

MINUTES

**Regular Meeting – Aurora City Council
Monday, May 18, 2020**

CALL TO ORDER – REGULAR MEETING

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

ROLL CALL

PRESIDING: Mayor Coffman
COUNCIL MEMBERS PRESENT: Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

COUNCIL MEMBERS ABSENT: None

OFFICIALS PRESENT: City Manager Twombly, City Attorney Brotzman, City Clerk Ruger

COUNCIL MEMBERS ARRIVING AFTER ROLL CALL: None

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

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

Motion by Gruber, second by Coombs, to recess for executive session.

Voting Aye: Mayor Coffman, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

Abstaining: None

1. **RECONVENE REGULAR MEETING OF MAY 18, 2020 AND CALL TO ORDER**

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

2. **ROLL CALL** Stephen Ruger, City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

COUNCIL MEMBERS ABSENT: None

3. **MOMENT OF SILENCE**

Mayor Coffman called for a moment of silence for those who have lost their lives to COVID-19 as well as for those who were on the frontlines fighting against this disease.

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

- ◆ *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.*

5. **APPROVAL OF THE MINUTES OF THE MEETING OF MAY 4, 2020**

Motion by Coombs, second by Bergan, to approve the minutes of the meeting of May 4, 2020, as presented.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Johnston, Lawson, Marcano, Murillo

Abstained: Hiltz

Council Member Bergan asked if the City Council meetings would once again open with an invocation. Mayor Coffman stated he would take the issue under advisement but noted it was difficult to bring a party in to do so during these times. Council Member Bergan asked if the City Clerk could read a prayer in the meantime. Mayor Coffman answered affirmatively.

6. **CEREMONY**

Proclamation Declaring May Mental Health Month – Mayor Coffman

Proclamation for Neurofibromatosis Awareness Day – Mayor Coffman

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

Stephen Ruger, City Clerk, stated he would read public comments submitted to publiccomment@auroragov.org into the record. He noted he would read up to the first three minutes of the comment and then the comments would be attached to the minutes and also emailed to Council.

Darlene Jones, Resistance 5280, Say Their Names 5280, commented on the link between police involved shootings of melanin people and the COVID-19 facemask mandate noting these shootings happened prior to COVID and the two issues should not be linked. She spoke in support of the facemask mandate as it would protect all Aurora residents.

Ida Audeh discussed the Aurora Police Department's history as well as the recent protest related to ICE raids for undocumented residents which was met with police violence. She stated enough was enough.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR**

General Business

- a. Consideration to AWARD A SOLE SOURCE CONTRACT to GE Digital LLC, San Ramon, CA in the total amount of \$76,343.88 for the annual renewal of software maintenance on the Water SCADA Information Management System through June 2021.
Presenters: Marena Lertch, Manager of Water Service Operations, Water/Dave Lathers, Senior Assistant City Attorney
- b. Consideration to AWARD A COMPETITIVELY BID CONTRACT to T-P Enterprises, Inc., Denver, Colorado in the not-to-exceed amount of \$132,500.00 for land management services for the Prairie Waters North Campus and Pump Station Facilities. (B-4508)
Presenters: Bobby Oligo, Manager of Water Treatment, Aurora Water/ Dave Lathers, Senior Assistant City Attorney

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- c. Consideration to AWARD A CHANGE ORDER TO THE COMPETITIVELY BID CONTRACT with BT Construction, Henderson, Colorado in the amount of \$65,426.02, for the Sewer Improvements for Lima Alley and Paris Alley Project, Project No. 5641A.
Presenters: Swirvine Nyirenda, Principal Engineer, Aurora Water/Dave Lathers, Senior Assistant City Attorney
- d. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Mueller Water Products, Belgrade, MT in the amount of \$80,550.00 to purchase Pressure Recorder Hardware and Software for Fire Hydrants and Pressure Reducing Valves. (R-2034)
Presenters: Mike Mills, Manager of Water Ops and Maint, Aurora Water/ Dave Lathers, Senior Assistant City Attorney

Motion by Gruber, second by Berzins, to approve items 9a – 9d.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

Final Ordinances

- ◆ e. **2020-14**
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, appropriating sums of money in addition to those appropriated in Ordinance Nos. 2018-56, 2019-17, and 2019-89 for the 2019 fiscal year.
Presenters: Greg Hays, Budget Officer/Kerstin Claspell, Lead Budget Analyst, Finance/Hans Hernandez Perez, Assistant City Attorney II

Motion by Bergan, second by Marcano, to approve item 9e.

Sonia Skakich-Scrima spoke in opposition to the item and discussed the negative impact of fracking on the surrounding area.

Mayor Pro Tem Johnston asked staff to address the mineral rights issue and how buffer zones would be impacted if the land was not purchased.

Pat Schuler, Manager, Open Space & Natural Resources, did so, noting a Phase 1 assessment was done on the property and no indication that there were any recognized environmental impacts on the property was realized. She understood fracking was a very volatile issue and noted the City obtained a no surface occupancy letter from the mineral owner who owned 50 percent of the minerals but not from the second owner. She pointed out with the letter and the property's proximity to Buckley AFB, staff believed fracking was very unlikely to happen. She noted the City could not preclude property owners from fracking on adjacent properties however and pointed out which adjacent properties the City owned which also led to the presumption that fracking would be a difficult endeavor.

Mayor Pro Tem Johnston expressed appreciation to Ms. Schuler for addressing the issues raised. She stated drilling applications still had to go through an approval process with the City, noting there were many steps beyond what was being done currently.

Ms. Schuler concurred, noting there was also a conservation easement on the property which added another level of protection as well as potential concerns raised by Buckley.

Council Member Gruber discussed the Base Realignment and Closure (BRAC) process and how bases without active runways were at risk of closure given the current federal spending. He stated Buckley had a billion dollar economic impact to Aurora and pointed out as such, Aurora should do whatever it took to maintain that runway. He stated this was a very

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important and strategic purchase for Aurora that would protect that billion dollar a year investment.

Council Member Bergan stated the funds to purchase the land was appropriated through federal dollars.

Ms. Schuler stated 50 percent of the funding for the acquisition of parcels 9 and 11 were from the City of Aurora which was appropriated in 2017 and the remaining 50 percent was from Arapahoe County.

Mayor Coffman asked if the Colorado Land Trust was involved in this purchase. Ms. Schuler answered no.

Council Member Marcano asked if there was currently an active drilling lease on the parcel. Ms. Schuler stated her belief that there was an active drilling lease on the 50 percent but she was unaware of the date that was acquired. Council Member Marcano asked if drilling would be impacted on the site should the City purchase it. Ms. Schuler answered affirmatively, noting the deed restriction would not allow it.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

- ◆ f. **2020-15**
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, amending Chapters 6, 22 and 146 of the City Code related to the Regulation and Licensing of Businesses related to the manufacturing of hemp.
Presenters: Terri Velasquez, Director of Finance/Robin Peterson, Mgr of Marijuana Enforcement, Finance/Tim Joyce Assistant City Attorney II

Motion by Berzins, second by Coombs, to approve item 9f.

Council Member Murillo stated her hesitation to create an unlawful law around hemp when there was not a legitimate means of testing the difference between marijuana and hemp. She stated that while she appreciated the spirit of the ordinance; she would not support it.

Mayor Pro Tem Johnston asked staff to address Council Member Murillo's concerns.

Terry Velasquez, Director, Finance, did so and clarified this was the 'manufacturing' hemp ordinance and not the 'smoking in public' hemp ordinance. She pointed out the smoking in public hemp ordinance was tabled because it did not receive enough votes. She clarified this ordinance allowed regulations related to oversight of hemp similar to that of the manufacturing of marijuana products. She stated testing of hemp versus marijuana in that particular situation would be very similar. She pointed out the ordinance basically called out the rules and regulations hemp manufactures would follow.

Mayor Pro Tem Johnston stated she had previous concerns in that regard as well when she sat on the ad hoc 64 committee and because of Ms. Velasquez' comments, she would support the item.

Mayor Coffman stated the wrong ordinance was included in the City Council packet.

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Council Member Murillo stated she did not recall that the other ordinance was tabled and reiterated she did not support making hemp illegal because of the testing concerns she mentioned previously. She stated she supported the current item.

Daniel Brotzman, City Attorney, stated the item could move forward if the Council knew that they were voting on the manufacturing and not possession item.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Johnston, Lawson, Marcano, Murillo

Abstaining: Hiltz

10. **RESOLUTIONS**

- ◆ a. **R2020-36**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, for the Purchase & Sale Agreement between the City of Aurora and the Trust for Public Land for the acquisition of two parcels of real property known as Buckley Buffer Parcels 9 and 11.
Presenters: Patricia Schuler, Manager of OS & Natural Res Op, Parks, Recreation & Open Space/ Michelle Gardner, Senior Assistant City Attorney

Motion by Gruber, second by Berzins, to approve Item 10a.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

- ◆ b. **R2020-37**
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 the County of Adams, Colorado, for the distribution of Cares act Funds. ***(This item also appears on the May 18th Study Session) (Due to this item being dual listed, the backup is included in item 5a of the Study Session Packet.)***
Presenters: Wayne Sommer, Manager of Internal Audit, General Management/Rachel Allen, Client Group Manager

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

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

- ◆ c. **R2020-38**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the acquisition of certain real property located in Weld County from the Elizabeth Ann Wethington Trust for the Prairie Waters Project.
Presenters: Hector Reynoso, Manager Real Property Services, Public Works/ Michelle Gardner, Senior Assistant City Attorney

Motion by Berzins, second by Coombs, to approve item 10c.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

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- ◆ d. **R2020-39**
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, appropriating sums of money to provide Hazard Pay to Police Officers and Firefighters for the fiscal year beginning January 1, 2020 and ending December 31, 2020 ***(This item also appears on the May 18th Study Session) (Due to this item being dual listed, the backup is included in item 5b of the Study Session Packet.)***
Sponsor: Council Member Gardner
Presenters: Dianna Giordano, Director of Human Resources/Terri Velasquez, Director of Finance/Rachel Allen, Client Group Manager

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

Jessica Meadows raised the topic of the various City employees that deserved Hazard Pay and suggested if everyone who deserved it could not receive it then no one should.

An anonymous resident spoke in opposition to the item.

Council Member Bergan noted she was generally not a fan of resolutions and asked staff if a resolution was the only way to provide Hazard Pay to Aurora Police and Fire.

Rachel Allen, Client Group Manager, stated this was the best vehicle because it encouraged City management to work with the local police and fire unions by adding this to their collective bargaining agreements. She pointed out it simply stated the desire of Council and then City management would determine how it would happen.

Council Member Bergan asked if this would be the typical vehicle used when negotiating something like this. Ms. Allen answered no, noting typically a collective bargaining agreement would be used in negotiations.

Council Member Gardner clarified the reason the resolution was drafted was because it was not a new appropriation of money but rather was directing City management to use CARES Act funding for this purpose. He discussed additional benefits and/or compensation outside of the bargaining agreement such as additional funding to retirement accounts of one percent and remembered the year when leftover monies were given to public safety outside of the collective bargaining agreement. He noted the use of CARES Act funds was very specific and Hazard Pay for police and fire was an allowable use. He pointed out other agencies in Colorado were doing this as well and this was the Aurora City Council stating they wanted the City Manager to take these dollars and negotiate the extra compensation with the unions.

Council Member Lawson asked if the funds would be backdated to when COVID began in March. Council Member Gardner answered affirmatively, noting the disaster period would start on March 18, 2020 and go through December 31, 2020, which was the expiration date and when the CARES Act funding needed to be spent.

Council Member Coombs stated her plan to amend all of the relevant sections to include other City staff that have had COVID exposure risk due to their jobs.

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AMENDMENT I

Motion by Coombs, second by Marcano, to include other City staff that have faced COVID exposure due to their jobs.

Council Member Gardner stated his understanding that the CARES Act funding was not available to non-public safety employees for Hazard Pay and asked staff to speak to that issue.

Jim Twombly, City Manager, did so, and stated the police and fire linkage between Hazard Pay and the pandemic was much easier to assess and noted it would be necessary to research the actual exposure of other City employees. He agreed staff could review that issue and then would have to go to the county for approval on what expenditures the City made.

Council Member Coombs stated her understanding that public safety employees were privileged in that way as there was a clear sense that they deserved Hazard Pay and that their jobs merited it. She noted however, there were a number of other City staff who had contact with the public including with potentially ill people. She suggested therefore that those conversations be had and that research be done.

Mayor Coffman asked Council Member Coombs if the amendment was to execute the resolution to police and fire on an equal basis and not to study the issue. Council Member Coombs stated the police and fire resolution would figure out the details and make the arrangements and if that could not be done then there was a clause built in to not do it at all.

Council Member Bergan asked if this included any City employees that potentially had contact with COVID situations. Council Member Coombs stated contact with the public at all. Council Member Bergan asked if any of the police and fire were excluded because they were not in contact with the public such as those with desk jobs.

Council Member Gardner stated the resolution as written included all forms of firefighters and police officers.

Council Member Murillo stated she respected and appreciated the spirit of the amendment and certainly supported Aurora's police and fire who put themselves at risk each day to do their jobs. She stated the same logic should be applied across the board in order to be equitable to all employees. She stated her understanding that the resolution was direction to staff to pursue and understand the research to do so. She stated her support of adding the language.

Council Member Bergan asked Mr. Twombly to clarify if the inquiry into other or all employees would disqualify the City from having Hazard Pay for police and fire only. Mr. Twombly stated he made the statement about a potential denial from the county for non-uniformed or non-support employees for the record so that employees did not think they were getting Hazard Pay.

Mayor Coffman asked Mr. Twombly if the amendment would make the resolution severable in the sense that the county or federal government could deny it based on the inclusion of non-uniformed City personnel or would the City not qualify for any of the COVID CARES Act funds. Mr. Twombly confirmed it would severable.

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Council Member Bergan asked Mr. Twombly what the financial impact would be if all employees were included. Mr. Twombly stated the financial impact would depend on how long the disaster declaration lasted. He noted the resolution stated until December 31, 2020 or until the disaster declaration was terminated. Council Member Bergan asked if there was any calculation of the dollar amount that included all employees for the duration. Mr. Twombly stated there was a per pay period dollar amount.

Ms. Allen stated the calculation through the end of the year with more inclusion of employees beyond just fire and police was \$1.8M to \$2.7M depending on the duration.

Mayor Coffman stated that was only if funding was approved and confirmed it would not affect the general fund.

Ms. Allen concurred.

Council Member Berzins suggested the resolution could go to police and fire and a separate resolution for other employees might be pursued since so much research was still required.

Mayor Coffman noted that would be up to the amendment sponsor.

Council Member Coombs stated her preference that the item move forward rather than be delayed for two weeks. She noted she would move forward with other options to ensure all City staff were being supported should the amendment fail.

Council Member Murillo asked if the severability meant Council could work independently to research this and if the CARE Act fund qualifications, timeframe and amounts would come back to Council for review. Mr. Twombly clarified the course of action would be: staff would conduct a study on the non-public safety issue to determine which employees possibly came into contact with or were exposed to those with the virus; the City would submit the research to the county for approval, denial or a request for further defense of those expenses; and then the City would proceed. Council Member Murillo asked if the issue would come back to City Council after the county's pre-approval. Mr. Twombly stated staff would proceed if the resolution passed and confirmed they would keep Council informed.

Council Member Gruber asked Mr. Twombly if he would follow Council direction to spend a certain amount of the CARES Act money on first responders and a certain amount on other non-uniformed employees without a resolution. Mr. Twombly answered affirmatively.

Mayor Pro Tem Johnston stated her support of police and fire. She stated her understanding that Aurora had a City Manager form of government and the City Manager was stating staff was working on figuring out what could be reimbursable and that more information was required as the situation evolved.

VOTE ON AMENDMENT I

Voting Aye: Coombs, Marcano, Murillo

Voting No: Bergan, Berzins, Gardner, Gruber, Hiltz, Johnston, Lawson

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AMENDMENT II

Motion by Coombs, second by Murillo, to discuss with the counties whether or not the City's EMS first responders who were contracted with Falck Rocky Mountain may also receive Hazard Pay and to work with Falck for them to pay for as much of the Hazard Pay as possible while using the potential for the funding as leverage.

Council Member Coombs pointed out the City was responsible for the condition of the Falck Rocky Mountain employees that worked outside of sworn service alongside the City's sworn officers. She noted by choosing to contract the Falck employees to a company without provisions for Hazard Pay and other labor protections, the City has created a situation where City of Aurora paramedics would have to operate in the same manner as the City's other public safety officers.

Mayor Coffman asked staff to speak to any legal implications of the amendment.

Daniel Brotzman, City Attorney, pointed out the Falck employees were not City employees but rather were contracted with a third party vendor.

Mayor Coffman pointed out Council Member Coombs' amendment did not recognize them as City employees but provided them compensation nonetheless. He asked if any legal issues were realized with doing so. Mr. Brotzman stated if the theory was that the City Council was providing the City Manager direction to speak to Falck in this regard and to ask the counties if that was covered under the CARES Act, then those questions could be asked. He pointed out one of the reasons the Falck employees were not included was because Falck were a third party. Mayor Coffman asked how the amendment could be modified to recognize that. Mr. Brotzman stated his opinion that the amendment did recognize that Falck employees were not City employees but Council was still directing the City Manager to increase their pay and to ask for CARES funds to reimburse them.

Council Member Bergan stated, as much as she would like to give Hazard Pay to the Falck employees, she did not understand directing the City Manager to ask a private company to provide Hazard Pay in a resolution. She suggested it was a discussion to have with Falck to perhaps file for CARES Act funding themselves because their employees were at risk but she reiterated they were not City employees.

Council Member Marcano asked Mr. Brotzman if EMTs in jurisdictions of sworn service were eligible for COVID relief. Mr. Brotzman answered affirmatively. He reiterated all of this was being negotiated with the counties so it was yet to be determined and that was why it was written as a resolution rather than a discussion because it added formality to the request from City Council. Council Member Marcano asked if there was anything that specifically required those receiving Hazard Pay to be government or municipal employees or that prohibited independent contractors from receiving any kind of benefit. Mr. Brotzman answered no, noting that could be expanded to City contractors as well. Council Member Marcano strongly encouraged Council to support the amendment because it revealed an underlying condition where people who were performing the duties of the City's sworn service did not receive the same protections or pay that they deserved because they were not unionized. He suggested the issue be addressed by Council during and after the crisis.

Mayor Pro Tem Johnston agreed Falck did great work but at the end of the day, they were a for-profit entity. She stated she would not support the item because it was as though the

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City was using public funds to bail out a company that might not be providing adequate compensation to their employees.

Council Member Marcano clarified the request was for the employees to receive Hazard Pay and not the for-profit entity. He stated generally speaking, he was not in favor of privatizing services that should be public services but he did not think private and public sector workers should be put against each other in this case. He strongly supported the City doing whatever possible to make sure that workers everywhere were getting their fair share during this trying time as well as having discussions about bringing EMTs under the City's sworn services in the future.

VOTE ON AMENDMENT II

Voting Aye: Coombs, Marcano, Murillo

Voting No: Bergan, Berzins, Gardner, Gruber, Hiltz, Johnston, Lawson

Council Member Gruber expressed concerns related to COVID Hazard Pay creating a new entitlement because once granted, it could not be taken away. He noted if CARES funding ran out while the COVID threat remained, then first responder unions could demand payment and the City simply could not afford that. He further discussed the details of the money proposed to be provided. He pointed out this did not include many of the employees that did have direct interface with the public and he suggested they should be included as well. He referenced the question he posed previously to the City Manager related to taking direction from the Council without a resolution in this regard. He recommended the City Council task the City Manager to design a special COVID response grant that would not constitute a new entitlement for the unions or employees that would apply to all City employees that dealt directly with the public. He stated the grant would begin at the disaster declaration and would end at the conclusion of the Safer-At-Home period. He noted it would persist until a vaccine was produced and distributed and the entire grant would be contingent upon the counties approving the use of CARES funds. He stated he could not support the resolution because it was not necessary to have a resolution to task the City Manager in this regard. He then quoted George Patton and challenged the City Manager to apply money to uniformed officers and employees that dealt with the public and coordinate with both counties on a plan of how to reward those who were facing the threat of COVID.

Council Member Bergan asked Mr. Twombly if a resolution was necessary, what the risks were in having a resolution and if there was a better way to do provide for police and fire. Mr. Twombly was uncertain if there was a better way and pointed out a resolution of the Council was the Council taking a clear position. He stated internal discussions with staff were already taking place prior to the resolution and he felt that staff had Council's direction or intent on the issue with or without a resolution. Council Member Bergan referenced Council Member Gruber's comment related an entitlement and the CARES money going away. She asked if there was anything in the resolution that would further negate the City from trying to make that happen. Mr. Twombly discussed the memorandum of understanding negotiations, noting it would clearly have to state that this was a one-time COVID related issue. He pointed out the deadline for an agreement was June 30, 2020 which put the onus on both the unions and City management.

Council Member Gardner stated his understanding that a resolution was a more formal process than simply providing direction to the City Manager but what was unclear to him was how one versus the other created an obligation for future Hazard Pay once the disaster

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period was over. He stated it was important for Council to take a position and also to provide very specific guidance to the City Manager in terms of the dollar amounts, eligibility, and the negotiation timeframe and deadline period with which to negotiate with the unions. He asked his colleagues to support the resolution and discussed the importance of Council demonstrating to the City's first responders that they were deserving of Hazard Pay. He noted agencies all across the state and country were doing this and he pointed out Aurora continued to have a recruiting and retention program. He questioned what message not providing Aurora's existing sworn firefighters and police officers this money as other adjacent counties and entities would, would send to those first responders.

Council Member Gruber pointed out everyone on City Council agreed that first responders should receive Hazard Pay and noted it was even discussed to have it extend to beyond City employees. He noted that was not the issue; the issue related to the resolution versus direction. He stated the resolution told the City Manager how to do something and direction allowed him to do it using his best judgement and the difference was like using a club instead of a scalpel. He reiterated his previous concerns related to the creation of COVID Hazard Pay entitlement and the CARES funding running out.

Council Member Bergan stated the resolution was very prescriptive in terms of the amount of pay, timeframe, and eligibility, noting she respected the City Manager and agreed that he made good decisions. She asked if the resolution was too prescriptive to allow him to negotiate appropriately. Mr. Twombly agreed it was prescriptive because it defined the amount per pay period, that it was for police and fire and it did not address those not on the frontlines. He agreed research into what other cities were doing, percentages versus the same payment, etc., had not been done.

Council Member Marcano asked Mr. Twombly if moving the resolution forward would preclude staff from reviewing CARES Act funding for EMTs, and non-sworn staff. Mr. Twombly stated he would not research Hazard Pay coverage for Falck employees without being directed by Council to do so.

Mayor Coffman agreed he would not particularly considering the City Council clearly spoke on the issue by voting down the previous amendments in that regard.

Mayor Pro Tem Johnston asked if the collective bargaining was delayed from the regular time period. Mr. Twombly stated that was the City's intention but noted there was not an agreement on that yet.

VOTE ON ORIGINAL MOTION

Voting Aye: Bergan, Berzins, Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting No: Gruber

11. ORDINANCES FOR ADOPTION

- ◆ a. **2020-11***
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, amending Section 130-160, 130-161 and 130-196 of the City Code related to the Special Taxes on the sale of retail marijuana and retail marijuana products. (*Ordinance 2020-11, Introduced 5-4 (Berzins, Bergan, Gardner, Gruber voting no) at the April 20, 2020 Council Meeting*)

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Presenter: Robin Peterson, Mgr of Marijuana Enforcement, Finance/Terri Velasquez, Director of Finance/Tim Joyce Assistant City Attorney II

**Pursuant to the Aurora City Charter, Section 5-2, "Every ordinance shall require the affirmative vote of the majority of the membership of the entire council for final passage." (6 votes required) Further, Section F6 of the Rules of Order and Procedure for the Aurora, Colorado, City Council, states, "If, due to the absence of one or more Council Members at any regular or special meeting of the City Council, the final passage of any ordinance supported by the majority of Council Members then present fails for lack of a sixth vote, such ordinance shall be rescheduled for action at the next regularly-scheduled City Council meeting.*

Motion by Lawson, second by Johnston, to approve item 11a.

Council Member Gardner expressed appreciation to Council Member Lawson for finding a creative way to fund these programs. He stated it was unfortunate that previous city councils did not address this issue until the Photo Red Light went away. He stated he would not support the item because it appeared that recreational marijuana consumers were an acceptable constituency for tax increase which he did not agree with. He agreed the programs were worthwhile but rather than figure out a way to equitably share the cost of these programs, the City has made a political calculation that recreational marijuana consumers would not care.

Council Member Berzins stated she would not support the item because there was \$1.8M of undesignated marijuana revenue that could be designated for these programs and she reiterated one did not keep going back to the same successful businesses to ask for more taxes in a capitalist economy.

Voting Aye: Coombs, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gardner, Gruber

12. **RECONSIDERATIONS AND CALL-UPS**

*a. RECONSIDERATION OF RESOLUTION 2020-22 – Review of the powers granted to the City Manager by Resolution 2020-22. The powers granted to the City Manager which are set forth in the Disaster Declaration shall remain in place until a majority of Council votes to end the Declaration.

Staff Source: Jim Twombly, City Manager

Presenters: Matt Chapman, Fire Battalion Chief

Motion by Gruber, second by Coombs, to approve item 12a.

Voting Aye: Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

13. **GENERAL BUSINESS**

a. Appointment of One (1) Member to the Planning and Zoning Commission with a Term Expiring on December 31, 2020.

Staff Source: Stephen Ruger, City Clerk

Motion by Murillo, second by Coombs, to nominate Esther Turcios to the Planning and Zoning Commission with a Term Expiring on December 31, 2020.

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Council Member Murillo stated she put Ms. Turcios forward because she felt she had the fiscal interpretation of policy and legislation to apply to this role even though it was through the Colorado Fiscal Institute and not in planning and zoning per se. She noted however that Ms. Turcios understood intersectionality of those decisions and implications. She stated her appreciation for Ms. Turcios' equity lens and lived experience of coming from an immigrant family. She noted Ms. Turcios had the ability to translate and read the charge of the Unified Development Ordinance (UDO) and to apply that to her decision-making. She stated she felt strongly that the City needed people to step up and lean into leadership. She pointed out the other two applicants have been representing decision-making in the City for a long time and while she appreciated their service, she felt it was time to provide opportunities for people to participate rather than recycling the same people over and over again while expecting different results. She pointed out those voices were already represented in other decision-making processes in the City and they had other opportunities to access that in other capacities. She reiterated Ms. Turcios brought a unique perspective and pointed out City Council would have the opportunity to evaluate how she performed considering the term ended in 2020.

Council Member Bergan asked for clarification of Council Member Murillo's use of the term 'put forth' and whether it meant a nomination or an appointment.

Daniel Brotzman, City Attorney, stated the language was important whether it was a nomination or an appointment. He discussed the nomination process to reach an agreement on the position found in Council rules.

Motion by Bergan, second by Gruber, to nominate Sunny Banka to the Planning & Zoning Commission with a Term Expiring on December 31, 2020.

Council Member Bergan stated City Council ranked the applicants and Sunny received the most points. She stated Ms. Banka had the background needed for a Planning & Zoning Commissioner and she strongly urged her colleagues to vote for Ms. Banka. She pointed out Ms. Banka had a lot of experience and being in real estate was a plus because the commission position required a lot of time and commitment. She pointed out Ms. Banka had a lot of experience and she noted Ms. Banka has stated she was available for that time commitment and would follow the rules as prescribed at the commission.

Council Member Murillo mentioned it was easy to conceptualize that people who were not young working professionals had the time and capacity to dedicate to these positions. She pointed out she was a young professional with multiple jobs and she knew others who were as well and she pointed out they all made it work. She stated there were two candidates who were interviewed who understood the time commitment and she did not feel that would be an issue with Ms. Turcios nor would she have a conflict of interest. She stated she did not think there was a conflict of interest with Ms. Banka and asked if she was a lobbyist for the Real Estate Association. She stated it was important to highlight if there was some sort of interest in a candidates' daytime job and she did not see that that was so with the two other candidates who were interviewed.

Council Member Gardner stated typically Council did not disparage competing candidates. He stated he was struggling with life experience noting Ms. Banka had life experience, had lived in the City for a long time, had been involved with real estate as a real estate agent and had been the president of the Colorado Realtors Association. He noted all those things provided her with experience in understanding development, how development affected communities and how to build communities. He pointed out the only thing she was not was

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an activist. He stated it was implicated that she was a lobbyist. He stated he worked with her on the Citizens Advisory Budget Committee and she would apply the laws of the state, the ordinances of the City, and the zoning and planning codes fairly to all applicants without being an advocate or pushing an agenda independent of the rules provided by Council. He stated he did not like making these statements but he felt Ms. Banka was the right candidate.

Council Member Murillo addressed Council Member Gruber and noted he was entitled to his opinion. She pointed out it did not make sense for him to point out that she disparaged his candidate and then proceed to do the same thing to hers. She noted she did not think activist was a dirty word and noted some might argue that being a lobbyist had another level of interest involved in decision-making.

Council Member Gruber reiterated Ms. Banka was not a lobbyist.

Council Member Murillo stated she was the president of the realtor association which was a lobbyist association.

Mayor Coffman stated Ms. Banka was not a lobbyist.

Council Member Murillo clarified she was glad that Ms. Banka put her name forward and pointed out it was fair to evaluate credentials for all candidates. She stated she evaluated the relationship in a different way, noting positive things could be realized. She stated having real estate experience was not the only thing that was needed in the conversation around planning and zoning. She pointed out there were people behind those decisions and to discredit life experiences or state that one was more important than the other might be Council Member Gruber's opinion but it was her opinion that the City should be more inclusive in the conversation. She stated that was missing and she knew that because she was on the people's side of what the Planning Commission wielded and there was nothing wrong with attempting to expand and bring in diverse lived experiences.

Council Member Berzins stated she had never seen this type of candidate debate in her ten plus years on Council. She stated this was not the forum for this discussion and asked if the names could be put forth for a vote because the applicants were already interviewed and the Council should already have their information.

Council Member Marcano stated there was precedent for committee candidates to be disparaged because he had been on the receiving end of it when some of the current City Council was present but did nothing about it. He requested the vote be taken.

Council Member Berzins pointed out she did not disparage anyone but only made the point that it was not the time to have a back and forth on the issue.

Steve Ruger, City Clerk, stated a vote would be taken on each candidate and then whoever had the most votes would be appointed.

Mr. Brotzman suggested each council member call out their candidate one at a time and whoever had the most votes would be appointed.

Council Member Marcano stated Ms. Turcios.

Council Member Gardner stated Ms. Banka.

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Mayor Pro Tem Johnston stated Ms. Turcios.

Council Member Murillo stated Ms. Turcios.

Council Member Hiltz stated Ms. Turcios.

Council Member Berzins stated Ms. Banka.

Council Member Bergan stated Ms. Banka.

Council Member Gruber stated Ms. Banka.

Council Member Lawson stated Ms. Turcios.

Council Member Coombs stated Ms. Turcios.

Mayor Coffman stated Ms. Banka.

Esther Turcios was appointed to the Planning and Zoning Commission with a Term Expiring on December 31, 2020.

- b. Appointment of One (1) Member to the Planning and Zoning Commission with a Term Expiring on December 31, 2021
Staff Source: Stephen Ruger, City Clerk

Motion by Murillo, second by Marcano, to appoint Richard Barahona to the Planning and Zoning Commission with a Term Expiring on December 31, 2021.

Motion by Gardner, second by Gruber, to appoint Becky Hogan to the Planning and Zoning Commission with a Term Expiring on December 31, 2021.

Motion by Berzins, second by Bergan, to appoint Sunny Banka to the Planning and Zoning Commission with a Term Expiring on December 31, 2021.

Council Member Murillo stated Mr. Barahona was very clear on the different documents and the relationship for the Planning and Zoning Commission decisions. She pointed out that as a student of the law, she had faith that he had applied experience at being very diligent and strict with his charge to fulfill the Planning and Zoning Commission meeting. She noted he met with and spoke with the current Planning and Zoning Commission members, knows the commitment, and had the time, and the lens of a different perspective. She pointed out it was a wonderful thing to do to add more diverse lived experience to the Planning and Zoning Commission.

Council Member Coombs stated she thought Mr. Barahona was very thoughtful and thorough and focused on the way the process operated and bringing the legal lens that he does was a good thing. She stated she was very impressed by him and would therefore support his nomination.

Council Member Marcano stated he was very pleased and impressed that Mr. Barahona understood there was a subjective nature to the role. He stated that was an issue that merited further discussion by Council moving forward.

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Stephen Ruger, City Clerk, called for the question.

Council Member Coombs stated Mr. Barahona.

Council Member Gardner stated Ms. Hogan.

Council Member Lawson stated Ms. Hogan.

Council Member Marcano stated Mr. Barahona.

Council Member Bergan stated Ms. Hogan.

Council Member Berzins stated Ms. Banka.

Council Member Gruber stated Ms. Hogan.

Council Member Hiltz stated Ms. Hogan.

Council Member Murillo stated Mr. Barahona.

Mayor Pro Tem Johnston stated Ms. Hogan.

Mayor Coffman stated Ms. Hogan.

Becky Hogan was appointed to the Planning and Zoning Commission with a Term Expiring on December 31, 2021

14. **REPORTS**

a. Report by the Mayor

Mayor Coffman raised the topic of food insecurity in the City of Aurora and announced the City was sponsoring a food distribution drive with meals produced by food service workers at the Stanley Marketplace who would otherwise be unemployed. He stated the meals would be distributed with the Aurora Interfaith Community at Central High School on Wednesday, May 20, 2020 from 10:00 a.m. to 3:00 p.m. He encouraged those in need to come out. He stated the Mobile Food Pantry would also be at Hinkley High School on Wednesday, May 27, 2020. He stated he was encouraged by the governor's remarks that he would soon be announcing how Colorado could safely re-open. He asked everyone to support local restaurants and businesses so they could remain in business and a part of the community. He encouraged everyone to meet the Mayor's Challenge to order takeout or delivery at least once a week from a local independent restaurants.

b. Reports by Council

Council Member Murillo announced the Ward I Town Hall meeting was scheduled for Thursday, May 21, 2020 at 6:00 p.m. via Facebook Live and WebEx where she has invited Adams and Arapahoe county and RTD representatives to attend. She stated the agenda and other details would be posted on her various social media platforms. She referenced an article that related the Anschutz Medical Campus was leading the charge in battling COVID-19 so she wanted to give a shout-out to those who were actively working to implement and

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develop a vaccine. She expressed appreciation for all of their hard work in trying to keep everyone safe.

Council Member Hiltz stated she would slowly be transitioning back in a limited capacity from now until July 1, 2020.

Council Member Bergan discussed the importance of talking about opening the business community because they were really hurting and many of them were facing never opening again or changing their business model.

Council Member Coombs announced the Ward V Town Hall meeting was scheduled for Tuesday, May 19, 2020 at 6:30 p.m. on Facebook Live and WebEx where Marshall Brown, Director, Aurora Water, and Bob Baker would be present to discuss conservation, long-term planning, and programs in response to COVID for Aurora Water. She noted Public Safety would also be present to discuss COVID response and to answer questions and she would be providing available resources. She stated the link was on the City website. She expressed appreciation to those who applied for the Planning and Zoning Commission appointments. She noted it was a lot of work to prepare and she felt they did a great job. She also expressed appreciation to all City staff for working so hard in this crisis and noted the Council's decision to only provide support to police and fire demonstrated why City employees needed a union.

Council Member Marcano announced the Ward IV meeting was scheduled for Thursday, May 21, 2020 at 6:30 p.m. live on WebEx and Facebook and the link could be found at www.auroragov.org under Mayor and City Council. He noted there would be a presentation on the City budget and public banking and an open Q and A was also scheduled. He echoed Council Member Coombs' comments related to the importance of everyone being organized and unionized in order to receive all that they deserved.

15. **PUBLIC INVITED TO BE HEARD**

None

16. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of City Council at 9:46 p.m.



MIKE COFFMAN, MAYOR

ATTEST:



