

**CALL TO ORDER** Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

**PLEDGE OF ALLEGIANCE** A local troop of Boy Scouts led the Pledge of Allegiance.

**SWEARING IN CEREMONY** Judge Bill Starks administered the Oath of Office for Councilor Dave Clark at 6:35 p.m.

**ROLL CALL** Roll was called and the following responded: Gutierrez, Farley, Klassen, Trenary, Fogle, McKean, Shaffer, Clark and Taylor.

**ELECTION OF MAYOR PRO TEM**  
Councilor McKean nominated Councilor Daryle Klassen for Mayor Pro Tem. Councilor Fogle seconded the nomination. No other nominations were made. Mayor Gutierrez declared Councilor Klassen, Mayor Pro Tem.

**PROCLAMATION** Councilor Taylor read the proclamation which was accepted by Earl Stevens, Larimer County Office of Aging Advisory Council.

**PROCLAMATION**

WHEREAS, Across our country, millions of family members, neighbors, and friends provide care and support for their loved ones during times of need; and

WHEREAS, with profound compassion and selflessness, these caregivers provide short term comfort and security, facilitate social engagement, and help individuals stay in their homes and communities as long as possible; and

WHEREAS, at some time during this year, 1 in 4 adults in the City of Loveland, or about 12,700 individuals, are providing care to an adult with limitations in daily activities; and

WHEREAS, while this care is given from the heart, the estimated economic value of their unpaid contribution amounts to about 2.8 million dollars; and

WHEREAS, this heroic work is often done while caregivers balance other commitments to their families, jobs and communities; and

WHEREAS, We observe National Family Caregiver Month, we honor the tireless compassion of Americans who heal, comfort, and support our elders and people with disabilities.

NOW, THEREFORE, we, the City Council of Loveland do hereby proclaim November 2012 as

**NATIONAL FAMILY CAREGIVER MONTH**

and urge all citizens this month and throughout the year, to let the quiet perseverance of our family caregivers remind us of the decency and kindness to which we can all aspire.

FURTHER, Let us pay tribute to the remarkable Individuals we know in our community who put their own lives on hold to tend to their family members; it is our responsibility to ensure they do not have to do it alone.

Signed this 20th day of November, 2012

Cecil A. Gutierrez, Mayor

**PROCEDURAL INFORMATION**

Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the

Consent Agenda is considered as adoption of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

## **CONSENT AGENDA**

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to remove any of the items or public hearings listed on the Consent Agenda. Councilor Klassen requested Item #11 be removed from the Consent Agenda. Councilor Shaffer moved to approve the Consent Agenda, with the exception of Item #11. The motion was seconded by Councilor McKean and a roll call vote was taken with all councilors present voting in favor thereof.

### **1. CITY MANAGER**

#### **BOARDS & COMMISSIONS APPOINTMENT**

##### **Motion**

Administrative Action: The following appointments were approved by Council: Jack Bowman was appointed to the Transportation Advisory Board for a full term effective until June 30, 2015 and Austin Anderson was appointed to the Youth Advisory Commission for a term effective through May, 2013.

### **2. FINANCE**

#### **Supplemental Appropriation Finalize 2012 City Budget**

##### **Ordinance #5720**

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET" was approved and ordered published on second reading.

### **3. FINANCE**

#### **Supplemental Appropriation 2012 Special Improvement District #1**

##### **Ordinance #5721**

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO LOVELAND SPECIAL IMPROVEMENT DISTRICT #1 2012 BUDGET AND AUTHORIZING DISTRICT BOND PREPAYMENT" and approved and ordered published on second reading.

At 6:45 p.m. the City Council adjourned and convened as the Board of Commissioners for the Loveland Urban Renewal Authority (LURA)

### **4. FINANCE**

#### **Supplemental Appropriation Loveland Urban Renewal Authority**

##### **Ordinance #5722**

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 BUDGET FOR THE LOVELAND URBAN RENEWAL AUTHORITY" was approved and ordered published on second reading.

At 6:45 p.m. the Board of Commissioners for the Loveland Urban Renewal Authority adjourned and convened as the Board of Directors for the Loveland General Improvement District #1 (GID)

### **5. FINANCE**

#### **Supplemental Appropriation General Improvement District #1**

##### **Ordinance #5723**

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 LOVELAND GENERAL IMPROVEMENT DISTRICT #1 BUDGET FOR DOWNTOWN PARKING IMPROVEMENTS" was approved and ordered published on second reading.

At 6:45 p.m. the Board of Directors for the Loveland General Improvement District #1 adjourned and reconvened as City Council.

**6. HUMAN RESOURCES**

**2013 Pay Plan Amendment – Police Department Step Plan**

**Ordinance #5724**

Administrative Action: "AN ORDINANCE AMENDING ORDINANCE 5709 TO REMOVE FROM THE 2013 PAY PLAN AND ADOPT A REVISED POLICE DEPARTMENT STEP PLAN FOR NINE (9) DESIGNATED POLICE DEPARTMENT POSITIONS" was approved and ordered published on second reading.

**7. WATER & POWER**

**Municipal Code Amendment – Water Rights for Service Outside City Limits**

**Ordinance #5725**

Legislative Action: "AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 19.04.023 REGARDING WATER RIGHTS FOR SERVICE OUTSIDE THE CITY LIMITS" was approved and ordered published on second reading.

**8. CITY MANAGER**

**Amend City of Loveland Investment Policy**

**Ordinance #5726**

Legislative Action: "AN ORDINANCE AMENDING THE CITY OF LOVELAND INVESTMENT POLICY" was approved and ordered published on second reading.

**9. AIRPORT**

**Supplemental Appropriation & Authorization for Grant Agreement**

**Ordinance #5727**

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET FOR THE PURCHASE OF SNOW REMOVAL EQUIPMENT" was approved and ordered published on second reading.

**10. CULTURAL SERVICES**

**Commission & Placement of Artwork at Hwy 34 & I-25 Interchange**

**a)Resolution #R-78-2012**

Administrative Action: Resolution #R-78-2012 approving an Intergovernmental Agreement between the City of Loveland and the State of Colorado Department of Transportation regarding the commission and placement of artwork in the U.S. Highway 34 and Interstate Highway I-25 Interchange and limited landscaping was approved.

**RESOLUTION #R-78-2012**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE STATE OF COLORADO DEPARTMENT OF TRANSPORTATION REGARDING THE COMMISSION AND PLACEMENT OF ARTWORK IN THE U.S. HIGHWAY 34 AND INTERSTATE HIGHWAY I-25 INTERCHANGE AND LIMITED LANDSCAPING

WHEREAS, in 2003 the City of Loveland Public Works Department applied for and was awarded a \$163,000.00 grant from the Colorado Department of Transportation ("CDOT") as part a \$204,000.00 CDOT Beautification Grant ("Beautification Grant") based on a City proposal and request for new landscaping and plantings to enhance the U.S. Highway 34 and Interstate Highway I-25 interchange (the "Interchange"); and

WHEREAS, in 2011, the City with the support of the North Front Range Metropolitan Planning Organization submitted and CDOT approved a revised proposal on the use of the Beautification Grant to allow for the installation of artwork that would create a welcoming and iconic entryway into the north front range community with limited landscaping; and

WHEREAS, the City has provided the required matching funds of \$41,000.00 which represents difference between the amount awarded by CDOT and the total amount of the Beautification Grant, plus an additional overmatch of funds of \$46,000.00; and

WHEREAS, the City and CDOT desire and are now prepared to commence the process to commission and place artwork in the Interchange's northeastern quadrant and to provide limited landscaping in such quadrant as set forth in the agreement between the City and CDOT attached hereto as Exhibit A and incorporated by reference herein (the "Agreement"); and

WHEREAS, The City finds that it is in the best interests of its residents to approve the Agreement.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AS FOLLOWS:

Section 1. That the Agreement is approved.

Section 2. That the City Manager is hereby authorized and directed to enter into the Agreement, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That the City has appropriated or will appropriate or otherwise make available in a timely manner its share of all funds that are required to be provided by the City under the terms and conditions of the Beautification Grant and this Agreement.

Section 4. That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 20th day of November, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

**b)1<sup>st</sup> Rdg Ord & P.H.**

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR THE COMMISSION AND PLACEMENT OF ART WORK AT THE U.S. HIGHWAY 34 AND I-25 INTERCHANGE" was approved and ordered published on first reading.

**11. PUBLIC WORKS**

**Award of Construction Contract  
Motion**

This item was removed from the Consent Agenda.

**12. DEVELOPMENT SERVICES**

**Annexation & Zoning for Mehaffey Park**

**a)Resolution #R-79-2012**

Legislative Action: Resolution #R-79-2012 CONCERNING THE ANNEXATION TO THE City of Loveland, Colorado, of a certain area designated as "Mehaffey Park First Addition" more particularly described herein, and setting forth findings of fact and conclusions based thereon as required by the state constitution and state statutes was approved.

**RESOLUTION #79-2012**

A RESOLUTION CONCERNING THE ANNEXATION TO THE CITY OF LOVELAND, COLORADO, OF A CERTAIN AREA DESIGNATED AS "MEHAFFEY PARK FIRST ADDITION" MORE PARTICULARLY DESCRIBED HEREIN, AND SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS BASED THEREON AS REQUIRED BY THE STATE CONSTITUTION AND STATE STATUTES

WHEREAS, on September 11, 2012,, a Petition for Annexation was filed by the Loveland City Manager on behalf of the City of Loveland as the sole owner of the area described on Exhibit A, attached hereto and incorporated herein, which area is not solely a public street or right-of-way; and

WHEREAS, said petition requests the City of Loveland to annex said area to the City; and

WHEREAS, the City Council has determined that the area proposed to be annexed complies with the applicable requirements of Section 30(1)(c) of Article II of the Colorado Constitution, and of §§31-12-104(1)(a) and 31-12-105, C.R.S., is

eligible for annexation under §31-12-106(3), C.R.S.; that an election is not required under Section 30(1)(a) of Article II of the Colorado Constitution or under §31-12-107(2), C.R.S.; and no additional terms and conditions are to be imposed; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO THAT:

1. The City Council of the City of Loveland makes the following findings of fact:
  - A. The subject Petition for Annexation was signed by the Loveland City Manager, on behalf of the City of Loveland as the sole owner of the area proposed to be annexed.
  - B. The area proposed to be annexed is not solely a public street or right-of-way.
  - C. The proposed annexation complies with the applicable requirements of Section 30(1)(c) of Article II of the Colorado Constitution, and of §§31-12-104(1)(a) and 31-12-105, C.R.S.; is eligible for annexation under §31-12-106(3), C.R.S.; no election is required under Section 30(1)(a) of Article II of the Colorado Constitution or under §31-12-107(2), C.R.S.; and no additional terms and conditions are to be imposed.
  - D. The land to be annexed lies entirely within the City of Loveland Growth Management Area, as depicted in the 2005 Comprehensive Plan, as amended. Therefore, pursuant to Section 3.3.1 of the Intergovernmental Agreement with Larimer County, the annexation impact report requirement of §31-12-108.5, C.R.S. has been waived.
  - E. The perimeter of the area proposed to be annexed within is 6733.54 linear feet, of which 5155.61 linear feet are contiguous to the City of Loveland. Not less than one-sixth of the perimeter of said area is contiguous with the City of Loveland.
  - F. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, is divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.
  - G. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising 20 acres or more and which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the year next preceding the annexation, is included within the area proposed to be annexed without the written consent of the landowner or landowners.
  - H. No annexation proceedings have been commenced for the annexation to another municipality of part or all of the area proposed to be annexed.
  - I. The annexation of the area proposed to be annexed will not result in the detachment of the area from any school district and the attachment of the same to another school district.
  - J. The annexation of the area proposed to be annexed would not have the effect of extending the boundary of the City of Loveland more than three miles in any direction from any point of such boundary in any one year.
  - K. In establishing the boundaries of the area proposed to be annexed, the entire width of any platted street or alley to be annexed is included within said area.
  - L. The annexation of the area proposed to be annexed will not deny reasonable access to any landowner, owner of an easement or owner of a franchise adjoining a platted street or alley which is included in said area but which is not bounded on both sides by the City of Loveland.
2. The City Council reaches the following conclusions based on the above findings of fact:
  - A. The proposed annexation of the area described on Exhibit A complies with and meets the requirements of Section 30(1)(c) of Article II of the Colorado Constitution, and the applicable parts of §§31-12-104(1)(a) and 31-12-105, C.R.S.
  - B. No additional terms and conditions are to be imposed.
3. This Resolution shall become effective on the date and at the time of its adoption.

APPROVED the 20th day of November, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

b)1<sup>st</sup> Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF LOVELAND, COLORADO,

TO BE KNOWN AND DESIGNATED AS "MEHAFFEY PARK FIRST ADDITION" TO THE CITY OF LOVELAND" was approved and ordered published on first reading.

c)1<sup>st</sup> Rdg Ord & P.H. Quasi-judicial Action: A public hearing was held and "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR "MEHAFFEY PARK FIRST ADDITION" TO THE CITY OF LOVELAND" was approved and ordered published on first reading.

d)1<sup>st</sup> Rdg Ord & P.H. Quasi-judicial Action: A public hearing was held and "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN TRACT 'B' VANGUARD-FAMLECO FIRST ADDITION AND A PORTION OF TRACT "C", VANGUARD-FAMLECO SECOND ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on first reading.

### 13. Finance

#### **Supplemental Appropriation tot Loveland Fire Rescue Authority 2012 Budget**

#### **Resolution #R-80-2012**

Administrative Action: Resolution #R-80-2012 approving a supplemental budget and appropriation to the Loveland Fire Rescue Authority 2012 budget was approved.

#### **RESOLUTION #R-80-2012**

#### **A RESOLUTION APPROVING SUPPLEMENTAL BUDGET AND APPROPRIATION FOR THE LOVELAND FIRE RESCUE AUTHORITY 2012 BUDGET**

WHEREAS, the Loveland Fire Rescue Authority ("Fire Authority") is established pursuant to that certain Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity dated August 18, 2011 (the "Authority IGA") between the City of Loveland, a Colorado home rule municipality ("City") and the Loveland Rural Fire Protection District, a Colorado Special District ("District"); and

WHEREAS, the Fire Authority Is authorized under Section 4.1 of the Authority IGA to adopt an annual budget and to supplement such budget from time to time, provided that the annual budget and any supplemental appropriations shall become effective upon the approval of the governing bodies of the City and the District; and

WHEREAS, the Fire Authority, by adoption of Resolution #R-010, approved a supplemental appropriation for its 2012 Budget; and

WHEREAS, the Fire Authority Board of Directors has also submitted the Fire Authority's Resolution enacting a supplemental budget and appropriation to the 2012 Budget, which Is attached hereto as Exhibit A and incorporated herein by reference, to the City and the District for approval as required by Section 4.1 of the Authority IGA; and

WHEREAS, the City Council desires to approve the Fire Authority's 2012 Supplemental Budget and Appropriation as reflected on Exhibit A.

#### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

Section 1. That the 2012 Loveland Fire Rescue Authority Supplemental Budget and Appropriation, attached hereto as Exhibit A and which has been filed with the Fire Authority Administrative Office in its entirety, for the fiscal year beginning January 1, 2012 and ending December 31, 2012, with revenues in the amount of \$123,800, and expenditures of \$123,800 for operations, is hereby approved.

Section 2. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 20th day of November, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

**CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.**

**CITY COUNCIL**

a) Citizens' Reports

Kathy Hartman, 945 E. 4<sup>th</sup> St. asked if there is a City Department who oversees trees and replanting. This process is divided into three departments, depending on the situation.

b) Business from Council

Mayor

Mayor Gutierrez asked for a motion approving the Council liaison to Boards, Commission and Committees positions list. Councilor Shaffer moved to approve the City Council Liaison list for Boards and Commissions. Councilor McKean seconded the motion, and a roll call vote was taken with all councilors present voting in favor thereof.

Shaffer

Councilor Shaffer indicated that there was no update on the search for a new director for the MPO. The MPO is hosting a "new" Councilor Orientation, to educate new Councilors on what the MPO does.

Farley

Councilor Farley attended a book signing for David Jessup, author of the newly released novel "Mariano's Crossing". Councilor Farley attended the Visual Arts Commission retreat.

Mayor

Mayor Gutierrez attended the Marine Corps Ball in commemoration of their 237<sup>th</sup> birthday. Mayor Gutierrez also attended the SAINT annual awards.

c) City Manager Report

Cahill

City Manager Bill Cahill, announced the Police Department did receive their accreditation at a ceremony in Jacksonville, FL. A plaque memorialize the event will be presented to the City at a later date.

d) City Attorney Report

None

**PROCEDURAL INFORMATION**

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

**REGULAR AGENDA**

**CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA**

**11. PUBLIC WORKS**

**Award of Construction Contract**

**Motion**

Administrative Action: Stormwater Engineer Kevin Gingery introduced this item to Council. This item is consideration of a construction contract to Mountain Constructors, inc. in the amount of \$900,000 for complete various stormwater maintenance projects. Staff clarified that the project was bid out with the intent of determining a "unit" amount which will be applied to multiple projects with Mountain Constructors, inc. Councilor Shaffer moved to approve the motion awarding a construction contract to mountain Constructors, Inc. in the amount of \$900,000 for stormwater maintenance projects under Project No. SW1201. Councilor Farley seconded the motion and a roll call vote was taken with all councilors present voting in favor thereof.

#### 14. CITY CLERK

##### Approval of Council Minutes

##### Motion

Administrative Action: Councilor Shaffer moved to approve the minutes from the October 23, 2012 study session and November 6, 2012 regular meeting. Councilor Farley seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof, and Councilor Clark abstaining, as he was not a Council member at that time.

#### 15. CITY MANAGER

##### New Capital Expansion Fees Schedule

##### Resolution #R-81-2012

Administrative Action: Executive Fiscal Advisor Alan Krcmarik introduced this item to Council. This is an administrative action to consider a resolution adopting a new schedule of CEFs. Throughout this year, City staff members have conducted the five year review of the capital expansion fees. The staff has prepared a resolution that adopts a new CEF fee schedule at rates indicated by the fee study. The resolution provides for modest increases in the fees for single family houses, reduced fees for multi-family housing projects, and increases for commercial and industrial projects. Three amendments to the recommended fee schedule are included to address additional adjustments requested by Council members in the recent Study Session. Mayor Gutierrez asked if there was anyone in the audience that would like to make a comment. City Resident, Jim Welker stated the fees are too high now. Discussion ensued. Councilor Fogle moved to adopt the proposed fees for residential and multifamily and freeze the other fees (Industrial and Commercial) until such time as Staff can review and propose possible adjustments to the "CEF model". Councilor Klassen seconded the motion. Councilor Klassen moved to amend the motion to set a date certain for reconsideration of the Industrial and Commercial fees of December 31, 2013. Councilor Fogle seconded the motion, which carried with eight voting in favor and Councilor Shaffer voting against. The original motion as amended was considered and approved with eight Councilors voting in favor and Councilor Shaffer voting against. Councilor Shaffer moved to approve Resolution #R-81-2012 adopting a new schedule of Capital Expansion Fees pursuant to Section 16.38.020.E of the Loveland Municipal Code effective January 1, 2013, as amended by the previous motion. Councilor McKean seconded the motion and a roll call vote was held with eight Councilors present voting in favor thereof, and Councilor Shaffer voting against.

##### RESOLUTION #R-81-2012

A RESOLUTION ADOPTING A NEW SCHEDULE OF CAPITAL EXPANSION FEES PURSUANT TO SECTION 16.38.020.E OF THE LOVELAND MUNICIPAL CODE EFFECTIVE JANUARY 1, 2013

WHEREAS, Loveland Municipal Code Section 16.38.020.E provides that capital expansion fees be reviewed and approved by resolution every five (5) years commencing in 2000; and

WHEREAS, the last five (5) year review of capital expansion fees was completed with the adoption of Resolution #R-38-2007, on April 3, 2007 establishing the City's current capital expansion fees; and

WHEREAS, City staff has completed a comprehensive five (5) year review of capital expansion fees established in Resolution #R-38-2007 and is recommending changes to these fees as set out in the Capital Expansion Fee Schedule attached hereto as Exhibit A and incorporated by reference (the "CEF Schedule") to more accurately reflect actual growth related capital costs; and

WHEREAS, City Council desires to adopt the CEF Schedule to more accurately reflect current growth related capital costs pursuant.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:



Section 1. That the City Council hereby finds that the CEF Schedule more accurately reflects the City's actual growth-related capital costs.

Section 2. That the CEF Schedule is hereby adopted and approved as the capital expansion fees for the City of Loveland as authorized in Section 16.38.020.E of the Loveland Municipal Code to become effective as provided in Section 3. below.

Section 3. That the capital expansion fees set forth in the CEF Schedule shall be effective as of January 1, 2013 and shall apply to all building permit applications completed on or after January 1, 2013, subject to annual adjustment thereafter in accordance with Code Section 16.38.110.A. CEF's for commercial and industrial development shall remain at the rates set forth on the CEF Schedule, without increase through December 31, 2013.

Section 4. That Resolution #R-38-2007 shall be superseded as of January 1, 2013 by this Resolution except with respect to building permits completed prior to January 1, 2013, which permits shall continue to be subject to the capital expansion fees as set forth in Resolution #R-38-2007 as adjusted annually in accordance with Code Section 16.38.110.A.

Section 4. That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 20th day of November, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

## **16. ECONOMIC DEVELOPMENT**

### **Supplemental Appropriation – Fund Way Finding Signs**

1<sup>st</sup> Rdg Ord & P.H.

Administrative Action: Economic Development Director Betsey Hale introduced this item. Existing lodging tax reserves are being used to fund a signage program directing visitors and residents to places of interest in Loveland. Reserves that have been saved are used as the funding source. The drawdown of reserves limits the flexibility for other projects to be funded within the fund. The lodging tax reserve fund balance is \$718,000.00. The Mayor opened the public hearing at 9:28 p.m. and hearing no comments closed the meeting at 9:28 p.m. Councilor Shaffer moved to approve and ordered published on second reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO FUND WAY FINDING SIGNS THROUGHOUT LOVELAND WITH LOVELAND LODGING TAX FUNDS". Councilor Trenary seconded the motion and a roll call vote was taken with all Councilors present voting to approve.

## **17. ECONOMIC DEVELOPMENT**

### **Agreements with Lightning Hybrids, Inc**

Resolution #R-82-2012

Administrative Action: Mike Scholl with the Economic Development Department introduced this item. This is an administrative action. The resolution authorizes the City Manager to sign a purchasing agreement with Lightning Hybrids (LH) for a hydraulic hybrid retrofit of two City buses and an amendment to the economic incentive agreement with Lightning Hybrids dated July 10, 2009. Staff has negotiated a contract with Lightning Hybrids that would apply the \$28,000 owed to the City for nonperformance under the incentive agreement towards the retrofit of the City buses. Councilor Shaffer moved to approve Resolution #R-82-2012 approving Lightning Hybrids, Inc. Hydraulic Hybrid retrofit system agreement and amendment number one to Lightning Hybrids, Inc. Economic incentive and performance agreement. Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting to approve.

RESOLUTION #R-82-2012

A RESOLUTION APPROVING LIGHTNING HYBRIDS, INC. HYDRAULIC HYBRID RETROFIT SYSTEM AGREEMENT AND AMENDMENT NUMBER ONE TO LIGHTNING HYBRIDS, INC. ECONOMIC INCENTIVE AND PERFORMANCE AGREEMENT

WHEREAS, Lightning Hybrids, Inc. ("LHI") is a start-up company established in 2008 and engaged in green technology automotive research, development and manufacturing in Loveland, Colorado; and

WHEREAS, LHI and the City entered into that certain Lightning Hybrids, Inc. Economic Incentive and Performance Agreement dated July 10, 2009 (the "Incentive Agreement"), approved by City Council by adoption of Resolution #R-64-2009; and

WHEREAS, pursuant to the Incentive Agreement, the City made an incentive payment in the amount of \$50,000.00 to LHI for LHI's creation and maintenance for 12 consecutive months of 25 "Qualified Jobs" within a 24 month period, as more fully set forth therein; and

WHEREAS, the Incentive Agreement further provided that in the event that LHI failed to satisfy the requirement of creating 25 Qualified Jobs and maintaining them for at least 12 full consecutive months within the 24 month period, it shall pay to the City two thousand dollars (\$2,000.00) for each Qualified Job short of the 25 Qualified Jobs; and

WHEREAS, the Owners, as the controlling principals of LHI, guaranteed LHI's obligations under the Incentive Agreement, as more fully set forth therein; and

WHEREAS, early stage investor requirements and general economic conditions have inhibited LHI from meeting the job creation requirements under the Incentive Agreement; and

WHEREAS, LHI has created and maintained 11 jobs, resulting in an obligation to repay to the City two thousand dollars (\$2,000.00) for each of the 14 jobs that have not been created and maintained within the time frame required by the Incentive Agreement, for a total repayment obligation of twenty eight thousand dollars (\$28,000.00); and

WHEREAS, LHI and the City desire to enter into an agreement pursuant to which LHI will provide the City with two hybrid retrofit systems for City buses at a total cost of fifty two thousand dollars (\$52,000.00) (the "Retrofit Agreement") attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, LHI and the City also desire that the Repayment Amount shall be applied to amounts due from the City under the Retrofit Agreement on the terms and conditions set forth therein and in Amendment Number One to the Incentive Agreement attached hereto as Exhibit B and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND:

Section 1. That the Retrofit Agreement attached hereto as Exhibit A and incorporated herein by reference is hereby approved.

Section 2. That Amendment Number One to the Incentive Agreement attached hereto as Exhibit B and incorporated herein by reference is hereby approved.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to modify the Retrofit Agreement and Amendment Number One to the Incentive Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 4. That the City Manager and the City Clerk are hereby authorized and directed to execute the Retrofit Agreement and Amendment Number One to the Incentive Agreement on behalf of the City of Loveland.

Section 5. That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 20th day of November, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A and B are available in the City Clerk's Office

## **18. ECONOMIC DEVELOPMENT**

### **Discussion of a Common Consumption Area in Downtown Loveland**

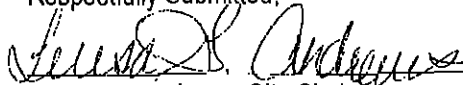
#### **Information Only**

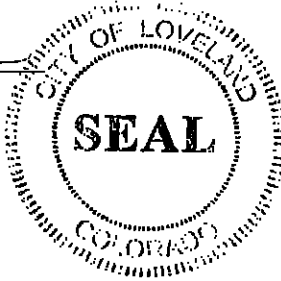
This item is Information only. Staff will present findings on the creation of a Common Consumption area in Loveland. Earlier this year, a Common Consumption area was created in Downtown Greeley. City Council requested that staff look into the issue and determine if it was feasible in Downtown Loveland. The Common Consumption area would allow for patrons of downtown establishments to carry alcoholic beverages freely from one establishment to another within a defined area and defined time period.

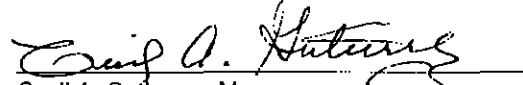
**ADJOURNMENT**

Having no further business to come before Council, the November 20, 2012 Regular Meeting was adjourned at 10:35 p.m.

Respectfully Submitted,

  
Teresa G. Andrews, City Clerk



  
Cecil A. Gutierrez, Mayor