

## MINUTES

### Regular Meeting of the Aurora City Council

Monday, June 28, 2021

1. **RECONVENE REGULAR MEETING OF JUNE 28, 2021 AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of City Council at 6:30 p.m.

2. **ROLL CALL** - Kadee Rodriguez, City Clerk

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

3. **INVOCATION /MOMENT OF SILENCE**

Mayor Coffman called for a moment of silence for the Arvada police officer and good Samaritan who recently lost their lives in a deadly shooting.

4. **PLEDGE OF ALLEGIANCE** (all standing)

Call-in instructions were provided for the public in both Spanish and English.

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman stated a litigation update was provided at Executive Session.

6. **APPROVAL OF MINUTES**

6.a. April 12, 2021 Minutes

Motion by Bergan, second by Gruber, to approve the minutes of the April 12, 2021 City Council meeting, as presented.

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

7. **PROCLAMATIONS OR CEREMONIES**

7.a. Juneteenth

Mayor Coffman read the proclamation declaring June 19, 2021 as Juneteenth.

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

City Council heard call-in public testimony – some was inaudible due to technical issues.

9. **ADOPTION OF THE AGENDA**

Motion by Gruber, second by Berzins, to adopt the agenda as presented.

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

10. **CONSENT CALENDAR**

*This portion of the agenda is a meeting management tool to allow the City Council to handle several routine items with one action. Any member of the Council may request an item to be removed from the Consent Calendar and considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Consent Calendar*

- 10.a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Reynolds Construction, LLC, Denver, Colorado in the amount of \$7,768,885.00 for the 60-Inch Gun Club Rd. Pipeline from E. 6th Ave. to I-70 Phase 2 Project, Project No. 5830A

Staff Requests a waiver of reconsideration: The worldwide demand for steel coil, from which the pipeline is made of; is in high demand and longer than normal lead times are delaying the start of similar projects. Additionally, the price of steel is continuing to rise and will remain unpredictable for the foreseeable future. The project is also time sensitive due to the surrounding development construction as well as redundancy to the Gaylord and surrounding area. In order to expedite the ordering and manufacturing of the steel pipe, to limit steel price increases and meet the time constraints for this project, staff requests a waiver of reconsideration.

Dean Bedford, Principal Engineer, Aurora Water / Ian Best, Assistant City Attorney

- 10.b. Consideration to AWARD A SOLE SOURCE CONTRACT to Polydyne, Inc., Riceboro, Georgia in the not-to-exceed amount of \$330,000.00 for the purchase of the water treatment chemical Poly Electrolyte Cationic Clarifloc C-308P as required through June 30, 2022.

Bobby Oligo, Manager of Water Treatment – Aurora Water / Ian Best Assistant City Attorney

- 10.c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Brannan Construction Company, Denver, Colorado in the amount of \$3,445,796.26 for the 2021 Water System Improvement Project – North Package, Project No. 5834A.

Dean Bedford, Principal Engineer, Aurora Water / Ian Best, Assistant City Attorney

- 10.d. Consideration to EXTEND A COMPETITIVELY BID CONTRACT with Revolution Foods, Commerce City, Colorado in the amount not-to-exceed \$75,000.00 for providing food services for the 2021 Summer Food Service Program, B-4413.

Staff requests a waiver of reconsideration: Due to the need for immediate services

Sack, Joe – Manager of Recreation Services/Best, Ian Assistant City Attorney

- 10.e. Consideration to AWARD A SINGLE SOURCE CONTRACT to Waste Management of Colorado, Incorporated, Englewood, Colorado in the amount not-to-exceed \$345,000.00 for landfill services at the Denver Arapahoe Disposal site (DADS) through June 30, 2022.

Mills, Mike – Manager of Water Ops & Maint / Best, Ian Assistant City Attorney

Council Member Gardner requested item 10e be pulled out of the bulk consent calendar motion.

Motion by Gruber, second by Hiltz, to approve item 10e.

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

Abstaining: Gardner

- 10.f. Annual Support for the Financial, Human Resources and Purchasing Software

Consideration to AWARD A SOLE SOURCE CONTRACT to Centralsquare Technologies, dba Superior, LLC, Lake Mary, Florida in the amount of \$75,809.74 for annual software support of the City's Financial, Human Resources and Purchasing systems through June 30, 2022

Scott Newman, CIO, IT Dept / Ian Best, Assistant City Attorney

- 10.g. DNA Laboratory Instruments

Consideration to AWARD A SOLE SOURCE CONTRACT to Life Technologies Corporation, a division of Thermo Fisher Scientific, in the amount of \$236,678.51 for the purchase of DNA laboratory instruments including installation and implementation support, warranties and assurance plans for the Unified Metropolitan Forensic Crime Lab.

Staff requests a Waiver of Reconsideration due to the current lead-time/backlog for the Hamilton robot of approximately 6 months.

Lieutenant Timothy Dufour, Police / Ian Best, Assistant City Attorney

10.h. Rampart Pipeline Sliplining Program, Phase 1 - Construction Manager, General Contractor

Consideration to AWARD AN OPENLY SOLICITED CONTRACT to BT construction, Inc., Henderson, Colorado in the amount of \$1,851,371.00 for Construction Manager / General Contractor and steel pipeline procurement services for the 2021-2024 Rampart 54" Prestressed Concrete Cylinder Pipeline (PCCP) Sliplining Rehabilitation Program? Project No. 5829A.

Dean Bedford, Principal Engineer / Brian Rulla, Assistant City Attorney

Motion by Bergan, second by Gruber, to approve items 10a - 10d and 10f - 10h with waivers of reconsideration on items 10a, 10d, 10g and 10h.

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

Council heard additional call-in public testimony.

Mayor Coffman called for a brief recess to allow staff to provide public call-in instructions.

11. **RESOLUTIONS**

11.a. FUNDING READY TO WORK AURORA WITH A REHABILITATION GRANT USING COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 DOLLARS

R2021-47 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING READY TO WORK AURORA WITH A REHABILITATION GRANT USING COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 DOLLARS

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

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

Mayor Pro Tem Bergan stated her support for the item and noted her request that an annual performance report be provided to Council.

Mayor Coffman asked if there were any objections to Mayor Pro Tem Bergan's request and hearing none, confirmed the request.

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

11.b. FUNDING RESTORATION CHRISTIAN MINISTRIES WITH A REHABILITATION GRANT USING CDBG COVID-19 DOLLARS

R2021-48 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING RESTORATION CHRISTIAN MINISTRIES WITH A REHABILITATION GRANT USING COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 DOLLARS

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

Motion by Marcano, second by Coombs, to approve item 11b.

Mayor Pro Tem Bergan requested that an annual performance report be provided to Council.

Mayor Coffman asked if there were any objections to Mayor Pro Tem Bergan's request and hearing none, confirmed the request.

Council Member Marcano asked what a performance report would look like. Mayor Pro Tem Bergan stated basically information relating how the monies were spent.

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

11.c. FUNDING VILLAGE EXCHANGE CENTER, INC. WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR MEALS ON WHEELS ACTIVITIES FOR THE YEAR 2021

R2021-49 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING VILLAGE EXCHANGE CENTER, INC. WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR MEALS ON WHEELS ACTIVITIES FOR THE YEAR 2021

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Motion by Marcano, second by Coombs, to approve item 11c.

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

Mayor Pro Tem Bergan requested an annual performance report be provided to Council.

Mayor Coffman asked if there were any objections to Mayor Pro Tem Bergan's request and hearing none, confirmed the request.

Council Member Hiltz pointed out performance reports are quite specific and she asked Mayor Pro Tem Bergan to speak with staff to determine what the report would include.

Mayor Pro Tem Bergan stated she was looking for transparency for the taxpayers to know the funds were well spent.

Mayor Coffman noted it was difficult to quantify success and suggested perhaps time should be set aside in study session to determine what the performance evaluations would look like.

Mayor Pro Tem Bergan stated she was requesting a report on the results for the item.

Jessica Prosser, Director, Housing & Community Services, pointed out those type of reports were required for federal funding and she agreed to provide them to Mayor Pro Tem Bergan.

Mayor Coffman asked the Mayor Pro Tem if she would share those reports with the City Council. Mayor Pro Tem Bergan stated her request was for a report from each agency on where the monies went and how Aurora citizens were served. Mayor Coffman asked staff if that information was covered in the reporting data to the federal government.

Ms. Prosser answered affirmatively.

Mayor Coffman stated that would be sufficient for that request.

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

11.d. FUNDING THE ASIAN PACIFIC DEVELOPMENT CENTER OF COLORADO WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR ACTIVITIES IN THE YEAR 2021

R2021-50 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE CITY OF AURORA, COLORADO FUNDING THE ASIAN PACIFIC DEVELOPMENT CENTER OF COLORADO WITH COMMUNITY DEVELOPMENT BLOCK GRANT COVID-19 FUNDING FOR THEIR ACTIVITIES IN THE YEAR 2021

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

Motion by Gruber, second by Marcano, to approve item 11d.

Mayor Pro Tem Bergan requested a similar report for this item.

Mayor Coffman agreed the information would be disseminated to Council.

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

11.e. AFFORDABLE HOUSING GAP FINANCING PROGRAM FUNDING RECOMMENDATION FOR THE GATEWAY APARTMENT DEVELOPMENT

R2021-51 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE 2021 WINTER ROUND AFFORDABLE HOUSING GAP FINANCING PROGRAM FUNDING RECOMMENDATION FOR THE AURORA HOUSING AUTHORITY OF THE CITY OF AURORA

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

Motion by Marcano, second by Bergan, to approve item 11e.

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

11.f. INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE STATE OF COLORADO DEPARTMENT OF LOCAL AFFAIRS

R2021-52 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE STATE OF COLORADO DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF HOUSING (DOH) FOR THE DOH TO ADMINISTER MOST OF AURORA'S EMERGENCY RENTAL ASSISTANCE PROGRAM FUNDS

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

Motion by Coombs, second by Marcano, to approve item 11f.

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

11.g. RESOLUTION EXPRESSING APPROVAL OF LOAN FOR VARIOUS PROJECTS BY ELEVATION COMMUNITY LAND TRUST

R2021-53 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF A LOAN FROM THE CITY'S GENERAL FUND FOR VARIOUS PROJECTS BY ELEVATION COMMUNITY LAND TRUST

Rodney M. Milton, Manager of Community Development / Tim Joyce, Assistant City Attorney

Rodney M. Milton, Manager of Community Development, provided a brief summary of the item.

Motion by Gruber, second by Lawson, to approve item 11g.

Council Member Gruber stated this was an exciting way for the City to meet their affordable housing needs and to support affordable housing overall in Aurora.

Mayor Pro Tem Bergan asked staff to speak to recourse if a loan was not repaid. Mr. Milton did so, noting it was a zero percent loan that functioned as a grant to underwrite the affordability in the home. Mayor Pro Tem Bergan stated the profit went back into the program when the home was sold.

Mr. Milton concurred, noting it remained within the land and building and not the person so that the affordability was available to everyone.

Mayor Coffman asked if a default of the loan would go through the foreclosure process rather than the eviction process. Mr. Milton answered affirmatively.

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

11.h. APPOINTING MEMBERS OF THE BOARD OF DIRECTORS OF THE HAVANA BUSINESS IMPROVEMENT DISTRICT

R2021-54 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPOINTING A MEMBER OF THE BOARD OF DIRECTORS OF THE HAVANA BUSINESS IMPROVEMENT DISTRICT

Chad Argentar, Senior Project Manager, Planning & Development Services/Hans Hernandez, Assistant City Attorney

Motion by Marcano, second by Gruber, to approve item 11h.

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

Council Member Gruber congratulated John Sanchez on his appointment to the Havana BID board.

11.i. CU Anschutz and APD Intergovernmental Agreement

R2021-55 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE UNIVERSITY OF COLORADO POLICE DEPARTMENT AND THE CITY OF AURORA REGARDING THE EXTENSION OF POLICE POWERS AND AUTHORITY  
Vanessa Wilson, Chief of Police / Megan Platt, Police Legal Advisor

Outside Attendee: Randy Repola, CU Chief of Police / Megan Platt, Police Legal Advisor

Megan Platt, Police Legal Advisor, provided a brief summary of the item.

Motion by Berzins, second by Gruber, to approve item 11i.

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

11.j. City of Aurora Investment Policy

R2021-56 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADOPTING AN INVESTMENT POLICY

Teresa Sedmak, City Treasurer / Hans Hernandez, Assistant City Attorney

Terri Velasquez, Director, Finance, and Teresa Sedmak, City Treasurer, provided a brief summary of the item.

Motion by Gruber, second by Gardner, to approve item 11j.

Council Member Hiltz asked if the City invested in the private prison industry. Ms. Sedmak stated there were not any investments of that nature at this time but noted the City did have the ability to invest in corporate securities. Council Member Hiltz stated she had some follow-up items to discuss with staff.

Mayor Coffman stated his understanding that the policy related to credit quality.

Ms. Sedmak concurred.

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

11.k. Resolution for IGA Between Aurora and Arapahoe County for Construction Cost Sharing for the High Plains Trail and Bridge

R2021-57 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 ARAPAHOE, STATE OF COLORADO, REGARDING CONSTRUCTION COST SHARING FOR THE HIGH PLAINS TRAIL AND BRIDGE

Tracy Young, PD&C Manager in PROS / Angela Garcia, Sr. Assistant City Attorney

Tracy Young, PD&C Manager in PROS, provided a brief summary of the item.

Motion by Marcano second by Bergan, to approve item 11k.

Council Member Marcano pointed out an error in the title page, noting the item was moved forward with a unanimous recommendation from the committee. He stated this was a worthwhile asset and noted the grade separation for the project was critical to keep bicyclers safe.

Mayor Pro Tem Bergan echoed her excitement for the item and pointed out the City of Aurora's contribution of \$500k was a part of the total cost of \$7.36M.

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

11.l. A Pilot Program To Assist Veterans Experiencing Homelessness Or Housing Insecurity To Find Permanent Work

R2021-58 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR AN AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, ADAMS COUNTY AND BAYAUD ENTERPRISES FOR A PILOT PROGRAM TO ASSIST VETERANS EXPERIENCING HOMELESSNESS OR HOUSING INSECURITY TO FIND PERMANENT WORK

Sponsor: Mayor Coffman

Legal Source: Tim Joyce, Assistant City Attorney

Outside Speaker: Ralph Charlip, Chairperson, Aurora Veterans Affairs Commission

Mayor Coffman provided a brief summary of the item.

Tim Joyce, Assistant City Attorney, noted staff was requesting a waiver of reconsideration on the item.

Motion by Gruber, second by Berzins, to approve item 11l with a waiver of reconsideration.

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

Mayor Coffman called for a brief recess to allow staff to provide public call-in instructions.

12. **PUBLIC HEARING WITH RELATED ORDINANCE**

None

13. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

None

14. **INTRODUCTION OF ORDINANCES**

14.a. 2021 ACLC Heavy Fleet Program Financing Ordinance

2021-22 AN ORDINANCE AUTHORIZING THE USE OF LEASE-PURCHASE FINANCING TO ACQUIRE CERTAIN EQUIPMENT DURING THE 2021 FISCAL YEAR PURSUANT TO THE TERMS OF AN EQUIPMENT LEASE PURCHASE AGREEMENT BY AND BETWEEN THE AURORA CAPITAL LEASING CORPORATION, AS LESSOR, AND THE CITY OF AURORA, COLORADO, AS LESSEE: AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY, AND OTHER RELATED MATTERS

Andrew Jamison, Senior Debt Analyst / Hanosky Hernandez Perez, Assistant City Attorney

Andrew Jamison, Senior Debt Analyst provided a brief summary of the item.

Motion by Gruber, second by Bergan, to approve item 14a.

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

15. **FINALIZING OF ORDINANCES**

15.a. Buckley Yard Rezone

2021-16 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REZONING TWO SEPARATE PARCELS OF LAND MEASURING 44.343 ACRES MORE OR LESS AT THE NORTHEAST CORNER OF SOUTH AIRPORT BOULEVARD AND EAST ALAMEDA PARKWAY FROM BUSINESS TECH DISTRICT (I-1) TO MIXED-USE CORRIDOR DISTRICT (MU-C) AND MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2) AND AMENDING THE ZONING MAP ACCORDINGLY (BUCKLEY YARD REZONE)

Todd Hager, Planner II / Dan Money, Assistant City Attorney

Brandon Cammarata, Planning, provided a brief summary of the item.

Motion by Gruber, second by Bergan, to approve item 15a.

Council Member Gruber stated the land and project were coordinated with Buckley Air Force Base who had no comment.

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

15.b. An Ordinance to Approve the Windler Homestead Metropolitan District Amended and Restated Service Plan

2021-20 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO APPROVING THE AMENDED AND RESTATED SERVICE PLAN FOR THE WINDLER HOMESTEAD METROPOLITAN DISTRICT AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO AND THE DISTRICT

Jacob Cox, Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney

Jacob Cox, Manager, Office of Development Assistance provided a brief summary of the item.

Motion by Berzins, second by Gruber, to approve item 15b.

Mayor Pro Tem Bergan asked if the five mills related to the Aurora Regional Improvement District (ARI). Mr. Cox answered affirmatively.

Council Member Coombs asked staff to speak to the changes that justified the \$1M+ addition to the insurance limit.

Mr. Chris Fellows did so.

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

15.c. An Ordinance to Approve the WH No. 1 Metropolitan District Amended and Restated Service Plan

2021-21 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO APPROVING THE AMENDED AND RESTATED SERVICE PLAN FOR THE WH METROPOLITAN DISTRICT NO. 1 AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO AND THE DISTRICT

Jacob Cox, Manager, Office of Development Assistance / Brian Rulla, Assistant City Attorney

Motion by Gardner, second by Gruber, to approve item 15c.

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

16. **PLANNING MATTERS**

None

17. **ANNEXATIONS**

None

18. **RECONSIDERATIONS AND CALL UPS**

None

19. **GENERAL BUSINESS**

19.a. Consideration to reappoint (3) three members to the Oil and Gas Advisory Committee

Kadee Rodriguez, City Clerk, General Management / Ian Best, Assistant City Attorney

Motion by Bergan, second by Gruber, to reappoint Brad Pierce, Maxwell Blair and Joshua Riddell to the Oil and Gas Advisory Committee.

Council Member Hiltz pointed out the City now had an Oil & Gas Division and Manager and she wondered if there should be a discussion on the role and necessity of the Oil & Gas Commission moving forward.

Council Member Coombs stated that subject would be discussed by the PR+ Committee.

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

19.b. Consideration to appoint one (1) new member to the Metropolitan Wastewater Reclamation District Board

Jo Ann Giddings, Deputy Director of Aurora Water Financial Administration / Christine McKenney, CAO Development Team Manager

***ORIGINAL MOTION***

Motion by Berzins, second by Gruber, to appoint Bob Roth to the Metropolitan Wastewater Reclamation District Board.

***SUBSTITUTE MOTION***

◆ ***The City Charter prescribes the Mayor may vote on resolutions and ordinances only to create or break a tie vote of Council Members present. The Mayor Pro-Tem is always permitted to vote on all items.***

Motion by Coombs, second by Marcano, to appoint Brad Pierce to the Metropolitan Wastewater Reclamation District Board.

Mayor Pro Tem Bergan pointed out both candidates were qualified and asked an Aurora Water representative to clarify why they recommended Mr. Roth.

Marshall Brown, General Manager, Aurora Water, did so.

Council Member Hiltz stated she would not support Mr. Pierce because of staff's recommendation.

Mayor Coffman agreed they were both extraordinary candidates.

Council Member Coombs withdrew her motion.

*VOTE ON ORIGINAL MOTION*

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

19.c. Ward II Council Member Vacancy Appointment

City Council will vote to appoint one candidate to the Ward II Council Member vacancy. The candidate will be sworn in at the July 12, 2021 Regular Council Meeting.

Kadee Rodriguez, City Clerk, provided information on the two options available to Council according to the Council Rules of Order.

Motion by Hiltz, second by Marcano, to proceed with Option A, the nomination process.

Council Member Gardner stated a candidate needed six votes which was the majority.

Ms. Rodriguez concurred.

Council Member Gardner asked if Council would move on if a candidate did not receive six votes. Ms. Rodriguez answered affirmatively.

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

Mayor Coffman, Mayor Pro Tem Bergan and Council Members Berzins and Gruber nominated Steve Sundberg.

Council Members Coombs, Hiltz, Lawson, Marcano and Murillo nominated Dr. Ryan Ross.

Council Member Gardner nominated Robert Hamilton.

Ms. Rodriguez stated Council could move forward with three candidates.

Daniel Brotzman, City Attorney, pointed out this process was done by agreement, noting the only vote that counted was the very last one.

Council Member Hiltz stated there was an option to bring one of the six candidates back.

Mayor Coffman concurred.

Council Member Berzins asked how someone who was eliminated could be brought back. Ms. Rodriguez stated this was a nomination process to get a consensus of who Council wanted to nominate.

Mayor Coffman called for a brief recess to allow Council to review their decisions. He then stated nominations were in order.

*ORIGINAL MOTION I*

Motion by Marcano, second by Lawson, to appoint Dr. Ryan Ross to the Ward II City Council vacancy.

*SUBSTITUTE MOTION I*

Motion by Berzins, second by Gruber, to appoint Steve Sundberg to the Ward II City Council vacancy.

*VOTE ON SUBSTITUTE MOTION I*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

Council Member Marcano discussed the importance of appointing a person who reflected the values of the person who was duly elected by the constituents of Ward II. He noted he has expressed his extreme dissatisfaction that Council could choose who would serve because he believed it was undemocratic and wrong.

Mayor Pro Tem Bergan agreed Council should not choose who would serve Ward II, noting it should instead be determined by Ward II voters. She discussed how Ward II has changed over the last few years, noting their number one priority at this time was crime. She noted no one was Nicole Johnston and Council should not attempt to equate someone who was running with someone who has left because some values might align while others might not. She stated Ms. Johnston won with 49 percent of the votes so that was not the majority.

Council Member Coombs pointed out this related to the previous election not the upcoming election therefore the appointment was about someone to fill out the term from the previous election, noting the voters would determine the next election. She felt appointing

someone who was currently running for office was tantamount to putting a thumb on the scale in that election. She noted 49 percent was not a low number when others won on 30.

Mayor Pro Tem Bergan clarified her point was that it was not 100 percent or a majority. She noted Council was not attempting to replace Ms. Johnston, for whom she had great respect, but were rather attempting to appoint someone and she agreed it should be determined by the voters.

Council Member Hiltz stated her support for Dr. Ross. She understood crime was a big issue and noted the Public Safety Committee has not brought any new proposals forward in that regard. She discussed Dr. Ross' involvement with the community and committee and suggested Council be mindful of what community involvement looked like and who was doing the work.

Council Member Murillo stated her support for Dr. Ross. She noted if crime was the issue then who better to focus on public safety than the person who facilitated the Police Task Force. She felt it was outrageous to give someone who was running an unfair advantage by appointing them and she did not support that process.

Council Member Gruber pointed out Dr. Ross was Ms. Johnston's second choice as her first choice dropped out of the race. He discussed the recent efforts of the Public Safety Committee, noting he was not sure why the topic was brought up in this context.

Council Member Hiltz stated the issue came up because Mayor Pro Tem Bergan stated crime was a top issue in Ward II.

Council Member Lawson stated Dr. Ross shared good solutions and ideas at the public safety forum, noting Dr. Ross would be good for Ward II and the City. She stated this was a political situation when it should be looked at from a holistic point of view.

#### *VOTE ON ORIGINAL MOTION I*

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

Voting Nay: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Mayor Coffman asked if there was objection to taking a recess. Council Member Coombs stated her objection. Mayor Coffman stated nominations were in order.

#### *ORIGINAL MOTION II*

Motion by Gruber, second by Bergan, to appoint Steve Sundberg to the Ward II City Council vacancy.

#### *SUBSTITUTE MOTION II*

Motion by Marcano, second by Hiltz, to appoint Dr. Ryan Ross to the Ward II City Council vacancy.

Mayor Pro Tem Bergan noted Council appeared to be deadlocked.

- ◆ ***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 Marcano clarified for the public that the Council consisted of five republicans, four democrats and one unaffiliated person and the five republicans were attempting to stage a political coup through a vacancy. He noted voters in Ward II elected a progressive democrat in 2017 and those were the values Ms. Johnston ran on. He stated he was tired of pretending this was nonpartisan when the Council was the most partisan body he has ever served on. He stated there would be a lot of back and forth until someone either came up with a different solution or actually did the right thing so Council could move on with the business of governing the City.

Mayor Coffman stated he was unaware of Mr. Sundberg's political affiliation but he did know he was a business owner who has been involved with the City for a very long time and who could bring a wealth of knowledge and compassion to the Council. He noted he looked forward to serving with him should he be appointed.

Council Member Gruber added that Mr. Sundberg has been a member of several commissions and has volunteered for Habitat for Humanity. He noted he and his family have been a major influence in Aurora for many years and he would be a powerful representative for Ward II.

Council Member Hiltz clarified there were two unaffiliated persons on Council.

Council Member Coombs pointed out there were those who could state they were unaware of affiliations but she believed most of the republicans on Council have already made financial contributions to Mr. Sundberg's campaign. She stated it was clear that he was the republican favorite for the seat he was running for. She reminded everyone that Council was voting to appoint someone to fill the seat of a democrat who was elected by the voters of Ward II and not deciding the next election.

Mayor Pro Tem Bergan stated she supported Mr. Sundberg because of his service to the City of Aurora community through efforts with charities, at-risk children and children's sports teams. She noted her understanding that he has lived in Aurora his entire life and he really cared about Ward II. She noted Mr. Sundberg was someone who has stated he would do his best to represent all constituents in Ward II which was very thoughtful in terms of his positions and trying to look at both sides of issues. She agreed the Council had varying opinions and were divided in that perspective but noted Mr. Sundberg was a good man with strong values and that was why she supported him.

Mayor Coffman pointed out Legends Restaurant has supported many causes over the decades including providing meals at their expense to the Day Resource Center during inclement weather.

Council Member Coombs pointed out Dr. Ross was also a strong member of the community and Stirred up Enterprises has done a lot in addressing violence issues and working with the community through the pandemic and social unrest that was experienced this past year. She noted many community members have reached out to her to lend their support for Dr. Ross. She stated it would be a false statement to state that Mr. Sundberg was a better man than Dr. Ross.

Council Member Murillo pointed out Dr. Ross had his doctorate and there was no comparison to the wealth of knowledge he brought on an academic level as well as in practice. She

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noted he too was a small business owner who has made a career of supporting and engaging people in the community and creating greater equity amongst communities. She stated he has also proven to be a facilitator through his efforts with the Police Task Force. She noted Dr. Ross was not running for election in November and stated appointing Mr. Sundberg, who was running, would give him an unfair advantage in the election. She stated Dr. Ross has proven that he could be an effective member of Council for whatever time he served and he would do so in a fair and equitable manner which made him the best candidate for the vacancy at this time.

*VOTE ON SUBSTITUTE MOTION II*

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

Voting Nay: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Council Member Gruber stated his support for Mr. Sundberg. He noted both candidates were good people and expressed his hope that none of the council members were saying anything disparaging about them.

*VOTE ON ORIGINAL MOTION II*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman stated nominations were in order.

*ORIGINAL MOTION III*

Motion by Bergan, second by Berzins, to appoint Steve Sundberg to the Ward II City Council vacancy.

*SUBSTITUTE MOTION III*

Motion by Marcano, second by Coombs, to appoint Dr. Ryan Ross to the Ward II City Council vacancy.

*VOTE ON SUBSTITUTE MOTION III*

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

Voting Nay: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

*VOTE ON ORIGINAL MOTION III*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman stated nominations were in order.

*ORIGINAL MOTION IV*

Motion by Lawson, second by Coombs, to appoint Dr. Ryan Ross to the Ward II City Council vacancy.

*SUBSTITUTE MOTION IV*

Motion by Gruber, second by Bergan, to appoint Steve Sundberg to the Ward II City Council vacancy.

*VOTE ON SUBSTITUTE MOTION IV*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

*VOTE ON ORIGINAL MOTION IV*

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

Voting Nay: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Council Member Coombs suggested Council go back to stating the nomination names in alphabetical order.

Mayor Pro Tem Bergan asked Council Member Coombs why Council would not make an additional motion. Council Member Coombs stated because the motions continued to fail and going back to the way it was done in the first round might give someone another idea.

Ms. Rodriguez read the names of the six applicants.

Mayor Coffman, Mayor Pro Tem Bergan and Council Members Berzins, Gardner and Gruber nominated Steve Sundberg.

Council Members Coombs Hiltz, Lawson, Marcano and Murillo nominated Dr. Ryan Ross.

Mr. Brotzman stated Council was at a point where six members had to agree to break the tie.

Council Member Marcano asked how creative Council could get with the method of breaking the tie because the Charter stated the vacancy had to be filled within a certain amount of time. Mr. Brotzman stated the Charter required a majority of Council, which meant six, and that they pick someone to fill the role within 45 days.

Council Member Lawson asked if the item could be brought up at another Council meeting within the timeframe if they could not come to a resolution. Mr. Brotzman answered affirmatively, noting the item would continue to come back at the next Council meeting. Council Member Lawson asked if the seat remained vacant until the election if Council could not agree. Mr. Brotzman reiterated the Charter required Council to come to an agreement to break the tie in order to appoint someone by the deadline otherwise they would be in violation of the Charter.

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Mayor Coffman noted the next regular Council meeting was scheduled for Monday, July 12, 2021.

Mayor Pro Tem Bergan pointed out the Charter stated *if* Council was going to fill a vacant seat then it had to be filled within 45 days, noting it did not state they *had* to fill the vacancy. She noted the 5 – 5 vote could go on forever when Council was not actually obligated to appoint someone.

Mr. Brotzman disagreed, noting the Charter stated Council must fill the vacancy with a duly qualified person within 45 days.

Mayor Pro Tem Bergan noted that was done with a majority vote.

Mr. Brotzman concurred.

Mayor Pro Tem Bergan stated she was referring to the tie.

Mr. Brotzman reiterated the Charter stated Council needed to appoint someone within 45 days.

Mayor Pro Tem Bergan pointed out a consensus could not be reached and Council would never have six votes.

Mr. Brotzman reiterated Council would then be in violation of the Charter.

Council Member Murillo asked Mr. Brotzman to speak to the consequences of Council violating the Charter. Mr. Brotzman did so, noting a criminal complaint could be made against Council for not filling the vacancy.

Mayor Pro Tem Bergan disagreed with counsel's advice, noting the Charter stated Council must fill the vacancy within 45 days *if* they had six votes which Council clearly did not. She stated it was Council's prerogative to not agree to have six votes and there was no way to get to six. She stated Council was only in violation of the Charter if they had an agreement but did not fill the vacancy within 45 days. She pointed out it did not clearly state a tie vote.

Mr. Brotzman reiterated the Charter indicated Council must appoint someone within 45 days of the vacancy.

Mayor Pro Tem Bergan stated that was only so if there were enough votes.

Mr. Brotzman stated they disagreed to the interpretation.

Council Member Coombs noted the Council rules stated they had to come to some agreement on tiebreaking when there was an actual tie. She asked Mr. Brotzman if that was the provision he was citing. Mr. Brotzman stated a tie for motions, resolutions, and ordinances would cause the item to be brought back to Council to be voted on again at the next meeting and then the item would fail if a tie continued. He stated the problem in this instance was that, while the rule allowed the item to come back to Council, they needed to name someone to fill the vacancy within 45 days.

Mayor Coffman stated his understanding that six votes were required to affirm whatever process Council chose to deal with the deadlock.

Mr. Brotzman concurred.

Mayor Pro Tem Bergan pointed out a tie vote failed so Council should not go any further. She stated the repetitive voting was nonsense when they continued to come to the same conclusion. She asked if Council could vote not to appoint and to allow the voters to choose. Mr. Brotzman answered no, noting the Charter provision required the position to be filled within 45 days. Mayor Pro Tem Bergan asked if the Council could change the Charter by ordinance. Mr. Brotzman answered no, noting that would have to be done with a vote of the people.

Council Member Lawson stated her understanding that Mr. Brotzman stated Council would be subject to criminal penalty if they did not meet the vacancy requirements and asked if that was done by the residents of Aurora or by the City filing against Council. Mr. Brotzman stated that would be filed by the City. Council Member Lawson stated the City would file against council members.

Mr. Brotzman concurred.

#### *MOTION TO LAYOVER ITEM I*

Motion by Mayor Coffman, second by Gruber, to layover item 19c to the next regular Council meeting scheduled for Monday, July 12, 2021.

Council Member Hiltz stated she was fine with the motion and pointed out the Charter provision was in place to force Council to find a compromise to move forward to do City business. She asked if it was appropriate for council members to reach out to additional candidates for the position prior to the July 12 meeting. Mayor Coffman answered affirmatively, noting Council could change any procedure in the process with six votes.

Mr. Brotzman concurred.

Council Member Berzins asked how the City of Westminster went so many rounds in this regard. Mayor Coffman stated they kept going until they reached an agreement. Council Member Berzins stated her understanding they agreed to put it off.

Council Member Hiltz stated they went through several rounds and then eventually got to six.

Mayor Pro Tem Bergan disagreed, noting they held two votes. She clarified they did a vacancy vote that went 99 rounds and then they eventually voted to let the voters decide.

Council Member Berzins asked if they had the same Charter or did they go against their Charter.

Jim Twombly, City Manager, agreed staff could research that answer.

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Council Member Marcano asked staff for a clear set of deliverables that something would change that would justify postponing the item because if it was being postponed for the sake of postponement then he suggested Council continue rather than waste more time.

Mayor Coffman pointed out the City Manager stated research would be conducted in the interim.

Council Member Marcano pointed out the City Attorney went back to the Charter and pointed out the Charter was explicit on this issue and perhaps Westminster had a different Charter. He stated he wanted to know what the deliverables looked like to justify postponement because otherwise Council would be in the same spot in a few weeks so they might as well continue.

Mayor Coffman directed discussion to pertain to the motion on the floor.

Mayor Pro Tem Bergan stated her understanding that Council had questions and that there was disagreement on the interpretation of the Charter, so she agreed with postponing the item to gain more clarification. She stated she did not want to continue voting on a tie vote because it did not make sense and was a waste of time.

Council Member Coombs requested the City Attorney provide information ahead of the next meeting on any conflicts of interest for council members voting for a person to fill the vacancy.

Council Member Marcano referenced the question Council Member Gardner posted into the chat that stated he was advised by a City Attorney that the choice would go to the voters in November if Council did not make a decision within the timeframe.

Council Member Gardner stated that was what happened in Westminster.

*VOTE ON MOTION TO LAYOVER ITEM I*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman stated nominations were in order.

*ORIGINAL MOTION V*

Motion by Coombs, second by Marcano, to appoint Dr. Ryan Ross to the Ward II City Council vacancy.

*SUBSTITUTE MOTION V*

Motion by Gruber, second by Bergan, to appoint Steve Sundberg to the Ward II City Council vacancy.

*VOTE ON SUBSTITUTE MOTION V*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

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Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

*VOTE ON ORIGINAL MOTION V*

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

Voting Nay: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Council Member Berzins referenced the previously discussed criminal liability in this regard and asked if it took a vote of Council to prosecute themselves. Mr. Brotzman stated in theory the City Manager would have someone from the police department cite Council, noting he did not see that happening. Council Member Berzins asked if Council would be required to take a vote in that regard. Mr. Brotzman answered no, noting it would be the City Manager's decision.

Mayor Pro Tem Bergan stated Council would not go to jail.

Mr. Twombly stated he would not initiate action against the City Council.

Council Member Marcano stated if that was subjective then the Charter was just a piece of paper that did not mean anything and he had a problem with that.

Mayor Coffman stated nominations were in order.

*MOTION TO LAYOVER ITEM II*

Motion by Gruber, second by Bergan, to layover item 19c to the next regular Council meeting scheduled for Monday, July 12, 2021.

Council Member Hiltz stated she did not oppose laying over the item as long as due diligence by a majority of Council to find a compromise was done in the meantime and she did not see that happening therefore she remained opposed to moving it forward.

Mayor Pro Tem Bergan asked if a special election would be in order. Council Member Coombs stated the answer was in the chat which stated special elections were not allowed.

Mr. Brotzman stated any method the Council agreed to was allowed however he did not feel it was feasible to get a special election done by the deadline.

Council Member Coombs stated she did not support laying the item over because it only gave council members an opportunity to lobby each other behind the scenes which was not in line with respecting the will of the voters.

Mayor Pro Tem Bergan stated the voters have not had a chance to vote therefore Council could not presume to know what they would want.

Mayor Coffman stated ongoing discussions between now and the regular meeting would be very productive, noting there were rules in terms of transparency when three or more council members were in a discussion.

*VOTE ON MOTION TO LAYOVER ITEM II*

- ◆ ***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 Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Lawson, Marcano, Murillo

Mayor Coffman stated nominations were in order.

*ORIGINAL MOTION VI*

Motion by Marcano, second by Lawson, to appoint Dr. Ryan Ross to the Ward II City Council vacancy.

*SUBSTITUTE MOTION VI*

Motion by Bergan, second by Gruber, to appoint Steve Sundberg to the Ward II City Council vacancy.

Council Member Coombs reiterated Council heard from the voters when they chose Ms. Johnston and noted it was very clear that Dr. Ross' platforms and views most closely aligned with what the voters voted for. She noted that, coupled with Dr. Ross' community contributions, qualifications and history of building bridges in the community, made him the appropriate choice.

Mayor Pro Tem Bergan pointed out the vote was not for Ms. Johnston at this time and the voters did not vote for any of those persons being discussed and it was disingenuous to state otherwise. She stated this was a new appointment and they were all different people and no one knew if their values perfectly aligned or if the voters would vote for someone who aligned with the former council member, noting it was quite an assumption to make.

Council Member Marcano pointed out Ms. Johnston strongly supported Dr. Ross being appointed because he shared her values and the voters voted for Ms. Johnston for her values and platform. He stated he did not believe Council should have this power, but he wanted to ensure that whomever they appointed had similar values to Ms. Johnston and it was very clear who that was. He agreed Ward II has changed as it has become bluer so trying to put someone who did not share her values would be a slap in the face to those who voted for Ms. Johnston. He reminded Council they were not voting for the next person to represent Ward II in November but rather someone who would fill Ms. Johnston's term.

Mayor Pro Tem Bergan pointed out people who voted for Ms. Johnston have moved out of Ward II and it was presumptuous to think they were the same pool of voters. She stated it was meant to be a nonpartisan race and there were issues that appealed to people that were not necessarily party related.

Council Member Lawson agreed this was supposed to be nonpartisan but these discussions were not. She expressed frustration because it was apparent that this was political and Council was not looking at the benefit to the people. She stated she would not support the laying over of the item because negotiations would not happen in the interim.

Council Member Coombs concurred. She reiterated part of what was happening in this instance was those who were trying to appoint a person to a seat were essentially providing an incumbency advantage for the next election when they have already donated to his

campaign. She asked how that was appropriate or focused on filling the vacancy in a way that reflected the needs and desires of the people in Ward II.

Council Member Gardner pointed out it was ironic and hypocritical that those who were voting for Mr. Sundberg were being accused of being partisan and those who were voting for Dr. Ross were not. He discussed his meetings with both candidates. He stated everyone was being partisan in this regard because they were politicians and it came with the territory. He stated he did not agree with the interpretation provided by counsel. He stated he would like to see the item moved to November and felt that was what would happen if they could not reach a majority. He noted doing so would allow the voters to select their choice of who should represent them.

Council Member Coombs reiterated one of the candidates was running in the November election and would benefit from an incumbency advantage and the other would not.

Mayor Pro Tem Bergan stated the person who was not running for the election in November could also influence votes because this was about who was going to vote on issues. She agreed with Council Member Gardner that the issue should be left to voters in November and she agreed the Charter interpretation from counsel was incorrect. She stated she interpreted it to state Council could not appoint someone after the 45 days.

Mayor Coffman stated no pledges made by appointees were binding.

Council Member Lawson asked if there was another opinion to determine if the interpretation was correct.

Mayor Coffman asked Mr. Brotzman if he could do a written opinion prior to the July 12, 2021 regular meeting if Council chose to layover the item. Mr. Brotzman answered affirmatively, noting the term '*shall*' in the language would be reviewed by attorneys in and out of the City Attorney's office and an advisory opinion would be provided to Council.

Council Member Berzins pointed out the term '*shall*' could be interpreted in different ways. She stated she was willing to take a chance with the City filing suit against her.

Council Member Lawson agreed '*shall*' and '*must*' were very different and she would like those definitions to be included in Mr. Brotzman's advisory opinion.

Ms. Rodriguez stated the Charter and State Statute stated the Election Commission could break tie votes by drawing lots.

Mayor Coffman asked if Council was bound by that in nonpartisan races. Ms. Rodriguez stated she was simply providing information on how it was handled in municipal elections. Mayor Coffman agreed those were good questions to research.

#### ***SUBSTITUTE MOTION VII***

Motion by Bergan, second by Gruber, to layover item 19c to the next regular Council meeting scheduled for Monday, July 12, 2021.

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Council Member Berzins asked Mayor Coffman if he had the authority to layover the item. Mayor Coffman stated the City Attorney advised him six votes were required to do so. He asked Mr. Brotzman if his understanding was correct.

Mr. Brotzman answered affirmatively, noting parliamentary rules required a majority vote of Council.

*VOTE ON SUBSTITUTE MOTION VII*

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

Voting Nay: Hiltz, Lawson, Marcano

20. **REPORTS**

20.a. Report by the Mayor

Mayor Coffman announced the City of Aurora would host fireworks on the Great Lawn for the 4<sup>th</sup> of July.

20.b. Reports by the Council

Council Member Lawson provided state and federal legislative, RTD Reimagined and CML updates.

Council Member Gruber requested everyone be conscious and respectful of the impact fireworks had on Veterans and animals.

Council Member Hiltz discussed her attendance at World Refugee Day and her participation in Art in the Park event. She noted the City had a lot of great programming for small children through parks, libraries and nature centers.

Council Member Murillo discussed her attendance at the recent Project Worth More celebration for World Refugee Day as well as the Asian Pacific Development Center graduation ceremony. She congratulated all of the new Americans who graduated.

Council Member Berzins discussed her visit with Norma Walker, the first and only female mayor of Aurora, who turned 93 recently. She wished Ms. Walker a happy birthday. She expressed appreciation to the six candidates for their efforts in applying for this vacancy. She announced the 10<sup>th</sup> Annual Ward III Picnic was scheduled for Saturday, July 24, 2021 at Bicentennial Park for Ward III residents only.

Council Member Marcano announced the Ward IV meeting was scheduled for Wednesday, July 14, 2021 on WebEx and Facebook, where the International Making Cities Livable Conference would be discussed. He stated it would be the last remote meeting as the August meeting would be in person unless the Delta variant trended in the wrong direction.

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Council Member Coombs announced a community safety forum for all residents, where par officers, Neighborhood Watch and community members would be present, was scheduled for Wednesday, July 14, 2021. She stated the Ward V meeting in August would take place in person at Heather Gardens if everything continued to go in the right direction to do so. She raised the topic of the East Bank Shopping Center and the lack of ingress for the neighborhood and assured those residents that the issue would be reviewed. She provided DRCOG and Visit Aurora updates. She echoed Council Member Gruber's comments related to fireworks.

Mayor Coffman stated fireworks sold in Aurora were the ones allowed in Aurora.

Mayor Pro Tem Bergan wished everyone a happy 4<sup>th</sup> of July.

21. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

22. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of City Council at 9:49 p.m.



MIKE COFFMAN, MAYOR

ATTEST:



KADEE RODRIGUEZ, City Clerk