

MINUTES

Regular Meeting of the Aurora City Council

Monday, November 8, 2021

1. **RECONVENE REGULAR MEETING OF NOVEMBER 8, 2021, CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of City Council for November 8, 2021, 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 in both English and Spanish.

3. **INVOCATION/MOMENT OF SILENCE** – Mike Coffman, Mayor

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

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman stated legal advice, two property transactions and appointee evaluations were discussed in Executive Session.

6. **APPROVAL OF MINUTES**

6.a. August 23, 2021, Meeting Minutes

Motion by Berzins, second by Gruber, to approve the minutes of the August 23, 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 on a non-agenda related item.

Council Member Berzins asked staff to reach out to the speaker to address her concerns.

Mayor Coffman agreed to follow up with the City Clerk as well.

9. **ADOPTION OF THE AGENDA**

Motion by Marcano, second by Bergan, to approve the agenda.

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 SINGLE SOURCE CONTRACT to Fast Hosting Services LLC, Centennial, CO in the amount of \$597,000.00 to renew the annual subscription of the Tax Management Software for the Finance Department through September 2022

Scott Newman, Chief Information Officer / Ian Best, Asst. City Attorney

Motion by Marcano, second by Lawson, to approve item 10a.

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

- 10.b. Consideration to AWARD A SOLE SOURCE CONTRACT to The People's Group LLC, Denver, CO in the total amount of \$65,000.00 for events facility coordinator services for the People's Building through December 2022

Andrea Amonick, Director Planning & Development Services / Ian Best, Assistant City Attorney

Andrea Amonick, Director Planning & Development Services, provided a summary of the item.

Mayor Pro Tem Bergan stated her understanding this was a single source contract that did not go out for bid.

Ms. Amonick stated several people were initially interviewed but it was determined over the course of time that this company has been successful in this regard and there was not another company that specifically did this.

Mayor Pro Tem Bergan stated her concern related to the single source and making sure the City was following purchasing protocol in terms of putting it out for bid.

Ms. Amonick restated that was done originally but the success shown by this company over time made them a unique sole source provider.

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

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

- 10.c. Consideration to AWARD A SINGLE SOURCE CONTRACT to Niquito's, Aurora, Colorado in the not-to-exceed amount of \$85,000.00 for delivery of prepared food and other food items to the Aurora Detention Center through December 31, 2022.

Deborah Burns, Int Detention Administrator / Ian Best, Assistant City Attorney

- 10.d. 2022 Federal Lobbying Contract Renewal

Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen, Client Group Manager

- 10.e. 2022 State Lobbying Contract Renewal

Luke Palmisano, Intergovernmental Relations Manager/Rachel Allen, Client Group Manager

- 10.f. Aurora Water State Lobbying Services Contract Renewal

Kathy Kitzmann, Water Resources Principal / Ian Best, Assistant City Attorney

- 10.g. Peace Officer and Mental Health Grant

Timothy Sherbondy, Grant Analyst, Police / Megan Platt, Assistant City Attorney

Motion by Marcano, second by Lawson, to approve items 10a, 10c – 10g.

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

11. **RESOLUTIONS**

11.a. Amendment to the IGA regarding the Gateway Lift Station

R2021-125 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE FIRST AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA COLORADO ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE CITY AND COUNTY OF DENVER REGARDING THE GATEWAY LIFT STATION

Sarah Young, Deputy Director of Planning and Engineering, Aurora Water / Ian Best, Assistant City Attorney

Sarah Young, Deputy Director of Planning and Engineering, Aurora Water, provided a 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. Resolution Approving Regional Fire Code Board of Appeals IGA

R2021-126 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, SOUTH METRO FIRE RESCUE FIRE PROTECTION DISTRICT, CITY OF SHERIDAN, WEST DOUGLAS FIRE PROTECTION DISTRICT, JACKSON-105 FIRE PROTECTION DISTRICT, AND BENNETT FIRE PROTECTION DISTRICT NO. 7 REGARDING THE REGIONAL FIRE CODE BOARD OF APPEALS

Caine Hills, Deputy Fire Chief / Angela Garcia, Senior Assistant City Attorney

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

Steven Wright, Commander, Aurora Fire, noted an in-depth presentation was provided previously to Council and he was available to answer any questions in that regard.

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

11.c. Resolution Authorizing Police Defined Benefit Plan Option

R2021-127 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AUTHORIZING A DEFINED BENEFIT PLAN OPTION AND RELATED CHANGES TO IMPLEMENT SUCH OPTION

Terri Velasquez, Finance Director / Hans Hernandez Perez, Assistant City Attorney

Outside Speaker: Cindy Birley, Esq. Partner, Davis Graham & Stubbs LLP

Terri Velasquez, Director, Finance, provided a summary of the item.

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

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

Mayor Coffman called for a brief recess of Council 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. Municipal Court Surcharges (Correction of Ordinance)

2021-60 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 50-37 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, RELATING TO MUNICIPAL COURT SURCHARGES, PROVIDING FUNDING FOR COMMUNITY SERVICE AGENCIES AND PROGRAMS, AND OTHER RELATED MATTERS

Jason Batchelor, Deputy City Manager / Hanosky Hernandez, Assistant City Attorney

Jason Batchelor, Deputy City Manager, provided a summary of the item.

Motion by Marcano, second by Lawson, to introduce item 14a.

Mayor Pro Tem Bergan asked staff to speak to the chart attached to the ordinance. Mr. Batchelor did so.

Hanosky Hernandez, Assistant City Attorney, stated he was confident the numbers were correct.

Mayor Pro Tem Bergan suggested perhaps Council had an incorrect chart with the ordinance.

Mr. Hernandez reiterated his confidence the ordinance was correct.

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

14.b. Repeal of Stable License (Ordinance)

2021-61 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REPEALING THE REQUIREMENT FOR STABLE LICENSES

Trevor Vaughn, Manager of Tax and Licensing / Hanosky Hernandez Perez, Assistant City Attorney

Trevor Vaughn, Manager of Tax and Licensing, provided a summary of the item.

Motion by Bergan, second by Coombs, to introduce item 14b.

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

14.c. Alcohol Beverage Festival Permit (Ordinance)

2021-62 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADDING A NEW SECTION TO THE CITY CODE PERTAINING TO ALCOHOL BEVERAGE FESTIVAL PERMIT

Trevor Vaughn, Manager of Tax and Licensing / Tim Joyce, Assistant City Attorney

Trevor Vaughn, Manager of Tax and Licensing, provided a summary of the item.

Motion by Bergan, second by Coombs, to introduce item 14c.

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

14.d. Short Term Rental Regulations

2021-63 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,

COLORADO, AMENDING CHAPTER 26 RELATING TO THE SALES OF LODGING IN PRIVATE RESIDENCES

Trevor Vaughn, Manager of Tax and Licensing / Hanosky Hernandez Perez, Assistant City Attorney

Motion by Marcano, second by Gruber to introduce item 14d.

Trevor Vaughn, Manager of Tax and Licensing, provided a summary of the item.

Mayor Pro Tem Bergan asked staff to speak to the concerns raised by the Business Advisory Board that were rectified. Mr. Vaughn did so.

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

14.e. Tax Administration Clarifications

2021-64 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO CLARIFICATIONS ON SALES AND USE TAX

Trevor Vaughn, Manager of Tax and Licensing / Hanosky Hernandez Perez, Assistant City Attorney

Trevor Vaughn, Manager of Tax and Licensing, provided a summary of the item.

Motion by Coombs, second by Marcano, to introduce item 14e.

Mayor Pro Tem Bergan asked staff if this changed anything for those using cable-television as opposed to streaming services. Mr. Vaughn answered no. Mayor Pro Tem Bergan asked if one would be taxed for cable-television as well as streaming services. Mr. Vaughn answered no, noting they were separate services and the internet service used for streaming was not taxed.

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

15. **FINALIZING OF ORDINANCES**

Ordinances on final reading which were introduced by unanimous vote of those present on the first reading may be taken under consideration and voted upon as a single item. Related ordinances may be acted upon as one item after the titles are read in series by the City Clerk. Any member of the Council may request an item to be considered separately. Any item removed will be considered immediately following the adoption of the remainder of the Finalizing of Ordinances.

For purposes of considering items 15a. - 15f., the City Council will be acting ex officio as the Board of Directors of the General Improvement Districts 1-2007, 1-2008, 3-2008, Pier Point 7 2-2009 and Aurora Conference Center 2-2011, Cobblewood 1-2016 respectively.

Items 15.g. - 15.j. are 2022 Budget Related Ordinances

15.a. Cherry Creek Racquet Club

2021-48 AN ORDINANCE OF GENERAL IMPROVEMENT DISTRICT 1-2007 (CHERRY CREEK RACQUET CLUB) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

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

15.b. Peoria Park

2021-49 AN ORDINANCE OF GENERAL IMPROVEMENT DISTRICT 1-2008 (PEORIA PARK) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

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

15.c. Meadow Hills Country Club

2021-50 AN ORDINANCE OF GENERAL IMPROVEMENT DISTRICT 3-2008 (MEADOW HILLS COUNTRY CLUB) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

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

15.d. Pier Point 7

2021-51 AN ORDINANCE OF PIER POINT 7 GENERAL IMPROVEMENT DISTRICT 2-2009 ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

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

15.e. Aurora Conference Center

2021-52 AN ORDINANCE OF THE AURORA CONFERENCE CENTER GENERAL IMPROVEMENT DISTRICT (NO. 2-2011) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

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

15.f. Cobblewood General Improvement District 1-2016

2021-53 AN ORDINANCE OF COBBLEWOOD GENERAL IMPROVEMENT DISTRICT 1-2016 (COBBLEWOOD GENERAL IMPROVEMENT DISTRICT) ADOPTING AN OPERATING BUDGET, ESTABLISHING THE TAX LEVY, AND APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

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

15.g. 2022 Adopting Budget Ordinance

2021-54 AN ORDINANCE OF THE CITY OF AURORA, COLORADO, ADOPTING AN OPERATING AND CAPITAL IMPROVEMENTS PROJECTS BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

Greg Hays, Budget Officer / Hans Hernandez, Assistant City Attorney

15.h. 2022 Tax Levy

2021-55 FOR AN ORDINANCE ESTABLISHING THE TAX LEVY ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF AURORA, COLORADO, FOR THE TAX COLLECTION YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

Greg Hays, Budget Officer / Hans Hernandez, Assistant City Attorney

15.i. 2022 Budget Appropriations Ordinance

2021-56 AN ORDINANCE OF THE CITY OF AURORA, COLORADO, APPROPRIATING SUMS OF MONEY TO DEFRAY EXPENSES AND LIABILITIES FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022

Greg Hays, Budget Officer / Hans Hernandez, Assistant City Attorney

Motion by Gardner, second by Gruber, to approve items 15a – 15i.

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

15.j. 2022 Aurora Water Rate Increases

2021-57 FOR AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 138 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, RELATING TO SERVICES FOR THE PROVISION OF WATER

Jo Ann Giddings, Deputy Director, Water, Finance Admin / Ian Best, Assistant City Attorney

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

Motion by Marcano, second by Coombs, to approve item 15j.

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

Voting Nay: Berzins

Abstain: Hiltz

15.k. Transport Amended and Restated Development Agreement.

2021-58 AN ORDINANCE APPROVING A CONSOLIDATED, AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT AND VESTED RIGHTS DEVELOPMENT AGREEMENT BETWEEN THE CITY OF AURORA COLORADO, WESTERN TRANSPORT, LLC, RANCHO COACHELLA PROPERTIES, LP, AND TRANSPORT METROPOLITAN DISTRICT NO. 1 CONTAINING PROVISIONS FOR A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S. FOR THE TRANSPORT COLORADO LOGISTICS & COMMERCE PARK

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

Outside Speaker: Munsey Ayers, Attorney, Otten Johnson Robinson Neff + Ragonetti PC

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

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

16. **PLANNING MATTERS**

16.a. Mountain View Community Homes Zoning Map Amendment

2021-59 AN ORDINANCE TO AMEND THE CITY OF AURORA ZONING MAP BY CHANGING 2.06-ACRES OF LAND WITHIN LOT 4, BLOCK 3 OF HAVANA HEIGHTS SUBDIVISION SITUATED IN THE NORTHWEST ¼ OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 67 WEST OF THE PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO FROM R-1 LOW-DENSITY SINGLE-FAMILY DISTRICT TO R-2 MEDIUM DENSITY DISTRICT (MOUNTAIN VIEW COMMUNITY HOMES ZONING MAP AMENDMENT)

Daniel Osoba, Planner II / Daniel L. Money, Senior Assistant Attorney

Outside Speaker: Kory Whitaker, Real, Habitat for Humanity of Metro Denver

Council heard public call-in testimony on the item.

Mayor Coffman called for a brief recess of Council.

Motion by Marcano, second by Coombs, to approve item 16a.

Council Member Marcano stated crime was not associated with affordable housing but rather was common in areas of destitution. He stated this affordable housing in a mixed-income area would help save and improve the lives of those residents moving into it. He stated this type of housing in Ward IV would also enrich the community around it and would change the lives for those new residents and their neighbors. He discussed the 99-year land lease and confirmed it would not charge future residents and they would earn equity off the investment which was a typical Habitat for Humanity model. He looked forward to everyone's affirmative vote and helping build these houses once they were approved.

Council Member Gardner asked staff to speak to the six criteria for approving a zoning change within the code.

Daniel L. Money, Senior Assistant Attorney, did so.

Council Member Gruber stated his understanding it had to meet criteria A, B and C.

Mr. Money concurred.

Council Member Berzins asked if criteria C allowed the home to be rented. Mr. Money was uncertain of the Habitat for Humanity model in that regard but noted it was not in the purview of the rezoning.

Mayor Pro Tem Bergan suggested the criteria related to compatibility with the surrounding area was subjective.

Mr. Money stated there were two ways to look at compatibility. He agreed compatibility was subjective because Council were the factfinders, and they were deciding that. He discussed how a judge looked at compatibility in court and how they found R-1 and R-2 zoning to be compatible enough.

Mayor Pro Tem Bergan pointed out it could be argued that it was not compatible due to the density change.

Mr. Money noted that was for Council to decide. He discussed how the court would view Council's decision should it be challenged.

Mayor Pro Tem Bergan stated it was subjective and Council was looking at compatibility of the surrounding area and considering the comments of those neighbors who bought within an R-1 zoning with that expectation.

Mr. Money agreed it was subjective because different factfinders could find different outcomes as far as compatibility.

Council Member Coombs asked staff to discuss their perspective of how it was determined there was compatibility between the current and proposed zoning.

Daniel Osoba, Planner II, did so.

Council Member Coombs asked Mr. Osoba to speak to how staff determined the traffic impacts were also compatible. Mr. Osoba did so.

Council Member Gruber pointed out there were 170+ letters from residents who disagreed with staff's point of view. He stated that was where it became subjective because Council had to decide on staff's point of view as well as those who lived in the area. He noted the importance of keeping that in mind.

Council Member Coombs stated the importance of respecting the expertise coming from Traffic Engineers when reviewing traffic patterns especially as the potential impacts were speculative. She appreciated the neighborhood's concerns and opinions but noted Council should not dismiss expertise in this regard. She stated change has occurred in that neighborhood as well as in other parts of the City.

Council Member Berzins agreed change occurred but pointed out there were people who lived in Aurora for 40+ years who should be respected. She addressed the Traffic Study and the speaker who suggested the study did not study cars and trash trucks going in and out of the cul-de-sac. She stated there were areas in Ward III where that was a problem particularly when it snowed and asked staff if the speaker was correct. Mr. Osoba was

uncertain of the scope of the study. Council Member Berzins discussed her experience visiting neighborhoods that garbage trucks could not access, noting this caused trash to build up and become unsightly.

Council Member Coombs clarified her point of view was that the purpose of rezoning was to acknowledge change that has happened and to ensure Council was doing so in a thoughtful way that was consistent with the goals of the City and the well-being of everyone.

Mayor Coffman stated he would recuse himself from the vote based on the advice of the City Attorney's Office.

Mayor Pro Tem Bergan stated this was a tough decision because while Habitat for Humanity did wonderful things, this was a rezoning and she had issues with the site plan. She stated approval of the zoning to higher density meant approval of the site plan and that was a problem. She felt the problem could be solved but Council did not have the opportunity to see what could be done within the R-1 zoning. She stated it was incompatible with the site plan.

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

Voting Nay: Bergan, Berzins, Gruber

Council Member Berzins stated she was sorry nothing new was heard in the public testimony on the item as this was a three-hour repeat of the previous meeting. She stated she would not be on Council much longer but if this issue arose again, she hoped Council would try and get the people who lived in the area to speak and to hopefully bring in new information. She stated she loved hearing from everyone, but she felt it was tough for everyone involved. She stated changes needed to be made with regards to Public Invited to be Heard because the same people called in with the same information and she felt time could be better spent in that regard.

17. **ANNEXATIONS**

None

18. **RECONSIDERATIONS AND CALL UPS**

Council Member Gruber raised the topic of and discussed Council's violation of City Charter as a result of the Ward II vacancy. He stated the question of the voters' choice was answered because Steve Sundberg has been chosen by the people of Ward II therefore, he felt Mr. Sundberg should fill the Ward II seat vacancy in the interim.

ORIGINAL MOTION

Motion by Gruber, second by Berzins, to appoint Steve Sundberg to fill the balance of the vacancy left by former Council Member Johnston.

Mayor Pro Tem Bergan stated her understanding the appointment would put Council in compliance with the Charter.

Mayor Coffman concurred. He asked when the swearing-in could take place should the motion pass. Council Member Gruber believed the oath could be taken in front of the City Clerk which meant the seat could be filled as soon as tomorrow.

Dave Brotzman, City Attorney, concurred.

Mayor Coffman stated his understanding he could vote on the motion.

Mr. Brotzman concurred.

Council Member Lawson stated it did not feel right to do this because, while Mr. Sundberg was ahead in the polls, not all the votes have been counted. She stated she associated a vote with a voice and there were absentee and military ballots that needed to be counted. She asked staff if this could be done with the election not being certified. Mr. Brotzman clarified this related to filling a vacancy until December 6, 2021, and not the selection of a council member for the next four years.

Mayor Pro Tem Bergan stated her understanding this would fill the vacancy and put Council back into compliance with the Charter. She stated she spoke with Matt Crane, former Arapahoe County Clerk and Recorder, who confirmed absentee ballots were counted prior to any other ballots which confirmed those votes would be counted.

Council Member Coombs clarified there was still the acceptance of the vote which took place at midnight on Wednesday, November 10, 2021. She noted Council Member Lawson's point was there was more time for votes to come in to be cured and counted. She stated it was very performative to fill the vacancy for one meeting when there was no sense of urgency for the previous five months in that regard.

Council Member Gruber stated the question in the Council debates on the issue was what direction the Ward II voters would go. He noted the official vote would determine the seat on December 6, 2021, and he pointed out he was asking to use the existing data obtained to bring Council into compliance with the Charter because Council would have voted on it previously if they had the information.

Council Member Murillo addressed Council Member Gruber and stated he did not speak on her behalf and her decision-making was not dependent on whatever statement he made about the fact of the matter at the time. She agreed it was performative because there was no sense of urgency prior to now and to pretend as though it was in good faith to bring it up now was clearly not. She stated it was clear Council Member Gruber wanted to show and share the results to Ward II. She stated the outcome was not quintessential as over \$1

million was spent in these elections and that influenced the outcome. She stated she did not agree with the premise of bringing this up.

Council Member Gruber stated he would modify his motion to state Steve Sundberg would become the Ward II Council Member once the ballots were verified on November 10 and he was determined to have the most votes.

MODIFIED MOTION

Motion by Gruber, second by Berzins, to modify the previous motion to state Steve Sundberg would become the Ward II Council Member to fill the seat vacated by former Council Member Johnston once the ballots were verified on November 10 and it was determined he had the most votes.

Council Member Berzins stated her support for the modification.

Council Member Hiltz asked Council Member Gruber if he has spoken with Mr. Sundberg in this regard. Council Member Gruber stated he told Mr. Sundberg he would make the motion. Council Member Hiltz discussed her experience when she won her Council seat and noted the importance of her coming into her seat as herself. She questioned the impact this political ploy would have on Mr. Sundberg's credibility as an elected council member. She addressed Council Member Gruber and stated telling Mr. Sundberg what he was going to do was a lot different than Mr. Sundberg coming to Council Member Gruber and asking for this. She felt Mr. Sundberg deserved to come into Council with his credibility for running a campaign that led to him winning intact and she felt appointing him before the votes were certified after months of not having anyone undermined that and she felt he deserved better.

Council Member Gruber strongly disagreed with Council Member Hiltz's portrayal of Mr. Sundberg. He stated the reason he told Mr. Sundberg he was going to do this was because Council was in violation of the Charter, and he needed a way to fix that. He pointed out Council has discussed this repeatedly and this was a solution to move them into a position to fix it by replacing former Council Member Johnston with someone the Ward wanted.

Council Member Hiltz stated she did not disparage Mr. Sundberg as he put in a lot of work and won. She noted she stated her opinion that the move to install him to fill the existing Ward II vacancy at this time was a political ploy that was not fair to him because it would undermine and tarnish the work he put in to run the race and win the seat for Ward II.

Kadee Rodriguez, City Clerk, discussed the ballot timeline for certification.

Mayor Pro Tem Bergan stated she would vote in the affirmative to put Council in compliance with the Charter.

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

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

19. **GENERAL BUSINESS**

19.a. Determination of Final Candidates to be Interviewed for the Civil Service Commission

Kadee Rodriguez, City Clerk / David Lathers, Senior Assistant City Attorney

Mayor Coffman stated his understanding the purpose of the item was to get a sense of how many candidates Council would interview.

Kadee Rodriguez, City Clerk, concurred.

Motion by Murillo, second by Coombs, to interview the top four candidates.

Council Member Gardner asked staff to remind Council of the interview and voting schedule. Ms. Rodriguez did so.

Mayor Coffman asked if there were any objections to the motion.

Council Member Berzins asked if Council was interviewing for two vacancies. Ms. Rodriguez stated there was one vacancy, but the Chairman stated he would resign in December if Council wanted to appoint two members. Council Member Berzins asked if this would be the only two members leaving because she was concerned more might be lost given the current scrutiny they were under.

Mayor Coffman stated his understanding Council was filling one vacancy.

Ms. Rodriguez stated the Chairman was offering to resign in December if Council had two strong candidates they wanted to appoint otherwise, he would remain to the end of his term in February.

Mayor Coffman asked if there were any objections to filling one vacancy at this time.

Council Member Berzins stated she objected because it was too complicated.

Mayor Coffman stated more candidates should be interviewed if Council was filling two vacancies.

Council Member Hiltz suggested Council go with whatever has been advertised to the public.

Mayor Coffman stated that was for one vacancy.

Ms. Rodriguez concurred.

Mayor Coffman concurred with Council Member Hiltz. He asked if there were any objections to filling one vacancy at this time.

Mayor Pro Tem Bergan stated her preference Council interview four candidates for the one vacancy.

Council Member Coombs stated she would not support four because Council should interview three candidates as they have done in the past.

Mayor Coffman asked if there were any objections to filling one vacancy and hearing none, he asked if there were any objections to interviewing the top four. He stated hearing none that was the direction Council would go.

Ms. Rodriguez listed the top four candidates.

20. **REPORTS**

20.a. Report by the Mayor

Mayor Coffman announced the upcoming Mayor Mike Live was cancelled. He noted his recent appearance on Spanish Talk Radio and stated he would next discuss challenges with Aurora's emergency dispatch center.

20.b. Reports by the Council

Council Member Lawson provided an FSIR update.

Council Member Hiltz discussed her attendance at the recent Fire Department Promotion Ceremony and congratulated everyone who was a part of it.

Council Member Gardner echoed Council Member Hiltz's comments regarding the success of the Fire Department Promotion Ceremony and congratulated everyone who was promoted. He pointed out Veterans Day was Tuesday, November 11, 2021, and he thanked all Veterans. He announced the Aurora Resource Center was hosting a Thanksgiving dinner where he and his colleagues would be serving on Wednesday, November 17, 2021.

Council Member Murillo discussed her attendance at the world premiere of the documentary "A Decent Home" at the 44th Annual Denver Film Festival.

Council Member Berzins expressed appreciation to all Veterans and current military. She noted her father fought in World War II and she wished all Veterans a happy Veteran's Day. She announced the City would be hosting a Veterans Day celebration and suggested those interested in attending should check the City website. She asked if the City was having a tree lighting ceremony this year.

Council Member Hiltz answered affirmatively.

Council Member Marcano gave a shout-out to all the Aurora police officers who showed up to Mountainview Church for the incoming Afghan refugee clothing collection event. He announced the Ward IV Town Hall meeting was scheduled for Thursday, January 13, 2022, at the Stampede at 6:30 p.m. and he thanked his colleagues for supporting the Habitat for Humanity rezone.

Council Member Coombs announced the next Ward V meeting was scheduled for Tuesday, January 18, 2022, at Heather Gardens at 6:00 p.m. She noted meeting locations would alternate between Heather Gardens and the Central Rec Center. She stated her hope to hold Saturday meetings as well. She provided Visit Aurora, Mile High Behavioral Healthcare and DRCOG updates and announced the Colorado Freedom Memorial Luminaria event, Light Their Way Home, and art show scheduled for November 11 – 13, 2021 in honor of Veterans Day. She echoed Council Member Gardner’s reminder of the Thanksgiving lunch and dinner scheduled for Wednesday, November 17, 2021, at the Aurora Day Resource Center as well as the Light of Dawn statue community celebration scheduled on the same day, Wednesday, November 17, 2021, from 5:15 p.m. to 6:00 p.m.

Mayor Pro Tem Bergan provided an E-470 update. She discussed her attendance at the recent Mental Health tour of the Aurora Mental Health proposed campus, the Southeast Rec Center topping out ceremony and the Ridgeview facility which was being considered for homeless housing. She announced the next Ward VI Town Hall meeting was scheduled for Wednesday, November 17, 2021 at the Police Training Center from 6:00 p.m. to 8:00 p.m., where water conservation and overall water policies would be discussed. She stated she would be serving food at the upcoming Thanksgiving lunch at the Day Resource Center on Wednesday, November 17, 2021.

21. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

22. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of City Council at 10:39 p.m.



MIKE COFFMAN, MAYOR

ATTEST:




KADEE RODRIGUEZ, CITY CLERK

- ◆ ***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.***