

MINUTES

Regular Meeting of the Aurora City Council

Monday, July 26, 2021

1. **RECONVENE REGULAR MEETING OF JULY 26, 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

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

3. **INVOCATION/MOMENT OF SILENCE**

Mayor Coffman called for a moment of silence for all those who have lost their lives to COVID and those who are struggling to recover.

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

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman stated negotiations were discussed in the Executive Session.

6. **APPROVAL OF MINUTES**

6.a. April 26, 2021 Minutes

Motion by Bergan, second by Marcano, to approve the minutes of the April 26, 2021 City Council meeting, as presented.

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

6.b. May 10, 2021 Minutes

Motion by Marcano, second by Coombs, to approve the minutes of the May 10, 2021 City Council meeting, as presented.

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

7. **PROCLAMATIONS OR CEREMONIES**

None

8. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

Council heard public call-in testimony.

9. **ADOPTION OF THE AGENDA**

Mayor Coffman requested on behalf of staff that item 21 be moved ahead of item 19a.

Kadee Rodriguez, City Clerk, explained the purpose behind the request.

Motion by Bergan, second by Coombs, to adopt the agenda as amended.

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 with Blackeagle Energy Services, Berthoud, Colorado in the amount of \$447,962.84 for the Repair of 12-inch Waterline - Piney Creek Crossing at Saddle Rock GC - E Plymouth Cir Project, Project No. 5811A

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

- 10.b. Consideration to AWARD A SOLE SOURCE CONTRACT to Intrado Life & Safety Solutions Corp., Longmont, Colorado in the amount of \$68,127.18 to upgrade the City's 911 answering system in the main and backup communication centers.

Scott Newman, Chief Information Officer / Ian Best, Assistant City Attorney

Motion by Gruber, second by Berzins, to approve items 10a – 10b.

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

- 10.c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Lumin8 Transportation Technologies in the amount of \$384,420.00 for the 2021 Traffic Calming Device Installation Services Project; Project No. 21038

Christopher Stephan, Project Manager / Brian Rulla, Assistant City Attorney

Motion by Bergan, second by Coffman, to approve item 10c.

Christopher Stephan, Project Manager, provided a brief summary of the item.

Mayor Pro Tem Bergan stated her support of the item and asked why \$384k rather than the maximum was requested. She expressed her hope that Ward VI was included in the proposal. Mr. Stephan stated there were two items on the agenda that related to traffic calming, noting the speed cushions were \$285k and the \$384k, which was a little more than the typical \$500k, was requested in order to impact as many Council wards as possible.

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

- 10.d. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with HDR Engineering, Denver, Colorado in the amount of \$36,600.00 for the Preliminary Engineering of Rampart Delivery System Capacity Expansion Project, Project No. R-1850.

Swirvine Nyirenda, Water Planning Services Manager / Ian Best, Assistant City Attorney

- 10.e. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Brannan Sand and Gravel Company in the amount of \$285,033.58 for the 2021 Speed Cushion Installation Services Project; Project No. 21039/5842A

Christopher Stephan, Project Manager / Brian Rulla, Assistant City Attorney

- 10.f. Consideration to AWARD A SOLE SOURCE CONTRACT to Hach Company, Loveland,

Colorado in the not-to-exceed amount of \$220,000.00 for the purchase of water quality monitoring equipment and supplies for the Water Department as required through June 30, 2022.

Steve Sciba, Deputy Director of Operations / Ian Best, Assistant City Attorney

- 10.g. Consideration to AWARD A SOLE SOURCE CONTRACT to the Crime and Justice Institute (CJI), Boston, MA in the amount of \$61,689.00 to draft all new use of force policies for the Aurora Police Department (APD).

Jason Batchelor Deputy City Manager / Megan Platt, Asst. City Attorney, Ian Best Asst. City Attorney

- 10.h. Consideration to AWARD A SINGLE SOURCE CONTRACT to Canyon Systems, Inc., Golden, Colorado in the amount of \$63,953.00 for the purchase of Gorman-Rupp pump parts.

Mike Mills, Manager of Water Ops and Maint. / Ian Best, Assistant City Attorney

- 10.i. 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)

Steve Sciba, Deputy Director of Operations / Ian Best, Assistant City Attorney

- 10.j. Consideration to AWARD A SINGLE SOURCE CONTRACT to H&E Equipment Services, Henderson, Colorado in the amount of \$1,363,440.00 for the purchase of two (2) 2021 Emergency One Cyclone fire engines/pumpers.

Ron Forrest, Fleet Manager / Ian Best, Assistant City Attorney

Motion by Gruber, second by Berzins, to approve items 10d- 10j.

Voting Aye: Mayor Coffman, 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.

(The meeting resumed)

11. **RESOLUTIONS**

- 11.a. Intergovernmental Agreement with CCWCD for Well Augmentation

◆ *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.*

R2021-71 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE GROUNDWATER MANAGEMENT SUBDISTRICT OF THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT AND THE CITY OF AURORA, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, FOR PETITION FOR CLASS D IRRIGATION WATER ALLOTMENT CONTRACT

Alexandra Davis, Deputy Director of Water Resources, Aurora Water / Stephanie Neitzel, Assistant City Attorney

Marshall Brown, Director, Aurora Water, provided a brief summary of the item.

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

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

- 11.b. Six Month Funding Agreement Between The City Of Aurora, Colorado, And Aurora/Arapahoe Battered Women's Shelter, Inc. DBA Gateway Battered Women's Services

R2021-72 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR FUNDING GATEWAY DOMESTIC VIOLENCE SERVICES DBA AURORA/ARAPAHOE BATTERED WOMEN'S SHELTER, INC. WITH LAW ENFORCEMENT NEXUS PROGRAM FUNDS FOR A SIX-MONTH CONTRACT PERIOD BETWEEN JULY 1, 2021 TO DECEMBER 31, 2021

Lana Dalton, LCSW- Homelessness Programs Manager / Tim Joyce, Assistant City Attorney

Lana Dalton, LCSW- Homelessness Programs Manager, provided a brief summary of the item.

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

Mayor Pro Tem Bergan stated her understanding the amount requested was less this year due to reduced surcharge revenue and asked what the typical requested amount was in previous years. Ms. Dalton stated \$110k. Mayor Pro Tem Bergan asked how many Aurora women were served by the Battered Women's Shelter. Ms. Dalton agreed to provide Council with that information. Mayor Pro Tem Bergan expressed concerns related to the reduction of funds that helped Aurora women. She stated further discussion on the need for more funds might be warranted in the future.

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.

(The meeting resumed)

12. **PUBLIC HEARING WITH RELATED ORDINANCE**

None

13. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

None

14. **INTRODUCTION OF ORDINANCES**

None

15. **FINALIZING OF ORDINANCES**

15.a. ADDING ARTICLE XII OF THE CITY CODE PERTAINING TO VEHICULAR PUBLIC NUISANCES

2021-23 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING ARTICLE XII OF THE CITY CODE PERTAINING TO VEHICULAR PUBLIC NUISANCES

Sponsor: Mayor Pro Tem Bergen

Mike Hanifin, Police Lieutenant / George Koumantakis, Criminal Prosecution Manager

Mayor Pro Tem Bergen provided a brief summary of the item.

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

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

15.b. E-470 Remnant Parcels Annexation

2021-25 FOR AN ORDINANCE ANNEXING A CERTAIN MUNICIPALLY OWNED PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 12,

TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
COUNTY OF ARAPAHOE, STATE OF COLORADO (E-470 Remnant Parcel Annexation)
12.67 ACRES

Laura Rickhoff, Development Project Manager / Brian Rulla, Assistant City Attorney

Laura Rickhoff, Development Project Manager, provided a brief summary of the item.

Motion by Bergan, second by Lawson, to approve item 15b.

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

15.c. Triple Creek Confluence Open Space Annexation

2021-26 FOR AN ORDINANCE ANNEXING A CERTAIN MUNICIPALLY OWNED
PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 11
AND IN THE WEST HALF OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST
OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF
COLORADO (Triple Creek Confluence Open Space Annexation) 128.97 ACRES

Laura Rickhoff, Development Project Manager / Brian Rulla, Assistant City Attorney

Laura Rickhoff, Development Project Manager, provided a brief summary of the item.

Motion by Gruber, second by Marcano, 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. Ward II Council Member Vacancy Appointment

City Council will consider appointing one candidate to the Ward II Council Member vacancy.

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

Mayor Pro Tem Bergan addressed emails a few of the council members received accusing them of being racist for their vote. She confirmed that was not indicative of anything she would ever do because she did not base her decisions on the color of anyone's skin.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Pro Tem Bergan pointed out it appeared Council would be doing the same as they did at the last meeting in terms of continued tie votes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

◆ *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 Lawson, second by Marcano, to appoint Dr. Ryan Ross to fill the Ward II Council vacancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Council Member Berzins noted this was the third night Council has been at a stalemate in this regard.

Motion by Berzins, second by Gruber, to table Item 19a until after the November election.

Council Member Marcano agreed with the spirit of the proposal but not with Council setting the precedent that the Charter did not matter. He stated the motion meant Council would

intentionally violate the Charter or that a Ward could go without a Ward Council Member. He stated he would not support the motion.

Mayor Pro Tem Bergan stated the Charter stated Council would be in violation if they did not appoint someone by a majority and they could not do so with a tie vote. She pointed out it was as though someone would be forced to give up their principles to make a majority therefore if Council came to a tie vote by voting their beliefs and principles then it made sense to let the voters decide in November.

Council Member Coombs asked the City Attorney to clarify whether or not Council would be in violation of the Charter if they did not make the appointment.

Daniel Brotzman, City Attorney, answered affirmatively.

Mayor Pro Tem Bergan pointed out Council Rules stated a tie vote failed.

Mr. Brotzman stated that applied to legislative matters.

Mayor Pro Tem Bergan noted the Charter did not address a tie vote.

Mr. Brotzman concurred.

Council Member Coombs did not think Council should decide the rules did not apply to them because there were those who wanted to replace a person with a different political persuasion therefore, she would not support the motion.

Council Member Gruber emphasized the 'shall' statement in the Charter required a majority and without a majority, the 'shall' could not be met therefore the rule in the Charter could not be executed if Council did not have a majority. He stated it was not a question of ignoring the rule but rather addressing the fact that Council voted and they could not reach a majority. He noted the voting could continue all night but the result would be the same. He noted there was a certain amount of theater involved and he did not believe it was helpful to the people of Aurora.

Council Member Lawson addressed Mr. Brotzman and stated her understanding Council would violate the Charter if they do not appoint and in doing so, would face both civil and criminal penalties.

Mr. Brotzman concurred, noting Council would be in violation of the Charter and the corresponding ordinance which carried the general penalty for the City of Aurora.

Mayor Pro Tem Bergan reiterated Council was only in violation if they were unable to appoint with a majority and since they could not and there was nothing in the Charter that

addressed how to deal with a tie vote then it stood to reason they were not in violation. She stated her understanding a suit could not be successful given those grounds even if someone brought one. She asked how a person could be forced to change their vote. Mr. Brotzman agreed any lawsuits would not be successful but noted there was a risk of them being brought by continuing this to the election or past July 29, 2021 which was the 45-day deadline. He agreed the language was unclear and as a result was being brought to the Ad Hoc Rule Committee to modify the language and then onto the vote of the people to actually change the Charter.

Council Member Hiltz was not interested in violating the Charter. She stated she met with both candidates and they have different perspectives and qualifications and she appreciated both of them for applying for the vacancy. She felt Dr. Ross was the better choice for this position. She stated it was Council's job to appoint someone and she felt quite comfortable with where she was with that decision.

Council Member Berzins disagreed. She believed Mr. Sundberg was the best candidate because he was a businessman who created jobs and who has lived in Ward II for years. She raised the topic of the American Civil Liberties Union's (ACLU) lawsuit and the idea that all it would take was a lawsuit to upend the Charter. She agreed with Mayor Pro Tem Bergan regarding there not being a violation if there was not a majority.

Council Member Lawson stated she was not interested in violating the Charter and asked Mr. Brotzman what happened when Council violated the Charter. Mr. Brotzman stated the City Manager has indicated he would not take action against Council and the chances of a civil lawsuit being done by the November election was next to impossible and there were no other penalties. Council Member Lawson stated her understanding Council would face those penalties at 12:01 a.m. on July 30, 2021 if they did not meet the Charter requirements.

Mr. Brotzman concurred.

Council Member Marcano addressed those supporting Mr. Sundberg and asked if they were okay if he appointed someone that was far left of them should they ever be forced to leave Council unexpectedly. Council Member Gruber stated Council Member Marcano would appoint a Socialist to fill his vacancy as fast as he could. Council Member Marcano pointed out he has stated on the record that he did not believe Council should have this power but that as long as they did, they should honor the will of the voters and appoint someone who shared the values of the person vacating the seat. He stated that was his pledge to Council and noted his expectation they would do the same.

Council Member Gruber pointed out the seat was voted on two elections ago and the Ward has changed significantly since that time which was evidenced by Council Member Gardner's win of all but two of the precincts. He stated this was 2021 and post-COVID, noting crime was a huge issue in Aurora among other things. He stated therefore projecting back to 2017 was not the best way to frame the discussion. He stated the best way to frame the discussion was for Council to do what they thought the people of Ward II wanted and he felt

they wanted someone who was tough on crime, more conservative and a job creator. He stated he did not have a problem with Dr. Ross. He agreed he was a good paid consultant for the City. He noted Mr. Sundberg volunteered for many City organizations therefore he believed Mr. Sundberg was the better choice.

Council Member Coombs stated calling out Dr. Ross as only of service as a paid consultant in contrast to Mr. Sundberg when he volunteers extensively was patently false. She found it fascinating that there has been a long tradition of Council deferring to the Ward council member's recommendation because they would all want the same done for them in the instance of a vacancy and to see it changed now because it better suited certain council members' positions in the circumstance was disappointing.

Mayor Pro Tem Bergan pointed out Council typically deferred to a council member's opinion on a development issue because Council wanted to respect their opinion on developments and not a vacancy. She stated her support of Mr. Sundberg because he was a small business owner who was running for office. She noted he was invested in the community and Ward II. She stated he was a good man with good values who understood many of the issues happening in the City and Ward II. She addressed Council Member Marcano and referenced his previous derogatory remark about Mr. Sundberg voting for former President Donald Trump in the last election and asked him how he obtained that information as it was a secret ballot. Council Member Marcano stated he did not know how Mr. Sundberg voted but he did see how he donated. Mayor Pro Tem Bergan stated then it could be assumed that since Council Member Marcano donated to Bernie Sanders that he voted for Mr. Sanders.

Council Member Marcano agreed he did and stated he was proud of his vote. He pointed out no one won more than 30 percent of the vote in the At-Large races so he had a hard time basing any ideological shift off that.

Mayor Pro Tem Bergan stated Council Member Gardner won Ward II as an At-Large member.

Council Member Gardner concurred noting he received more votes than former Council Member Johnston.

Council Member Berzins pointed out Council has spent three nights cutting each other down and bickering back and forth. She asked how that was helping the City or respecting the voters. She stated Council could continue voting until the sun came up but the vote would not change. She urged her colleagues to postpone the item to allow the voters to decide. She stated Council's behavior was unprofessional and irresponsible and she felt the citizens could do better in choosing who they wanted.

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

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

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

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

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

Council Member Gruber asked Mr. Brotzman what would happen if five council members simply left the meeting because the theater would continue all night and nothing would change. Mr. Brotzman stated the quorum would be lost and the meeting would end.

Council Member Hiltz stated Council need not abdicate their responsibility after such extensive discussions about being duly elected with different margins.

Council Member Gruber stated based on the emails Council was receiving, it appeared the City was disgusted with the theater. He suggested ending the meeting might be the shortest way to resolve the issue because the result would be the same.

Council Member Hiltz stated she met with both candidates and she felt confident in the principles she stood upon in her decision. She stated if others did not then that was fine but it was Council's job to see this through. She stated if six people wanted to violate the Charter then they were welcome to do so but she would not be one of them.

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

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

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

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

Mayor Coffman stated he would like to see some discussion.

Council Member Hiltz stated this was the third night and most of Council has stated what they needed to state.

Council Member Coombs stated Dr. Ross has stood up on issues currently relevant to the City. She stated he has been of service to the City in bridging the gap between the police department and the community and having conversations with leaders of the City that reflected the needs and concerns of community members who were struggling, grieving and concerned. She stated that showed leadership and he did not do those things to push an agenda but rather to build unity. She noted that was something she heard all the time that

people wanted in the City. She felt Dr. Ross has been very respectful to everyone on Council and she could see him building bridges that were desperately needed. She pleaded with her colleagues to consider supporting Dr. Ross.

Mayor Pro Tem Bergan wondered if her colleagues would refrain from bringing forward any resolutions or ordinances from now until November because there was something to why either party wanted to appoint a particular person.

Council Member Marcano pointed out appointing Dr. Ross would not cause Council to be any different than it was when former Council Member Johnston was present.

Mayor Pro Tem Bergan stated it was her gut feeling that there was a hidden agenda because there were things that could come forward that businesses and residents were not in favor of.

Council Member Coombs pointed out there was a very not hidden agenda of passing a camping ban with Mr. Sundberg.

Mayor Pro Tem Bergan stated her comment was facetious and not a real ask.

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

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

Council Member Berzins stated she was receiving emails stating Council appeared childish and unprofessional which she found embarrassing.

Council Member Marcano concurred, noting it was embarrassing to use a vacancy to flip the majority on Council.

Council Member Lawson stated her support for Dr. Ross and agreed both candidates had good ideas. She stated she did not find what was going on funny because it halted City business and voters and residents should be disgusted with Council. She did not know what the answer was but again, she was looking at what was the best interest of those in the City. She stated whatever happened would not move City business forward and she found that shameful. She agreed with Council Member Berzins that Council appeared unprofessional and that was unfortunate. She stated she did not want to violate the Charter and she pointed out not all of Council would be on Council after the election therefore it left those who were to deal with the consequences of a civil suit or whatever happened as a result of the violation.

Council Member Gruber asked Mr. Brotzman if there would be grounds for a lawsuit after the election. Mr. Brotzman answered no. Council Member Gruber stated his understanding

there would not be any repercussions to those not seeking reelection or those who remained on Council.

Mr. Brotzman concurred, noting the only jeopardy was from July 29, 2021 through the November election.

Council Member Coombs stated her understanding no action could be brought after the election if Council did not fill the vacancy but not all action would be resolved if something was brought closer to the election. She asked if those no longer on Council would be subject to penalty related to choices they made on Council after they were gone. Mr. Brotzman reiterated the period of concern ran from July 29, 2021 through the election. Council Member Coombs asked if those no longer on Council would have any consequence when the resolution occurred. Mr. Brotzman answered no.

Mayor Pro Tem Bergan stated Council would continue to do City business because ten council members would remain.

Council Member Lawson stated she was referring to more important upcoming legislation that would stop because they were a divided Council. She stated her understanding Council could face a civil action from anyone in the community between now and the election and those who were not on Council after that time would not have repercussions.

Mr. Brotzman stated Council would not have personal exposure for that whether they remained on Council or not.

Council Member Gardner expressed appreciation to Council Member Lawson for her comments. He agreed the whole process has been a comedy of errors and while he initially believed everyone was voting for who they felt was best to fill the vacancy, he was beginning to believe it was all theater. He addressed the public and stated he did not blame them for being embarrassed and ashamed of Council. He stated the Council had a problem acting like adults because when they had a difference of opinion, they branched off into other things. He felt what they were doing was really wrong to the residents of Aurora. He stated he met with both candidates and felt both were qualified. He felt Mr. Sundberg most closely aligned with the values he believed in and that was why he was voting for him. He stated the process should be sent to the voters because if this was the people's seat then they should decide. He stated the Charter did not appear to anticipate a tie vote scenario.

Motion by Gardner, second by Bergan, to postpone item 19a until after the November election.

Council Member Marcano agreed the voters should have the say and Council should not have the power of appointment. He noted the Charter was drafted in 1961 and the City and Council were very different then. He stated he did not want to violate the Charter and noted his interest in bringing forth a Charter amendment to move to special elections but until then, he felt violating the Charter set a dangerous precedent.

- ◆ ***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 Murillo asked for clarification on the motion. Mr. Brotzman stated it accomplished the goal by either tabling the item until the November election or setting the appointment until there was no vacancy after the November election.

Council Member Berzins addressed Mr. Brotzman, pointing out his explanation that no one would be in violation after the election because it was a done deal helped a lot, as opposed to the violation and civil charges language that he explained previously.

Council Member Hiltz stated she took issue with a Council-appointed City Attorney telling Council they would not have to worry about consequences after a measure was brought forward to shield them from responsibility. She pointed out at the end of the day, Council violating the Charter made the statement to the people of Aurora that the Charter did not mean anything and she was not interested in doing that. She stated former Council Member Johnston did not receive the same respect and deference while she was on Council from those on Council who were giving it to her now. She felt a lot of the conversation was unnecessary as it was okay that they had different reasons for choosing different people.

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

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

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

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

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

Mayor Coffman stated he expected a motion when he asked for a motion if Council wanted to continue the process.

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

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

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

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

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

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

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

Council Member Coombs stated her support of Dr. Ross for the reasons previously stated.

Council Member Marcano asked Mr. Brotzman if something could be passed this year to be scheduled for 2022. Mr. Brotzman answered affirmatively.

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

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

Mayor Pro Tem Bergan asked if it was too late to hold a special election.

Kadee Rodriguez, City Clerk, answered affirmatively.

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Coffman called for a brief recess of Council.

(The meeting resumed)

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Pro Tem Bergan stated Council has gone so many rounds and she expressed her wish they would let the voters decide in November.

Council Member Marcano agreed but noted the Charter mattered and choosing to do so did not sit well with him.

Mayor Pro Tem Bergan stated she did not want to violate the Charter either and restated her belief that it did not address this situation. She stated her understanding Council would not be in violation because there was not a remedy for a tie vote in the Charter.

Council Member Marciano deferred to the City Attorney who has continued to advise Council that was not the case. He reiterated nothing would fundamentally change on Council for the next few months until November if Council chose to do what it has traditionally done and appoint someone with the values of the person who left the vacancy.

Mayor Coffman asked Council Member Marciano what he was referring to historically. Council Member Marciano referenced the appointments of Bob LeGare and Johnny Watson since he has been on Council.

Council Member Berzins wondered if all it took was for the ACLU to file a lawsuit against the Charter for it to change. She felt it was hypocritical because she knew there were several council members who would agree with that and yet they stated one way was wrong and another was right. She stated she has been through many appointments during her time on Council and she did not agree that was necessarily the case that it was what was done historically because Council had to go by the people who applied and some had the same values and some did not.

Council Member Coombs stated Council's Charter has not changed based on an ACLU lawsuit and noted the lawsuit was whether a provision was unconstitutional rather than something that was hard on Council. She pointed out those were two different standards.

Mayor Pro Tem Bergan reiterated her understanding that Council was not in violation because the Charter required an appointment by majority and Council did not have one.

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

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

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

Council Member Lawson asked Mr. Brotzman to speak to his legal interpretation of majority. Mr. Brotzman did so, noting the majority of Council was six so six affirmative votes were required to appoint the position. Council Member Lawson stated the majority was set in the Charter provision but the number six was set by Council in the Council Rules. Mr. Brotzman referenced Article 3, Section 19 of Council's Charter.

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

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

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

Council Member Gruber discussed the two conflicting clauses in the Charter and expressed his understanding the Charter stated Council shall appoint and anything less than six votes was in violation. He reiterated this was theater and there was not a solution.

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

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

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

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

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

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

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

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

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

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

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

Motion by Gardner, second by Gruber, to postpone item 19a until after the November election.

Council Member Gardner stated his belief that Council probably was not in violation of the Charter because the Charter did not anticipate a tie vote and no mechanism was provided to break a tie vote and the Charter could not force anyone to vote a certain way.

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

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

Motion by Bergan, second by Berzins, to postpone item 19a once Council reached 50 rounds of voting at this meeting.

Mayor Coffman asked where Council was currently. Ms. Rodriguez stated 40.

Council Member Berzins stated this was a very serious matter and any laughter demonstrated the dysfunction that was going on.

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

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

Mayor Pro Tem Bergan stated Council has gone 40 rounds in this meeting and 80 from previous meetings and asked when this would end.

Mayor Coffman stated his understanding there was no such thing as a sudden question for a vacancy in the appointment process.

Mr. Brotzman concurred, noting a majority of six votes was required for Council to choose a candidate, lay it over to another date or adjourn the meeting.

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

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

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

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

Council Member Lawson asked if the Council meeting continued to another time if it moved past midnight into another day. Mr. Brotzman confirmed it would be the continuation of the current Council meeting.

Mayor Pro Tem Bergan pointed out it would then be a different day and asked if public notice of a new meeting would be required. Mr. Brotzman restated it was the continuation of the current meeting.

Council Member Gruber apologized to the City employees who had to be available for the meeting and expressed his hope they would be allowed to come in late to work the next morning.

Council Member Murillo stated her understanding the practice currently in place was that City employees who had to remain late for a Council meeting had a flex day the next day.

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

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

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

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

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

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

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

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

Mayor Coffman called for a brief recess of Council.

(The meeting resumed)

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

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

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

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

Council Member Hiltz stated she would continue to nominate Dr. Ross as she actively supported him and believed he was the best person for the position however given the silence of the majority of Council, she stated there was an opportunity to request a delay. She noted only a few council members were actively participating and reminded the remainder of Council that the option to delay remained.

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

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

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

Council Member Lawson stated her understanding that the meeting would continue as a second meeting should it go past midnight and asked if that were so if a special meeting were held on July 29. Mr. Brotzman answered affirmatively, noting the violation would occur at 12:01 a.m. of a properly noticed special meeting but the continued meeting would cure it. Council Member Lawson asked the length of the cure timeframe. Mr. Brotzman stated anywhere between 12:01 a.m. on July 30 until the election. Council Member Lawson asked if Council was penalized until a cure was realized. Mr. Brotzman stated the risk during that time period should be reviewed.

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

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

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

Council Member Coombs reminded everyone that Dr. Ross was a thoughtful, qualified and engaged candidate who could be appointed and everyone could go home.

Mayor Coffman pointed out there were two thoughtful candidates.

Mayor Pro Tem Bergan agreed Mr. Sundberg fit that description as well.

Council Member Hiltz agreed there were two qualified candidates and noted only one candidate was being enthusiastically nominated.

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

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

Mayor Coffman called for a brief recess of Council.

(The meeting resumed)

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

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

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

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

Council Member Coombs reminded everyone that changing the balance of power that the people of the City voted for, whether that was in 2017 or 2019, was at stake. She stated this was being done through the nonsupport of Dr. Ross who would essentially maintain the status quo of what people voted for over the course of the last four years.

Council Member Gruber countered Council Member Coombs' comments by stating that choosing no one would move neither agenda forward, and pointed out what was important to the City would most likely be voted on unanimously as it has many times before. He stated the things that were important to those on the right or the left would wait until the people of Aurora selected someone else as delaying the item would make the Council more centered throughout the rest of the election cycle.

Council Member Marcano addressed Council Member Gruber and stated the issue with doing so was that the City has voted over the last several cycles for a center-left Council with center-left priorities. He pointed out someone stepping down did not mean it was an opportunity to change the balance of values on the Council, noting doing so was extremely autocratic. He stated Council should replace the person who stepped down with someone whose values aligned to what voters voted for in 2017.

Council Member Gruber pointed out many on Council were wearing pins and Council Member Marcano's was the red rose of the socialist party which pointed to his goals of implementing more socialist ideals within the City. He did not believe the City supported that as was seen in the last election. He stated it was important for people to know what was really going on.

Council Member Marcano clarified the Democratic Socialist of America (DSA) was similar to a club rather than a political party. He stated he was a registered Democrat and that was his party. He stated he shared a lot of values with his constituency and that was why he was sitting on Council. He suggested Council Member Gruber was attempting to rile up the right by using buzz scare words like socialism. He pointed out a lot of people think housing should be a right; that a job should pay enough for a person to live; and that housing and services should be provided to the unhoused. He stated his wish that Council Member Gruber would wear a pin identifying his values so people could know what values they were voting for. He stated the reason Council was in this position was because the races were nonpartisan and that was a farce. He stated he would like to introduce a Charter amendment to make Council races partisan because people deserved to know what values they were voting for and those values should be on the ballot. He stated he was tired of pretending this was nonpartisan when it was and he felt that was what was frustrating people the most. He discussed the low voter turnout in Aurora and the need to change to

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paces being on even numbered years. He stated he was committed to transparency and to making a better representative democracy.

Council Member Gardner stated the voters voted for somebody for four years in 2017. He noted the fact remained, Council had a vacancy sooner than the four years, so the voters did not pick someone with the hope that they would be replaced sooner than four years by whomever happened to be on Council at the time. He stated trying to do so now was a waste of time. He stated he missed former Council Member Johnston's maturity during these discussions as he was not seeing much maturity from Council. He stated he voted several times to send the item to the voters in November and he would like to see his colleagues agree.

Mayor Pro Tem Bergan concurred with Council Member Gardner's comments regarding Council's inability to read the minds of voters. She stated Council remained at an impasse and should therefore let the voters decide.

Council Member Coombs stated to her knowledge, Dr. Ross did not identify with either Democratic Socialism or socialism therefore she did not think it was genuine to make that association on his behalf. She pointed out leaving the seat vacant was not only a violation of the Charter but leaving it vacant would result in the next three or four months of Council being in deadlock because some on Council would prefer to create deadlock, chaos and delay.

Council Member Gardner expressed his disappointment that some on Council viewed a five-to-five split as a deadlock because there were many items that Council voted on unanimously. He stated a five-to-five vote was an opportunity for Council to demonstrate maturity and show Aurora voters they have the ability to get things done in the residents best interest.

Council Member Coombs suggested time could be used to examine who has extended that courtesy when policy was brought forward in that regard.

Council Member Marcano pointed out Ward II deserved representation. He stated filling the vacancy with Dr. Ross brought Council back to preserving the values the voters voted for in 2017.

Council Member Gruber apologized to Dr. Ross for his reference to his being a socialist as it was unintended. He explained he was referring to those on Council who supported Dr. Ross as being socialist and not that Dr. Ross was a socialist.

Council Member Marcano clarified the term was Democratic Socialists. He pointed out those on Council who were advocating for Dr. Ross were doing so because he represented the values of those who voted in 2017. He addressed Council Member Gruber and stated regardless of the assumption otherwise, he would not attempt to replace him with a socialist should he ever have to leave Council. He noted he could be doing that at this time but

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rather was not, as he was supporting the person whose values most aligned with the vacancy.

Council Member Lawson addressed Council Member Gruber and stated she was not a Democratic Socialist so he could not include everyone supporting Dr. Ross into that affiliation. She stated she chose Dr. Ross because he addressed many of the questions posed by Council and offered a lot of solutions that she agreed with. She discussed her issues with violating the Council Charter.

Council Member Gruber apologized to Council Member Lawson for any inference that she was a socialist. He clarified his attempt was to state that the socialists on Council were supporting Dr. Ross not that all those supporting Dr. Ross were socialists.

Council Member Lawson expressed appreciation to Council Member Gruber for the clarification.

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

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

Mayor Coffman called for a recess of Council.

Council Member Coombs asked why Council was taking a thirty-minute break. Mayor Coffman stated Council was taking a break since they were not having a viable discussion and the vote would be the same.

(The meeting resumed)

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

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

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

Motion by Gardner, second by Bergan, to table item 19a until after the November election.

Council Member Gardner stated the Charter did not anticipate a stalemate and therefore he did not believe tabling the item would violate the Charter.

Council Member Coombs disagreed because the City Attorney repeatedly stated Council would be in violation of the Charter.

Council Member Marcano pointed out some of his colleagues would rather violate the Charter than fill the vacancy.

Mayor Pro Tem Bergan stated Council was getting emails asking them to please allow the voters to decide in November.

Council Member Gardner reiterated the Charter did not anticipate a tie vote so while Council should appoint someone, the Charter could not force anyone to change their vote. He noted it has been demonstrated that some parts of the Charter might be up for interpretation therefore he did not believe the question of violating the Charter was settled in this instance.

Council Member Marcano agreed with Council Member Gardner's comments. He pointed out there was a difference between someone trying to adjudicate the constitutionality of the existing Charter provision versus one that did not have any kind of constitutional challenge or question. He stated it was the responsibility of Council to abide by the Charter requirement. He reiterated the worse-case scenario was that Council would return to the previous status quo prior to the vacancy when they were functioning just fine.

Council Member Gardner disagreed. He reiterated the Charter did not anticipate a tie vote which after almost 100 rounds of voting, it appeared it would remain a tie vote so it was in the best interest of the City, the City Council and City staff to allow voters to decide who would fill the vacancy in Ward II in November.

Council Member Coombs suggested not having continuous lengthy breaks would probably be the most respectful thing Council could do for staff.

Mayor Coffman asked Council Member Coombs if doing so would allow Council to finish sooner. Council Member Coombs answered affirmatively, noting in theory. Mayor Coffman stated he did not think that would hold true.

Mayor Pro Tem Bergan pointed out City staff probably had to work the next morning and it was disrespectful to them because Council was not changing their vote.

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

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

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

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

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

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

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

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

Mayor Pro Tem Bergan asked if WebEx had a time limit. Ms. Rodriguez answered no.

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

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

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

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

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

Mayor Coffman called for a recess of Council.

Council Member Coombs asked Mr. Brotzman if she could move to appeal the Mayor's decision.

Motion by Coombs, second by Marcano, to appeal Mayor Coffman's decision to recess.

Council Member Coombs stated the continued breaks were a waste of time.

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

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

Council Member Hiltz asked if the Mayor voted on the motion. Mr. Brotzman answered affirmatively.

Mayor Coffman called for a recess of Council.

(The meeting resumed)

Mayor Pro Tem Bergan referenced the Charter and stated her understanding the intent of the requirement was for Council to appoint someone to a vacancy within 45 days because it would not be good to appoint someone within less than that time of an election. She asked Mr. Brotzman to speak to that understanding. Mr. Brotzman did so, noting the Charter intended to provide Council with a time limit to make the appointment by majority. Mayor Pro Tem Bergan pointed out the intent of the Charter was to provide a timeframe and not that they would be in violation if there was not a majority appointment within 45 days. She asked if Council would be in violation of the Charter if they appointed someone after the 45 days. Mr. Brotzman stated doing so would cure the violation. Mayor Pro Tem Bergan reiterated the Charter called for a majority and Council could not reach a majority because they remained at a tie and the Charter did not allow for any further reasoning or explanation for how to address a tie. She restated it was put in place to prevent Council from not extending an appointment too close to election time but since they have then they should allow the voters to decide.

Mr. Brotzman stated he did not disagree with the theory and noted taking the length a special election would take into account should be considered when rewriting proposals for changing the Charter which would demonstrate a much longer timeframe. He further discussed the lengthy nature of the special election process.

Council Member Coombs pointed out the Charter called out the requirement that Council must be within a certain timeframe from the election when a vacancy occurred to prevent it from being too close to an election. She stated she did not think there was any justification in not appointing because of the closeness of the time of the election as the timeframe was clearly laid out.

Mayor Pro Tem Bergan pointed out Council remained tied and being so close to that deadline made this a different circumstance.

Council Member Hiltz pointed out Council was at the deadline because they delayed the item twice rather than going for an extended meeting time at the first round.

Council Member Berzins stated her calculations showed Council has voted on the item 103 times over three nights.

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

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

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

Mayor Coffman called for a recess of Council.

(The meeting resumed)

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

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

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

Mayor Coffman called for a recess of Council.

(The meeting resumed)

Motion by Coombs, second by Marciano, to require a majority of Council to approve all further recesses of Council.

Council Member Coombs pointed out City staff had to continue to work when Council took a recess which she felt demonstrated further disrespect to staff beyond Council having a late meeting.

Council Member Gardner concurred, noting that was why Council should delay the vote to allow the voters to decide in November.

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

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

Motion by Gardner, second by Bergan, to postpone the appointment until after the November election.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motion by Gardner, second by Gruber, to adjourn the meeting.

Mayor Coffman asked Mr. Brotzman if a second was required. Mr. Brotzman answered affirmatively.

Mayor Pro Tem Bergan stated it was prudent to adjourn the meeting out of respect for those council members and City staff who had to work in the morning.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motion by Gardner, second by Gruber, to postpone the appointment until after the November election.

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

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

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

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

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

Motion by Bergan, second by Gardner, to postpone the appointment until after the November election.

Mayor Pro Tem Bergan stated the continued tie vote was beyond ridiculous therefore the vote should be left to the voters.

Council Member Berzins discussed the process council members went through to become a council member and pointed out whoever was appointed would not be sworn in for quite some time and there were only five or six Council meetings until the election. She

wondered what Council was doing when they understood the lengthiness of the process. She asked why Council would want to put either candidate through that at this late date.

Council Member Coombs clarified swearing-in ceremonies took place at the beginning of Council meetings and noted whoever was appointed would be sworn in at the next meeting because this was a vacancy and therefore not a normal process. She stated this would be an abbreviated timeframe and both candidates were aware of the timeframe.

Council Member Berzins clarified that was not what she was saying and asked Council Member Coombs to not twist her words. She pointed out swearing in was not always the same. She reiterated there was a long process in place to be sworn in as a council member.

Council Member Hiltz concurred, noting the majority of Council voted to delay the item twice and that was why they were currently up against a deadline.

Mayor Pro Tem Bergan agreed the orientation process and onboarding was a monthlong process and pointed out Council was up against the deadline because they could not decide. She noted the purpose behind the motion was due to Council currently having 100+ tie votes, which obviously was not going to change because no one should have to change their vote.

Council Member Hiltz asked if future motions to delay could be made clear because that was not what Council was doing. She stated the motion to delay was actually a motion to not make an appointment and to violate the Charter.

Mayor Coffman stated he would not edit someone's motion.

Council Member Hiltz clarified that was not her intent, noting she meant the statement to relate to future motions.

Mayor Pro Tem Bergan noted she made the motion based on advice from the City Attorney in terms of tabling or postponing the appointment.

Council Member Hiltz pointed out that made more sense at the last meeting when Council still had another meeting to go and now there was not a future meeting to make an appointment.

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

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

Motion by Gardner, second by Bergan, to get an outside third-party legal opinion as to whether or not a tie vote was a violation of the Charter.

Mayor Coffman asked Mr. Brotzman if a vote was required in this instance or could he simply proceed with that direction. Mr. Brotzman stated staff could proceed with that direction but noted it would be handy to know Council's will.

Council Member Berzins agreed the tie vote issue appeared to be a sticking point for several on Council therefore she felt it was a good idea to have another opinion.

Mayor Pro Tem Bergan concurred. She reiterated she did not think the tie vote was a violation and it was important to get an outside opinion on that issue.

Council Member Gardner noted several council members have stated they wanted the item to go to the voters but did not want to do so if it meant violating the Charter therefore the question of a tie vote equating to a violation should be settled.

Council Member Lawson addressed Council Member Gardner and asked if he was asking for clarification for the question but not stopping the voting process. Council Member Gardner stated answering that question could provide clarity to the situation and it was his opinion that Council would not continue voting until that opinion was rendered. Council Member Lawson asked if a special meeting would be held once the opinion was rendered. Council Member Gardner stated he was uncertain as to the mechanism in this instance but noted answering the question might resolve the issue.

Council Member Coombs stated her understanding the motion was to garner a legal opinion and then a special meeting would be scheduled to make the decision.

Council Member Gardner stated Council would determine their course of action once the opinion was rendered.

Mayor Coffman stated his understanding Council Member Gardner was seeking an outside opinion.

Council Member Gardner concurred, noting Council has used outside counsel for several issues in the City. He felt if those on Council who stated the tie vote and subsequent violation of the Charter was the sticking point and that they would otherwise be amenable to waiting until November were sincere then the outside opinion should resolve the issue.

Council Member Coombs stated her understanding that a meeting and vote would still be required once Council got the opinion and decided to leave the seat vacant.

Mr. Brotzman concurred, noting a public meeting and vote would be required.

Council Member Coombs stated a meeting would have to be scheduled.

◆ *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.*

Mr. Brotzman concurred, noting another option would be to continue the current meeting to July 29, 2021 once the opinion was rendered.

Mayor Coffman stated his understanding the current meeting would be recessed rather than adjourned.

Mr. Brotzman concurred, noting the meeting would be continued to a date and time certain.

Council Member Berzins stated Council voted on the item 124 times.

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

Voting Nay: Hiltz, Lawson, Murillo

Motion by Gruber, second by Bergan, to continue the meeting to July 29, 2021 at 6:30 p.m.

Council Member Hiltz stated she did not support moving the item because she felt it was a tactic to run out the clock and force Council to violate the Charter.

Council Member Gruber stated the point was whether the tie vote would force Council to violate the Charter because it was a question of interpretation.

Council Member Coombs stated the other issue was that information could have been provided prior to this meeting and instead it was making Council have another meeting rather than choosing to appoint someone.

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

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

Mayor Pro Tem Bergan stated there were seven votes in favor of getting an outside opinion but the vote to continue the meeting failed when an outside opinion could obviously not be provided at this late hour. She stated she did not understand why Council would not want to continue the meeting.

Mayor Coffman stated the motion to engage outside counsel passed but the motion to reconvene did not which would have allowed Council to review the opinion.

Mayor Pro Tem Bergan stated it was absurd because the opinion could help Council to reach a consensus.

Council Member Marcano noted Council Member Hiltz's point that it would be running out the clock if the outside opinion concurred with the City Attorney's opinion therefore, he believed Council should settle the issue now.

Mayor Pro Tem Bergan stated the issue could not be settled now because no one was changing their mind. She noted however having an opinion on the Charter violation might change someone's mind.

Council Member Coombs asked if anyone was willing to change their vote to avoid violating the Charter should the third-party opinion agree the tie vote was a violation.

Council Member Gardner stated he voted for two different options; delaying the appointment and in favor of Mr. Sundberg and he would be willing to vote for either of those again.

Council Member Coombs asked if anyone was willing to change their candidate vote in order to avoid violating the Charter because violating the Charter would be a part of the outside opinion and it was also the option to delay called out by Council Member Gardner.

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

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

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

Motion by Gardner, second by Berzins, to continue the meeting to July 29, 2021 at 6:30 p.m. to allow a third party to give an opinion on whether or not Council violated the Charter if the majority of Council failed to make an appointment.

Council Member Lawson asked Mr. Brotzman if Council would receive the opinion without continuing the meeting. Mr. Brotzman answered affirmatively. Council Member Lawson asked the timeframe for the opinion to be rendered. Mr. Brotzman stated he would ask for it to be rendered as soon as possible.

Mayor Coffman stated his understanding that Council could cure the situation even if the opinion was delivered on July 30, 2021.

Mr. Brotzman concurred.

Mayor Coffman stated Council could vote to appoint someone to the position or it could be determined that there was not a violation of Charter and asked if the motion to continue could be amended to call for a special meeting. Mr. Brotzman answered affirmatively.

Mayor Coffman asked Council Member Gardner if he was willing to revise his motion in case the legal opinion was not ready on July 29.

Council Member Gardner withdrew his motion to allow someone to make an alternative motion.

Mayor Coffman asked Mr. Brotzman to speak to the motion options if the opinion was not ready by July 29. Mr. Brotzman did so, noting there was the option to continue to a date certain or to adjourn the meeting and call a special meeting when the opinion was done. Mayor Coffman stated he would call the special meeting.

Motion by Bergan to not get an opinion from a third party.

Mayor Coffman asked Mr. Brotzman if that was a subtle question that has already been decided. Mr. Brotzman answered affirmatively. Mayor Coffman asked if a motion could be made to repeal it. Mr. Brotzman answered affirmatively.

Mayor Pro Tem Bergan withdrew her motion.

Mayor Coffman stated his understanding of the Mayor Pro Tem's motion was that a special meeting could be called without a motion to continue.

Mr. Brotzman stated his preference that Council get the third-party opinion prior to any violation of Council on July 29.

Council Member Coombs stated her understanding Council would still convene the meeting and adjourn and then set a special meeting if they did not have an opinion by July 29.

Mr. Brotzman stated Council could continue the meeting to a more specific time when the outside counsel could provide the opinion. He pointed out his efforts would be towards pushing the outside counsel to render their opinion prior to July 29.

Council Member Lawson stated her understanding that not having the opinion by July 29 would cause Council to be in violation and a special meeting would have to be called.

Mr. Brotzman stated the current meeting would be continued on and on as one continuous meeting.

Council Member Lawson stated her understanding Council would not be in violation of the Charter if they continued to continue the meeting.

Mr. Brotzman opined that Council would be in violation of the Charter after July 29 without an appointment within the 45 days. He stated if that did not happen then Council would be looking to make a decision to cure the violation.

Mayor Pro Tem Bergan asked the consequence for violating the Charter. Mr. Brotzman stated there was a risk of someone filing a motion to force Council to vote. Mayor Pro Tem Bergan stated no one could force Council to change their vote. She pointed out Mr. Brotzman has stated Council would not face criminal or civil penalty.

Mr. Brotzman concurred.

Council Member Lawson addressed Mr. Brotzman and noted his opinion that Council would not face civil penalties was a broad perspective because the risk remained.

Mr. Brotzman concurred. He further discussed the difference between Council having a tie vote in a legislative issue versus an appointment circumstance.

Motion by Bergan to adjourn the meeting.

Motion failed for lack of a second.

Voting Aye: Mayor Coffman, Berzins, Gardner, Gruber

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

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

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

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

Motion by Bergan, second by Gardner, to adjourn the meeting.

Council Member Gruber pointed out the Council was embarrassing the City and noted this would be covered by all of the newspapers in the region and the entire state would be laughing at Aurora because they continued these shenanigans. He pointed out no one was going to change their vote therefore they could not reach a solution which meant the Council could not get things done. He stated he was ashamed that was how the Council would be perceived by the entire state of Colorado. He recommended Council adjourn now and find out the additional information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motion by Bergan, second by Gruber, to adjourn the meeting.

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

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

Motion by Bergan, second by Gardner, to postpone the appointment until after the election.

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

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

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

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

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

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

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

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

Motion by Bergan, second by Gruber, to let the voters decide in November.

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

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

Council Member Coombs asked Mr. Brotzman the timeframe for the legal opinion. Mr. Brotzman stated staff would reach out tomorrow to determine when the opinion would be returned. Council Member Coombs asked if there was any idea of what time tomorrow. Mr. Brotzman noted the lateness of the hour and stated he was reaching out to people now.

Council Member Berzins stated she did not see the problem with allowing the voters to decide.

Motion by Berzins, second by Bergan, to postpone the appointment and allow the voters to decide in November.

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

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

Motion by Gardner, second by Gruber, to postpone the appointment and allow the voters to decide in November.

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

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

Motion by Gruber, second by Gardner, to postpone the appointment and allow the voters to decide in November.

Council Member Hiltz stated she did not understand the motion because the voters would decide in November regardless of what Council did and the question before Council was the appointment and those were two separate issues. She pointed out continuing to make the motion to send it to the voters was misleading.

Council Member Coombs concurred, noting the voters in November would not be deciding between the two candidates in front of Council at this time. She stated those in favor of the motion were essentially stating their hope the voters would choose Mr. Sundberg for the next four-year term. She stated otherwise a vacancy would leave thousands of people in Ward II without Ward representation rather than appointing one which Council could do.

Council Member Gardner pointed out staff has been forwarding Ward II resident issues to him since former Council Member Johnston left and he has been helping with those situations as he was sure others on Council were as well. He noted it was disingenuous to state those in Ward II did not have representation when they had four At-Large Council Members as well as the Mayor representing them.

Mayor Pro Tem Bergan pointed out the voters would have three candidates to choose from in November and not just Mr. Sundberg.

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

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

Motion by Bergan, second by Gruber, to postpone the appointment and allow the voters to decide in November.

Council Member Coombs asked Mr. Brotzman if Council could abstain on a motion that was nonsense. She noted the motion was invalid because the public could not vote on the issue. Mr. Brotzman answered no, noting the Charter required Council to vote unless there was a financial conflict.

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

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

Motion by Coombs, second by Marcano, to appoint Dr. Ryan Ross to fill the Ward II Council vacancy which would last from his swearing-in until the swearing-in of the duly elected council member for Ward II in November.

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

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

Council Member Marcano asked Mr. Brotzman if he would know about the opinion later today. Mr. Brotzman answered affirmatively.

Motion by Marcano, second by Coombs, to continue the meeting to Tuesday, July 27, 2021 at 4:00 p.m.

Mayor Coffman asked Council Member Marcano his reasoning behind the motion. Council Member Marcano stated it was when the City Attorney would hear back about the opinion. Mayor Coffman asked Mr. Brotzman if that was so. Mr. Brotzman clarified that was when he would hear back from the attorneys he reached out to as to when and if they would have the opinion back by July 29.

Council Member Marcano stated he misunderstood the scenario and withdrew the motion.

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

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

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

Mayor Coffman called for a recess of Council.

(The meeting resumed)

Motion by Bergan, second by Berzins, to postpone the appointment and allow the voters to decide in November.

Council Member Coombs reiterated the voters in November would decide on the actual seat. She stated this was a nonsense motion on something that was not possible.

Council Member Bergan stated the motion was to let the voters decide by not forcing this ridiculous tie vote to continue in perpetuity.

Council Member Hiltz reiterated the issues were two separate things. She stated Council should not be telling the voters that the decision on an appointment was taking away their ability to vote in November. She stated she did not want Council to misrepresent to the voters that they did not have the ability to vote for the Ward II representative in November based on what happened today.

Mayor Pro Tem Bergan clarified the motion gave voters the opportunity because Council was at an impasse. She contended they were allowing the voters to decide by postponing the appointment.

Council Member Hiltz stated the voters would get to decide regardless and the motion was actually voting to violate the Charter.

Mayor Pro Tem Bergan stated that was not her motion.

Council Member Hiltz stated 'letting the voters decide' sounded good but they did not participate in the vacancy and representing something was being taken away from them was disingenuous. She stated it should be made very clear so that voters understood they would have the opportunity to vote for their Ward II representative in November. She discussed the importance of having a Ward representative, noting Mayor Pro Tem Bergan was a perfect example of that because she knew her Ward best and was a great advocate for those living there.

Mayor Pro Tem Bergan agreed that was a very good point and that was why she felt voting for Mr. Sundberg would provide great representation for Ward II because he was very invested in his community.

Council Member Hiltz agreed she would like Council to continue to discuss their candidates and what they liked about them rather than telling the voters their vote did not matter or that Council was taking away their vote. She stated Council was getting away from the issue which was Ward representation.

Mayor Pro Tem Bergan stated she could change the motion to continue item 19a to allow voters the opportunity to select their new Ward council member.

Council Member Coombs stated the voters had the opportunity to choose their Ward council member in November regardless of what Council decided today because Council was not voting on whether they get to vote or not in November. She reminded Council the item before them was to appoint one of two candidates to fill the Ward II vacancy until the new person was sworn-in in December. She stated the motion suggested Council was giving special permission for the election to occur when it already was going to occur and that was a problem.

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

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

Motion by Gruber, second by Bergan, to not make an appointment of either Mr. Sundberg or Dr. Ross and let the voters decide in November.

Council Member Coombs reiterated there should be an accurate way to frame the motion because the voters would decide in November no matter what. She pointed out appointing someone did not deprive the voters of their right to vote in November.

Council Member Gruber disagreed and asked for a vote on his motion.

Council Member Marcano addressed Council Member Gruber and reminded him he was entitled to his own opinion but not his own facts. He reiterated Council has been told repeatedly that doing this would violate the Charter and while he appreciated the spirit of the motion, the rules mattered. He stated he would not take those in favor of the motion seriously as law-and-order people if they continued to move in the direction of violating the rules when it suited.

Council Member Gruber clarified Council has asked staff repeatedly to get another opinion on the impact of needing six votes when there was a tie but then could not get a majority vote to continue the meeting until that information could be provided. He stated his motion stood.

Council Member Hiltz pointed out mocking someone for how they spoke was disrespectful and she found it disappointing for someone who claimed to have honor and integrity to do so. She addressed Council Member Gruber, stating he was better than that and asked him to do better.

Council Member Gruber reminded everyone he grew up in Florida and the terms he used in his previous comment were used there as well.

Council Member Hiltz addressed Council Member Gruber and stated that might be so but the way in which he spoke just now was pointed and specific. She stated it was intended to have an effect and was not typically how he represented himself in conversation.

Council Member Gruber acknowledged the terms were not typically used in professional language and agreed he was exaggerating the point made by another council member.

Council Member Hiltz asked that he not do that.

Council Member Berzins stated she has been discriminated against since she moved out of the south because she used the term all the time. She stated discrimination happened every day and she lived it.

Council Member Hiltz stated she was sorry Council Member Berzins felt she had to accept discrimination. She stated Council Member Gruber did not do that to her but she would call him out if he did.

Council Member Berzins stated she did not accept it. She noted the Aurora Sentinel discriminating against her and asked Council Member Hiltz if she would call them out. Council Member Hiltz answered affirmatively.

Council Member Gardner stated this was absurd at this point.

SUBSTITUTE MOTION

Motion by Gardner, second by Berzins, to continue the meeting to Thursday, July 29, 2021 at 6:30 p.m.

- ◆ ***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, Coombs, Gardner, Gruber, Murillo

Voting Nay: Hiltz, Lawson, Marciano

The meeting was continued at 3:19 a.m. to Thursday, July 29, 2021 at 6:30 p.m.

20. **REPORTS**

20.a. Report by the Mayor

No report

20.b. Reports by the Council

No report

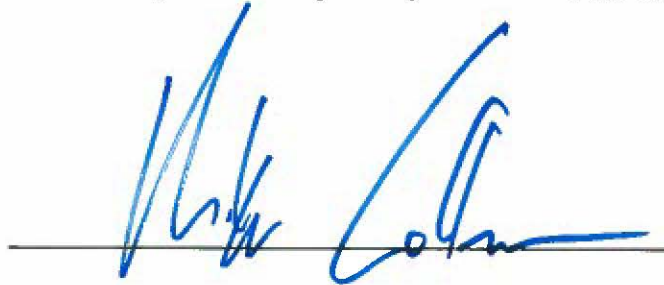
21. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

None

22. **ADJOURNMENT**

Mayor Coffman called a recess of the regular meeting of City Council at 3:19 a.m. until 6:30 p.m. on July 29, 2021.



MIKE COFFMAN, MAYOR

ATTEST:



KADEE RODRIGUEZ, CITY CLERK