr. Hyman agreed the ordinance language was broad in its application, noting the intent when the ordinance was drafted was for oil and gas regulation of land use aspects of oil and gas.

Council Member Bergan asked for clarification that this item related to mineral rights for this particular City-owned site and did not entail a drill site, noting a drill site required a different process.

Mr. Hyman concurred.

Hector Reynoso, Manager, Real Property Services, Public Works, provided a brief summary of the item, noting it related to a mineral rights lease between the City of Aurora and Anadarko.

Council Member LeGare asked Mr. Reynoso if this City Council signed nine leases so far. Mr. Reynoso stated he was uncertain if it was this City Council who signed the nine leases. Council Member LeGare asked if there were currently nine signed leases. Mr. Reynoso answered affirmatively. Council Member LeGare pointed out that confirmed his previous point.

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Council Member Richardson asked how many leases were signed in the last year since he has been on Council. Mr. Reynoso stated he did not have that information and agreed to provide it to Council Member Richardson. Council Member Richardson expressed his frustration regarding references to actions taken by the City Council prior to his election.

Council Member LeGare noted his reference was to the nine leases signed by the Aurora City Council.

Mayor Pro Tem Peterson pointed out the Oil and Gas Committee was made up of people from both sides of the issue and she did not see the harm in having them review this item for recommendations. She stated she would not support the item even though the City Attorney and other council members have stated this was a done deal, noting her opinion that the Oil and Gas Committee should be involved in all oil and gas deals in the City.

Council Member Bergan agreed the Oil and Gas Committee should be involved in oil and gas development. She pointed out this was a mineral rights lease for City-owned property that would not impact anyone else therefore she did not think it should go to the Committee for this particular issue.

Motion by LeGare, second by Roth, to approve item 9d.

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

Voting Nay: Mayor Pro Tem Peterson, Berzins, Richardson

e. Consideration to AWARD A SINGLE SOURCE CONTRACT to Morpho Trust USA, Bloomington, Minnesota in the amount of \$109,772.00 to purchase and install four (4) Touchprint live scan booking stations and systems for the Detention Center. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Dr. Zelda DeBoyes, Court Administrator, Court Administration

f. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Hach Company, Loveland, Colorado in the amount of \$134,518.00 for the purchase of a Water Information Management System (RFP R-1767). STAFF SOURCE: Bobby Oligo, Manager of Water Treatment, Aurora Water

Motion by Bergan, second by Roth, to approve items 9e and 9f with a waiver of reconsideration on item 9e.

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

Final Ordinances

◆ g. **2016-62**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, vacating the public right-of-way for Perth Street, directly North of East 32nd Parkway and West of Piccadilly Road, City of Aurora, County of Adams, State of Colorado, and reserving a utility easement therein. (Perth Street Vacation)
STAFF SOURCE: Brenden Paradies, Planner I, Planning & Development Services

◆ h. **2016-63**

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Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending various sections of Chapter 2 and Chapter 6 of the City Code related to the alcohol beverages Local Licensing Authority and the City's Liquor Code. STAFF SOURCE: Trevor Vaughn, Manager of Tax and Licensing, Finance

i. Agenda item 9i has been renumbered as item 12a and moved to Ordinances for Final.

- ◆ j. **2016-66**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, appropriating sums of money in addition to those appropriated in Ordinance Nos. 2015-50, and 2016-14 for the 2016 fiscal year. STAFF SOURCE: Jackie Ehmann, Budget/Finance Program Manager, Finance

- ◆ k. **2016-67**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, adopting the 2017 Emergency Operations Plan. STAFF SOURCE: Fire Battalion Chief Matthew Chapman, Fire

Motion by Roth, second by Lawson, to approve items 9g – 9k.

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

10. **RESOLUTIONS**

- ◆ a. **R2016-92**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for an Intergovernmental Agreement between the City of Aurora and the Regional Transportation District for the Initial Parking Management Plan for the Iliff Parking Garage. STAFF SOURCE: Robert Ferrin, Parking Program Manager, Public Works

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

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

- ◆ b. **R2016-93**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, authorizing the submission of an application to Great Outdoors Colorado for a grant in the amount of \$110,000 to partially fund design documents and construction of the Arrowhead Elementary School playground renovation project. **(Staff Requests a Waiver of Reconsideration)** STAFF SOURCE: Tracy Young, Planning, Design and Construction Manager, Parks, Recreation & Open Space

Motion by Bergan, second by LeGare, to approve item 10b with a waiver of reconsideration.

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

- ◆ c. **R2016-94**
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, by and through its Utility Enterprise, and the Urban Drainage and Flood Control District, regarding funding for maintenance and flood control improvements

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for Robinson Gulch. STAFF SOURCE: Sarah Young, Water Planning Services Manager, Aurora Water

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

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

- ◆ d. **R2016-95**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, authorizing the execution of the second amendment to the Intergovernmental Agreement between the City and Colorado Science and Technology Park Metropolitan District No. 1. STAFF SOURCE: Vinessa Irvin, Manager of Development Assistance, General Management

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

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

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

- ◆ a. **2016-68**
PUBLIC HEARING and Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, to Rezone 4.78 acres, more or less, generally located at the NE Corner of S Peoria Street and S Parker Road from B-3 (Highway Service District) to TOD-Core (Transit Oriented District-Core) for future development and amending the Aurora Zoning Map accordingly. (King Soopers at Regatta Plaza) STAFF SOURCE: Heather Lamboy, Planning Supervisor, Planning & Development Services

Mayor Pro Tem Peterson opened the public hearing on the item.

Heather Lamboy, Planning Supervisor, Planning & Development Services, provided a brief summary of the item, noting it related to the rezone of property from B-3 (Highway Service District) to TOD-Core (Transit Oriented District-Core) for future development and amended the Aurora Zoning Map accordingly.

Mayor Pro Tem Peterson closed the public hearing on the item.

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

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

- ◆ b. **2016-69**
PUBLIC HEARING and Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, to amend a portion of the Pine Ridge Ranch General Development Plan to allow for assisted living/memory care and ancillary uses and improve design standards to the existing GDP. STAFF SOURCE: Libby Tart Schoenfelder, Senior Planner II, Planning & Development Service

Mayor Pro Tem Peterson opened the public hearing on the item.

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Heather Lamboy, Planning Supervisor, Planning & Development Services, provided a brief summary of the item, noting it related to amending a portion of the Pine Ridge Ranch General Development Plan to allow for assisted living/memory care and ancillary uses and improvement of design standards to the existing GDP.

Mayor Pro Tem Peterson closed the public hearing on the item.

Motion by Bergan, second by Cleland, to approve item 11b.

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

- ◆ c. **2016-70**
PUBLIC HEARING and Consideration for INTRODUCTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, approving a Development Agreement between the City of Aurora, Colorado, and Dayton Station Investors, LLC, creating a vested property right pursuant to Article 68 of Title 24, C.R.S, for certain lands located in the East one-half of the West one-half of Section 3, Township 5 South, Range 67 West of the 6th principal meridian, County of Arapahoe, State of Colorado. (14.03 Acres more or less) STAFF SOURCE: Gary Sandel, Development Project Manager, General Management

Mayor Pro Tem Peterson opened the public hearing on the item.

Gary Sandel, Development Project Manager, General Management, provided a brief summary of the item, noting it related to the approval of a Development Agreement between the City of Aurora, Colorado, and Dayton Station Investors, LLC.

Larry Jacobson, representing the applicant, submitted mailers sent to adjacent property owners to the City Clerk as a part of the public record.

Council Member Richardson asked Mr. Jacobson if the project would be pursued during the pendency of litigation. Mr. Sandel answered affirmatively, noting there were two parcels within the project and the applicant planned to possibly move forward with the Aurora parcel. He pointed out the property would be undevelopable if Greenwood Village won the litigation because their goal was to ultimately zone the property mixed commercial. Council Member Richardson asked if the litigation held up the completion of the project. Mr. Jacobson answered affirmatively. Council Member Richardson asked if counter claims have been filed. Mr. Jacobson answered affirmatively.

Mayor Pro Tem Peterson closed the public hearing on the item.

Motion by Cleland, second by Pierce, to approve item 11b.

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

12. **ORDINANCES FOR FINAL**

- a. **2016-64**
Consideration for ADOPTION OF AN ORDINANCE of the City Council of the City of Aurora, Colorado, amending Chapter 26 of the City Code related to sales of lodging in private residences. STAFF SOURCE: Trevor Vaughn, Manager of Tax and Licensing, Finance

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

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Council Member Cleland stated she would support the item, noting she did not receive a copy of the revised agenda.

Council Member Pierce stated the item was on the original agenda as 9i and was 12a in the revised agenda and all of the backup information was included in the packet.

Janice Napper, Assistant City Manager/City Clerk, concurred.

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

Voting Nay: Mayor Pro Tem Peterson, Richardson

13. **RECONSIDERATIONS AND CALL-UPS**

None

14. **GENERAL BUSINESS**

- a. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Denton's, Denver, Colorado in the total amount of \$63,000.00 for 2017 state lobbying services. (R-1801) STAFF SOURCE: Roberto Venegas, Assistant City Manager, General Management

Council Member Lawson stated the conflict of interest clause was very good in this case and referenced Colorado Constitution Article 29 regarding the revolving door period as it related to when a person could move over to become a lobbyist after running for the State Legislature.

Council Member Cleland expressed appreciation to Council Member Lawson for her efforts in this regard. She stated she would not support the item because the price was \$20K more than previous contracts.

Council Member Lawson pointed out the City of Aurora was a big city and suggested City Council think progressively with regards to hiring a firm that could incorporate on all levels and this group could do that.

Motion by Mounier, second by Lawson, to approve item 14a.

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

Voting Nay: Mayor Pro Tem Peterson, Cleland

- b. Consideration of the Appointment of three (3) new Associate Judges (4-yr terms); Appointment of six (6) new Relief Judges (2-yr terms); Re-Appointment of Judge Kristopher Colley as Associate Judge (4-yr term); Re-Appointment of Relief Judges (2-yr terms). STAFF SOURCE: Presiding Judge Shawn Day

Motion by LeGare, second by Mounier, to appoint Cynthia Mares as Associate Judge.

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

Voting Nay: Mayor Pro Tem Peterson, Berzins

Motion by Mounier, seconded by Bergan, to appoint Daniel Kopper as Associate Judge.

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

Motion by Peterson, second by Cleland, to appoint Robert FitzGerald as Associate Judge.

Voting Aye: Mayor Pro Tem Peterson, Bergan, Berzins, Cleland, Lawson, Richardson, Roth

Voting Nay: LeGare, Mounier, Pierce

Motion by Richardson, second by Mounier, to appoint Alan Stine, Loretta Huffine, Dion Arguelles, Billy Stiggers, Peter Frigo and Andrea Koppenhofer as Relief Judges.

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

Voting Nay: LeGare

Motion by Cleland, second by Richardson, to reappoint Kristopher Colley as Associate Judge.

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

Motion by Pierce, second by Roth, to reappoint David Gloss and James Anderson as Relief Judges.

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

c. Consideration to Approve the 2017 City Council Meeting Calendar. STAFF SOURCE: Janice Napper, Assistant City Manager/City Clerk, General Management

Motion by Pierce, second by Roth, to approve item 14c.

Council Member Cleland asked staff to provide City Council with the approved calendar as soon as possible.

Janice Napper, Assistant City Manager/City Clerk, agreed to do so.

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

d. Consideration to Elect a Mayor Pro Tem for a One Year Term. STAFF SOURCE: Janice Napper, Assistant City Manager/City Clerk, General Management

Janice Napper, Assistant City Manager/City Clerk, announced Council Member Lawson was elected Mayor Pro Tem by City Council secret ballot for a one year term.

Mayor Pro Tem Lawson expressed appreciation to City Council for the opportunity, noting she would do the very best job possible.

Council Member Cleland offered help to Mayor Pro Tem Lawson should she need it.

Mayor Pro Tem Peterson congratulated Mayor Pro Tem Lawson.

15. **REPORTS**

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- a. Report by the Mayor Pro Tem

No report.

- b. Reports by the Council

Council Member Richardson stated he would like City Council to discuss and set the policy regarding the sanctuary city issue as soon as the current administration made a determination in that regard. He noted staff alerted him that the developer's commitment to build a wall adjacent to the Woodrim community was not part of the site plan. He stated his disagreement with staff taking an alternate position in this regard.

Council Member Cleland stated part of her vote had been predicated on the idea that the wall would be built.

Council Member Bergan wished everyone safe travels on City roads.

Council Member Roth announced the annual holiday tree lighting event was scheduled for Tuesday, December 6, 2016 on the great lawn.

Council Member LeGare congratulated Council Member Lawson on being elected Mayor Pro Tem.

Mayor Pro Tem Peterson expressed her hope that Mayor Hogan felt better soon.

Council Member Cleland discussed her attendance at the funeral of Norma Nunez, noting she and her husband owned and opened La Cueva in Original Aurora and discussed Ms. Nunez's contributions to the City of Aurora.

Council Member Pierce echoed Council Member Cleland's comments regarding Ms. Nunez and her impact on the City of Aurora and announced the current exhibit, *The Doctor Will See You Now*, at the Aurora History Museum, noting more information could be found at www.auroramuseum.org.

Council Member Berzins asked when Council Member Lawson's term as Mayor Pro Tem began.

Mike Hyman, City Attorney, stated the handover was immediate.

Council Member Berzins invited everyone to attend the Christmas tree lighting event and cautioned everyone to be careful in the cold weather. She stated there would not be any Ward III meetings in December.

Council Member Mounier stated she loved to cook, noting she has eaten at La Cueva since the 1970s and one of her most prized possessions was the cookbook Norma Nunez authored.

16. **PUBLIC INVITED TO BE HEARD**

None

17. **ADJOURNMENT**

Mayor Pro Tem Peterson adjourned the regular meeting of City Council at 8:54 p.m.

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Mayor Hogan, Mayor

ATTEST:

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