

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

**PLEDGE OF ALLEGIANCE**

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

**PRESENTATION** Miss Loveiand Valentine 2013, Madison Polansky, gave a brief presentation to Council.

**PRESENTATION** Commissioner Grayson Robinson from the Commission on Accreditation for Law Enforcement Agencies (CALEA) presented an accreditation plaque to Chief Hecker who accepted it on behalf of the Loveiand Police Department.

**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. Troy Krenning, 2908 Bent Drive, Loveiand, asked for item 9 to be removed. Councilor Shaffer moved to approve the Consent Agenda, with the exception of item 9. The motion was seconded by Councilor Trenary and a roll call vote was taken with all councilors present voting in favor thereof.

**1. CITY MANAGER**

**Approval of Council Minutes**

**Motion** Administrative Action: The minutes from the January 15, 2013 regular meeting were approved.

**2. CITY CLERK**

**Board & Commission Appointments**

**Motion** Administrative Action: The following appointments to the Creative Sector Development Advisory Commission, the Golf Advisory Board and the Senior Advisory Board were approved:

Curtis Rowland was appointed to the Creative Sector Development Advisory Commission for a partial term effective until December 31, 2013.

Julie Nelson was reappointed and Tom O'Gorman and Jan Wall were appointed to the Golf Advisory Board each for terms effective until December 31, 2013. Jerry Witzel was appointed as an Alternate member for a term effective until December 31, 2013.

The following members were appointed to the Senior Advisory Board:

Anne Brown, Betty Herder and Marigail Jury were reappointed to the Senior Advisory Board each for terms effective until December 31, 2015. Jacqueline Gresham was appointed to the Senior Advisory Board for a partial term effective until December 31, 2014. Richard Zlamany was reappointed as an Alternate member on the Senior Advisory Board for a term effective until December 31, 2013. Bobbi Sutton was reappointed as the representative from McKee Medical Center to the Senior Advisory Board for a term effective until February 5, 2014. Doug East was reappointed as the representative from the Chilson Senior Advisory Committee to the Senior Advisory Board for a term effective until February 5, 2014.

### 3. ECONOMIC DEVELOPMENT

#### Supplemental Appropriation – Pro Cycle Challenge

Ordinance #5739

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR COSTS ASSOCIATED WITH HOSTING THE US PRO CYCLING CHALLENGE EVENT" was approved and ordered published on second reading.

### 4. AIRPORT & FINANCE

#### Supplemental Appropriations – Ft Collins-Loveland Municipal Airport

1. Ordinance #5740

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET TO INCREASE THE CITY'S CONTRIBUTION TO THE FT. COLLINS-LOVELAND MUNICIPAL AIRPORT DUE TO THE LOSS OF COMMERCIAL SERVICE" was approved and ordered published on second reading.

2. Ordinance #5741

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO REALIGN THE BUDGET DUE TO THE LOSS OF COMMERCIAL SERVICE" was approved and ordered published on second reading.

### 5. FINANCE

#### Supplemental Appropriation – Loveland Fire Rescue Authority 2013 Budget

Ordinance #5742

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR THE CITY SHARE OF THE COSTS FOR AN ADDITIONAL POSITION IN THE LOVELAND FIRE RESCUE AUTHORITY" was approved and ordered published on second reading.

### 6. FINANCE

#### Amendment to Centerra Collection Agreement

Resolution #R-6-2013

Administrative Action: Resolution #R-6-2013 approving the Second Amended and Restated Collection Agreement for the City of Loveland to collect Public Improvement Fee Revenues and Retail Sales Fee Revenues in the Centerra Retail Development was approved.

RESOLUTION #R-6-2013

A RESOLUTION APPROVING THE SECOND AMENDED AND RESTATED COLLECTION AGREEMENT FOR THE CITY OF LOVELAND TO COLLECT PUBLIC IMPROVEMENT FEE REVENUES AND RETAIL SALES FEE REVENUES IN THE CENTERRA RETAIL DEVELOPMENT

WHEREAS, on January 20, 2004, the City Council approved the Centerra Master Financing and Intergovernmental Agreement (the "MFA"); and

WHEREAS, the MFA authorized a public improvement fee ("PIF") to be charged on retail sales made in the Centerra Development; and

WHEREAS, subsequently, covenants imposing and implementing the PIF, as well as a Centerra retail sales fee (the "Centerra RSF") and a Lifestyle Center retail sales fee ("Lifestyle RSF") were finalized and recorded; and

WHEREAS, pursuant to the respective covenants, the Centerra Public Improvement Collection Corporation (with respect to the PIF), the Centerra RSF Corporation (with respect to the Centerra RSF) and G&I VI Retail Prom, LLC (as the owner of the Lifestyle Center and successor in interest with respect to the Lifestyle RSF) are entitled to receipt of these respective revenues; and

WHEREAS, on September 7, 2004, the Loveland City Council adopted Resolution #R-79-2004 to approve a Collection Agreement, dated September 1, 2004 (the "Collection Agreement"), pursuant to which the City collects the Lifestyle RSF, Centerra RSF, and PIF, remits the revenues to the respective recipients, and is compensated for this service; and

WHEREAS, the Collection Agreement was previously amended by that certain First Amendment approved by the City Council's adoption of Resolution #R-27-2008 on March 18, 2008 and amended and restated in its entirety by the First Amended and Restated Collection Agreement approved by City Council's adoption of Resolution #R75-2011 (the Collection Agreement, the First Amendment, and the First Amended and Restated Collection Agreement are referred to collectively as the "Collection Agreement"); and

WHEREAS, the parties desire to further amend and restate the Collection Agreement in its entirety as more fully set forth in that certain Second Amended and Restated Collection Agreement attached hereto as Exhibit A and incorporated herein by reference (the "Second Amended and Restated Collection Agreement").

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

Section 1: That the Second Amended and Restated Collection Agreement attached hereto as Exhibit A is hereby approved and shall supersede and replace the Collection Agreement in its entirety as of January 1, 2013.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify the Second Amended and Restated Collection Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Second Amended and Restated Collection Agreement on behalf of the City of Loveland.

Section 4. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

## **7. LOVELAND FIRE RESCUE AUTHORITY**

### **Purchase of Heavy Rescue Truck**

#### **Motion**

Administrative Action: A motion to approve the purchase of a heavy rescue truck for the new Fire Station 2 from SVI Trucks, Inc. for an amount not to exceed \$635,000 and authorize the City Manager to sign the purchase order on behalf of the City was approved.

## **8. FINANCE**

### **Supplemental Appropriation- Loveland Fire Rescue Authority, Command Vehicle**

#### **Resolution #R-7-2013**

Administrative Action: Resolution #R-7-2013 of the Loveland City Council approving a supplemental budget and appropriation by the Loveland Fire Rescue Authority to its 2013 budget was approved.

RESOLUTION #R-7-2013

A RESOLUTION OF THE LOVELAND CITY COUNCIL APPROVING A SUPPLEMENTAL BUDGET AND APPROPRIATION BY THE LOVELAND FIRE RESCUE AUTHORITY TO ITS 2013 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 adopted Resolution #R-015, which is attached hereto as Exhibit A and incorporated herein by reference, enacting a supplemental appropriation to its 2013 Budget; and

WHEREAS, the Fire Authority has also submitted Resolution #R-015 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 2013 Supplemental Budget and Appropriation reflected in Resolution #R-015.

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

Section 1. That Resolution #R-015 of the Loveland Fire Rescue Authority attached hereto as Exhibit A enacting a Supplemental Budget and Appropriation for the fiscal year beginning January 1, 2013 and ending December 31, 2013, with revenues in the amount of \$75,000, and expenditures of \$75,000 for operations, is hereby approved.

Section 3. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

**9. HUMAN RESOURCES**

**Resolution #R-8-2013**

This item was removed from the Consent Agenda and considered on the Regular Agenda.

**10. PUBLIC WORKS**

**Traffic Signal Replacement – U.S. 34 & Boyd Lake Avenue**

**1. Resolution #R-9-2013**

Administrative Action: Resolution #R-9-2013 of the Loveland City Council Approving An Intergovernmental Agreement Between The City Of Loveland, Colorado And The State Of Colorado, Acting By And Through The Colorado Department Of Transportation, For Design And Construction Of A Traffic Signal Replacement At The Intersection Of U.S. 34 And Boyd Lake Avenue In Loveland, Colorado was approved.

**RESOLUTION #R-9-2013**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR DESIGN AND CONSTRUCTION OF A TRAFFIC SIGNAL REPLACEMENT AT THE INTERSECTION OF U.S. 34 AND BOYD LAKE AVENUE IN LOVELAND, COLORADO

WHEREAS, the City of Loveland desires to design and construct a traffic signal replacement and other improvements at the intersection of U.S. 34 and Boyd Lake Avenue within the City of Loveland (the "Project"), which is to be funded by federal funds and state matching funds administered and made available through the State of Colorado, acting by and through the Colorado Department of Transportation ("CDOT"); and

WHEREAS, federal funds are available for the Project in the amount of Four Hundred Forty-five Thousand and Five Hundred Dollars (\$445,500), and state funds are available for the Project in the amount of Forty-nine Thousand and Five Hundred Dollars (\$49,500), for a total of Four Hundred Ninety-five Thousand Dollars (\$495,000); and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement to define the division of responsibilities with regard to the Project; and

WHEREAS, as governmental entities in Colorado, the City and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the "State of Colorado Department of Transportation Agreement with City of Loveland," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

## 2. 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 2013 CITY OF LOVELAND BUDGET FOR SIGNAL REPLACEMENT AND OTHER IMPROVEMENTS AT THE INTERSECTION OF US 34 AND BOYD LAKE AVENUE" was approved and ordered published on first reading.

## 11. PUBLIC WORKS

### Railroad Crossing Repairs – U.S. Hwy 287

#### 1. Resolution #R-10-2013

Administrative Action: Resolution #R-10-2013 approving an Intergovernmental Agreement between the City of Loveland, Colorado and the State of Colorado, acting by and through the Colorado Department of Transportation, for repair of the Burlington Northern Santa Fe Railroad crossing at U.S. 287 in Loveland, Colorado was approved.

#### RESOLUTION #R-10-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR REPAIR OF THE BURLINGTON NORTHERN SANTA FE RAILROAD CROSSING AT U.S. 287 IN LOVELAND, COLORADO

WHEREAS, the City of Loveland desires to participate with the State of Colorado, acting by and through the Colorado Department of Transportation ("CDOT"), in the repair of the Burlington Northern Santa Fe ("BNSF") railroad crossing at U.S. 287 in Loveland, Colorado (the "Project"), which is to be funded by federal funds administered and made available through CDOT and state matching funds administered and made available through CDOT; and

WHEREAS, federal funds are available to fund 82.79% of the participating costs of the Project in the amount of Sixty-nine Thousand, Nine Hundred and Twenty-two Dollars (\$69,922); and

WHEREAS, state matching funds are available to fund 17.21% of the participating costs of the Project in the amount of Fourteen Thousand, Five Hundred and Thirty-five Dollars (\$14,535); and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement to define the division of responsibilities with regard to the Project; and

WHEREAS, as governmental entities in Colorado, the City and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the "State of Colorado Department of Transportation Agreement with City of Loveland," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

**2. 1<sup>st</sup> Rdg & P.H.**

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR RAILROAD CROSSING REPAIRS ON U.S. 287" was approved and ordered published on first reading.

**12. WATER & POWER**

**Resolution #R-11-2013**

Administrative Action: Resolution #r-11-2013 approving an Intergovernmental Agreement between the City of Loveland, Colorado and Larimer County, Colorado for efficiency audits and training provided through the Larimer County Conservation Corps Water and Energy Program was approved.

**RESOLUTION #R-11-2013**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND LARIMER COUNTY, COLORADO FOR EFFICIENCY AUDITS AND TRAINING PROVIDED THROUGH THE LARIMER COUNTY CONSERVATION CORPS WATER AND ENERGY PROGRAM

WHEREAS, the City of Loveland desires to promote the development of job skills in the utility industry for young adults in Larimer County while increasing the availability of water and energy efficiency measures and education to the City's low-income water and/or electric customers; and

WHEREAS, Larimer County desires to expand its established Conservation Corps program to provide job skills and opportunities in the utility industry for young adults in Larimer County through the Larimer County Conservation Corps ("LCCC") Water and Energy Program; and

WHEREAS, the City and Larimer County desire to work with one another to achieve the above-stated goals in an efficient and cost-effective manner that minimizes overhead expenditures for administration and program creation; and

WHEREAS, as governmental entities in Colorado, the City and Larimer County are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the "Agreement for Services, LCCC Water & Energy Program – Efficiency Audits and Training," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

### **13. WATER & POWER**

#### **Resolution #R-12-2013**

Administrative Action: Resolution #R-12-2013 of the Loveland City Council authorizing an application to, and contract with, the northern Colorado Water Conservancy district for beneficial use of 282 acre-feet of Colorado-Big Thompson Project Water was approved.

#### RESOLUTION #R-12-2013

A RESOLUTION OF THE LOVELAND CITY COUNCIL AUTHORIZING AN APPLICATION TO, AND CONTRACT WITH, THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR BENEFICIAL USE OF 282 ACRE-FEET OF COLORADO-BIG THOMPSON PROJECT WATER

WHEREAS, pursuant to the Water Conservancy Act of Colorado, Title 37, Article 45, C.R.S., the City Council of the City of Loveland, a Colorado municipal corporation, must apply to the Board of Directors of the Northern Colorado Water Conservancy District ("District") for a contract for the beneficial use of Colorado-Big Thompson Project water within the boundaries of the District on an annually-renewable basis under C.R.S. § 37-45-131 In order to obtain the perpetual right to use said water.

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

Section 1. That the City of Loveland has determined to apply for a contract providing for the beneficial use of two hundred eighty-two (282) acre-feet of Colorado-Big Thompson Project water from the District within the boundaries of the District.

Section 2. That the Director of the Department of Water and Power is hereby authorized and directed to apply to the Board of Directors of the District for a contract providing to the City the beneficial use of said water upon the terms prescribed by said Board in the manner and form attached hereto as Exhibit A and incorporated herein by reference ("Application").

Section 3. That the Director of the Department of Water and Power is hereby authorized to execute the Application and any other documents required by the District to effectuate the contract.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

### **14. WATER & POWER**

#### **IGA with Northern Colorado Water Conservancy District – Transmission and Treatment Study**

#### **Resolution #R-13-2013**

Administrative Action: Resolution #R-13-2013 approving an Intergovernmental agreement between the City of Loveland, Colorado and the northern Colorado Water Conservancy District for participation in the 2012-2013 Regional Transmission and Treatment Study was approved.

#### RESOLUTION #R-13-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR PARTICIPATION IN THE 2012-2013 REGIONAL TRANSMISSION AND TREATMENT STUDY

WHEREAS, the Northern Colorado Water Conservancy District ("Northern Water") is coordinating a study to explore the feasibility of a future joint water transmission and water treatment system to serve northern Colorado municipalities; and

WHEREAS, the City of Loveland desires to participate in the study and share in the cost of the study equally with the other participating municipalities; and

WHEREAS, as governmental entities in Colorado, the City and Northern Water are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.  
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the "Agreement with the Northern Colorado Water Conservancy District for Participation in the 2012-2013 Regional Transmission and Treatment Study," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

## **15. DEVELOPMENT SERVICES**

### **PUBLIC HEARING**

#### **Amend Comprehensive Master Plan (Land Use Plan)**

#### **Resolution #R-14-2013**

Legislative Action: A Public Hearing was held and Resolution #R-14-2013 amending the City of Loveland Future Land Use Plan was approved.

#### **RESOLUTION #R-14-2013**

A RESOLUTION OF THE LOVELAND CITY COUNCIL AMENDING THE FUTURE LAND USE PLAN SET FORTH IN SECTION 4.7 OF THE CITY OF LOVELAND 2005 COMPREHENSIVE MASTER PLAN

WHEREAS, the City of Loveland "2005 Comprehensive Plan" was recommended by the Loveland Planning Commission for approval in February, 2007 and approved by Resolution #R-21-2007 on March, 6, 2007 by the Loveland City Council ("Council"); and

WHEREAS, pursuant to §6.0(A) of the 2005 Comprehensive Plan, the Plan may be amended by City Council, after a recommendation is received from the Planning Commission and a duly noted public hearing is held; and

WHEREAS, the City of Loveland has, through the Planning Commission and citizens of Loveland, considered a staff initiated application to amend Section 4.7, Land Use Plan Map in the 2005 Comprehensive Plan, to change the land use designation for property located on the west side of I-25, extending west to County Road 7 and extending north from State Highway 60 approximately one and one half (1.5) miles from DR – Development Reserve as follows:

- Approximately 314 acres to be designated E - Employment; and
- Approximately 501 acres to be designated RAC – Regional Activity Center

WHEREAS, the Planning Commission held a duly noticed public hearing on January 14, 2013 and adopted Commission Resolution No. 13-01 attached hereto as Exhibit A recommending the proposed amendment; and

WHEREAS, Council has reviewed the proposed amendment to determine whether it is an appropriate amendment in accordance with the criteria set forth in §6 of the 2005 Comprehensive Plan; and

WHEREAS, Council finds that this amendment implements, furthers or is otherwise consistent with one or more of the philosophies, goals, policies and strategies of the 2005 Comprehensive Plan, including emphasizing flexibility, developing regional employment and multi-use activity centers along I-25, providing for sufficient industrial lands along I-25, providing appropriate areas within the GMA for a full range of urban level services, and enhancing areas of urban development through cooperation with surrounding municipalities; and

WHEREAS, Council finds that this amendment will not interfere with existing, emerging, proposed or future land use patterns and densities of the surrounding neighborhood as depicted on the Land Use Plan Map contained within the 2005 Comprehensive Plan. The Development Reserve land use designation was intended to be a "holding" designation to be used until further definition could be given to the land use plan. This amendment provides that further definition; and



WHEREAS, Council finds that this amendment will not interfere with or prevent, the provision of the area's existing planned, or previously committed services or proposals for community facilities or other specific public or private actions contemplated within the 2005 Comprehensive Plan; and

WHEREAS, Council finds that this amendment will not interfere with or prevent the provision of any existing or planned transportation system services in the area as contemplated by the 2035 Transportation Plan. The transportation demand model used in the creation of the 2035 Transportation Plan accounted for development in this area. Future development will be required to fund any expansions to the area's existing or planned transportation system; and

WHEREAS, Council held a duly noticed public hearing on this amendment to the 2005 Comprehensive Master Plan on February 5, 2013.

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

Section 1. That the Loveland City Council hereby makes the findings set forth in this Resolution.

Section 2. That the Loveland City Council hereby approves amendment of the 2005 Loveland Comprehensive Master Plan by the substitution of the Section 4.7 Future Land Use Plan Map, attached hereto and incorporated herein as Exhibit B, in lieu of the prior Land Use Map.

Section 3. That this Resolution shall take effect as of the date of its adoption.

Signed this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

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

## **16. PARKS & RECREATION**

### **Contract Amendment – Mehaffey Park Design and Engineering Fee**

#### **Motion**

Administrative Action: A motion to approve an amendment to the service contract with Logan Simpson Design, Inc., to increase the fees for Mehaffey Park design and engineering services from a not to exceed amount of \$489,859 to a not to exceed amount of \$714,000 and to authorize the City Manager to execute the contract amendment on behalf of the City was approved.

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

### **CITY COUNCIL**

#### **a) Citizens' Reports**

Troy Krenning, 2908 Bent Drive, requested Council look at the "failure to show proof of insurance" administrative fee identified in the Fee Resolution approved annually by City Council.

Andrea Hall, 2107 Grays Peak #101, supported Council reviewing the fee.

#### **b) Business from Council**

##### **Shaffer**

Councilor Shaffer attended Congressman Polls' public forum. Councilor Shaffer attended the opening at the Denver's Dos Chappell Bathhouse in Washington Park for Loveland resident artist, Jeannie Edwards.

##### **Farley**

Councilor Farley promoted Friday night on the town events: Love + Light at the Feed – Grain Building, and the Sculpture and Painting dedication at the Library. Councilor Farley also announced that the Loveland High Plains Council donated 4 more sculptures to the Benson Park Collection. Councilor Farley also attended the "Community Conversation on Homelessness" held at the Museum on Jan. 31, 2013.

##### **Klassen**

Councilor Klassen expressed concern regarding the Sound system at the Police Training Institute.

##### **Clark**

The Chamber of Commerce "Valentine Remailing Program" is underway.

Trenary Councilor Trenary attended the following events: Community Disrupter Training on Tuesday; Waterfront Homeowners Association meeting; Weight of the Nation Screening event in Loveland on January 30th; and, the 2012 Loveiand Fire and Rescue Authority awards on Saturday, February 2, 2013.

Gutierrez Snow Sculpture Event going on Downtown starting February 5, 2013. The Sculpture Invitational donated \$10,000 to Thompson School District to be used to further the arts in public schools. Mayor Gutierrez will be attending the Governor's Pits and Peeves, "Progress in Motion" roundtable discussion which is associated with the Omnibus report "Cutting Red Tape in Colorado State Government", Wednesday, February 13, 2013 in Ft. Collins, as well as the Boys and Girls Club "Youth of the Year" breakfast on February 13, 2013 to be held at the Embassy Suites.

c) City Manager Report

Cahill The Loveiand Fire and Rescue Authority have certified all of their firefighters and are fully staffed at this time. Staff is working to upgrade the Sound System at the Police and Courts Municipal Building, Training Institute.

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**

**9. HUMAN RESOURCES**

**Resolution #R-8-2013**

Administrative Action: Julia Holland, Human Resources Director introduced this item to Council. This is an administrative action regarding compensation and reappointment of the Municipal Judge. At the direction of City Council, the 2013 annual base salary for the Municipal Judge shall receive a three and one half percent (3.5%) merit increase beginning on the initial pay period in 2013. City Council also determined to reappoint Williams Starks as the Municipal Judge to a new two-year term beginning February 15, 2013. The following people, expressed concern with the Municipal Judge's compensation, and spoke in opposition to the Resolution: Troy Krenning, 2908 Bent Drive; Andrea Hall, 2107 Grays Peak, #101; Richard Ball, 1801 N. Garfield. Trish Murtha asked Council to review the size of the docket, when making decisions regarding the compensation of the Municipal Judge. Councilor Shaffer moved to approve Resolution #R-8-2013 of the Loveland City Council regarding the compensation of the Municipal Judge and reappointing William E. Starks as the Municipal Judge for a new two-year term beginning February 15, 2013. The motion seconded by Councilor Trenary and carried with six voting in favor and Councilors Clark, Taylor and Shaffer voting against.

**RESOLUTION #R-8-2013**

**A RESOLUTION OF THE LOVELAND CITY COUNCIL REGARDING THE COMPENSATION OF THE MUNICIPAL JUDGE AND REAPPOINTING WILLIAM E. STARKS AS THE MUNICIPAL JUDGE FOR A NEW TWO-YEAR TERM BEGINNING FEBRUARY 15, 2013**

WHEREAS, on February 2, 1999, the City of Loveland (the "City") and William E. Starks ("Starks") entered into an agreement appointing Starks as Loveland's Municipal Judge for a two-year term effective February 15, 1999; and

WHEREAS, on February 20, 2001, the City and Starks entered into a second agreement reappointing Starks as Loveland's Municipal Judge for a second two-year term effective February 15, 2001 (the "Agreement"); and

WHEREAS, on February 4, 2003, the City and Starks entered into that certain "Addendum to Employment Agreement" (the "First Addendum") amending the Agreement to reflect Starks' reappointment for a third two-year term effective February 15, 2003; and

WHEREAS, in January of 2005, the City and Starks entered into that certain "Second Addendum to Employment Agreement" (the "Second Addendum") amending the Agreement to reflect Starks' reappointment for a fourth two-year term effective February 15, 2005; and

WHEREAS, on February 6, 2007, the City Council adopted Resolution #R-7-2007 reappointing Starks to a fifth two-year term effective February 15, 2007, as reflected in the "Third Addendum to Employment Agreement" which the City and Starks have entered into (the "Third Addendum"); and

WHEREAS, on February 17, 2009, City Council adopted Resolution #R-13-2009 reappointing Starks to a sixth two-year term effective February 15, 2009, as reflected in the "Fourth Addendum to Employment Agreement" which the City and Starks have entered into (the "Fourth Addendum"); and

WHEREAS, on March 3, 2009, City Council adopted Resolution #R-19-2009 that increased the compensation of Starks based on its annual evaluation of Starks in his capacity as Municipal Judge; and

WHEREAS, on November 3, 2009, City Council adopted Resolution #R-106-2009 that decreased the compensation of Starks through the use of four furlough days based on the economic downturn and to be consistent with the 2010 budget which reduced pay to most city employees through the implementation of four furlough days; and

WHEREAS, on December 7, 2010, City Council adopted Resolution #R-68-2010 reappointing Starks to a seventh two-year term effective February 15, 2011, as reflected in the "Fifth Addendum to Employment Agreement" (the "Fifth Addendum") and excluded furlough days from Starks' compensation; and

WHEREAS, on May 17, 2011, City Council adopted Resolution #R-36-2011 that increased Starks compensation for 2011 with a one-time, merit-based payment of 1.75% of Starks' then current annual based salary as reflected in the "Sixth Addendum to Employment Agreement" (the "Sixth Addendum"); and

WHEREAS, it is City Council's custom to evaluate the Municipal Judge's job performance annually; and

WHEREAS, on January 8, 2013, City Council conducted its annual evaluation of Starks as the Municipal Judge for 2012; and

WHEREAS, City Council finds that Starks' compensation for 2013 should be increased by three and one half percent (3.5%) of Starks' current base salary; and

WHEREAS, City Council further finds that it is in the best interest of the citizens of Loveland to reappoint Starks for an eighth two-year term effective February 15, 2013; and

WHEREAS, the City and Starks desire to amend the Agreement as previously amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum, Fifth Addendum and Six Addendum to reappoint Starks for an eighth two-year term effective February 15, 2013, as reflected in the "Seventh Addendum to Employment Agreement" attached hereto as Exhibit "A" and incorporated herein by reference (the "Seventh Addendum")

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

Section 1. The Seventh Addendum is hereby approved and the Mayor is authorized to enter into the Seventh Addendum on behalf of the City to appoint Starks to a new two-year term as the City's Municipal Judge beginning February 15, 2013.

Section 2. That the Agreement, as amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum, Fifth Addendum, Sixth Addendum and Seventh Addendum is hereby reaffirmed and ratified.

Section 3. Starks' annual salary shall be increased by three and one half percent (3.5%) of Starks' current annual base salary and shall be retroactive to the first pay period of 2013.

Section 4. Except as amended by this Resolution, Starks' compensation and benefits as set forth in the Agreement shall remain unchanged and in full force and effect.

Section 5. This Resolution shall take effect on the date and at the time of its adoption

ADOPTED this 5th day of February, 2013.  
Cecil A. Gutierrez, Mayor  
Attest: Teresa G. Andrews, City Clerk  
Exhibit A is available in the City Clerk's Office.

#### **17. DEVELOPMENT SERVICES**

##### **Historic Designation – Elks Lodge / Lovelander Hotel**

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

Legislative Action: City Planner Bethany Clark introduced this item. This ordinance would designate as a Historic Landmark the "Elks Lodge/Lovelander Hotel" at 103 East 4th Street, per Chapter 15.56 of the Municipal Code dealing with Historic Preservation. The application is owner-initiated and staff reviewed the benefits and obligations of historic designation with the property owner. The Historic Preservation Commission on January 21, 2013, found the Elks Lodge/Lovelander Hotel to be eligible for designation and is forwarding this recommendation to City Council. Debbie Davis, member of the Elks Club Board of Directors, answered Council questions.

The Mayor opened the public hearing at 7:24 pm. Hearing no comments, the Mayor closed the public hearing at 7:24 pm. Councilor Shaffer moved to approve and ordered published on first reading "AN ORDINANCE DESIGNATING AS A HISTORIC LANDMARK THE LOVELAND ELKS LODGE/LOVELANDER HOTEL LOCATED AT 103 EAST 4TH STREET IN LOVELAND, COLORADO". Councilor Taylor seconded the motion and a roll call vote was held with all Councilors present voting in favor thereof.

#### **18. CITY CLERK**

##### **Approval of Council Minutes**

##### **Motion**

This is an administrative action. City Clerk Terry Andrews introduced this item to Council. Councilor Shaffer moved to approve the minutes from the January 8, 2013 study session. Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof with Councilor Taylor abstaining as he was not the January 8<sup>th</sup> meeting.

#### **19. CITY MANAGER**

##### **Appointment to Senior Advisory Board**

##### **Motion**

Administrative Action: Councilor Clark recused himself, based on his relationship with Ms. Clark. City Manager Bill Cahill introduced this item. Councilor Shaffer moved to approve the appointment of Paula Clark to the Senior Advisory Board for a term for a term effective until December 31, 2015. Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof with the exception of Councilor Clark who recused himself from the vote due to a conflict of interest.

#### **20. CITY MANAGER**

##### **Extension of Comcast Franchise Agreement**

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

Administrative Action: Assistant City Manager Rod Wensing introduced this item to Council. The ordinance moves the expiration of the current cable franchise from April 30, 2013 to December 31, 2013. The Mayor opened the public hearing at 8:04 pm. Hearing no comments, the Mayor closed the hearing at 8:04 pm. Councilor Klassen asked Comcast representative John Lehman to be prepared to discuss Customer service and high pressure sales during the negotiations. Councilor Shaffer moved to approve and ordered published on first reading "AN ORDINANCE AMENDING THE

CABLE FRANCHISE AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND COMCAST OF COLORADO II, LLC TO EXTEND THE TERM OF THE FRANCHISE AGREEMENT". Councilor Farley seconded the motion and a roll call vote was taken with eight Councilors present voting in favor and Councilor Klassen voting against.

## 21. ECONOMIC DEVELOPMENT

### Artspace Project

#### Resolution #R-15-2013

Administrative Action: City Planner Mike Scholl introduced this Item. Greg Handberg, from Artspace and Sam Betters director to the Loveland Housing Authority also gave presentations to Council. The resolution approves and authorizes the City Manager to sign a commitment letter based on the term sheet negotiated by staff and Artspace. The commitment letter awards a loan of \$300,000 in support of the project. The loan would fill the gap in funding and complete the financing package for the CHFA tax credit application due on March 1. The commitment letter also includes a waiver of Construction Materials Use Tax estimated to be \$71,000. These commitments (the loan and use tax waiver) are expressly subject to satisfaction of the following conditions by December 31, 2013: (a) award of the tax credits by CHFA; (b) appropriation of loan amount and final approval of the use tax waiver by Council; and (c) approval and execution of a final loan agreement, note, and deed of trust based on the term sheet attached to the letter. The City is not formally committing any funds at this time. The loan and materials use tax waiver are contingent upon Artspace being awarded the tax credits from the Colorado Housing and Finance Authority (CHFA). If Artspace is awarded the tax credits by December 31, 2013, full consideration by Council of an appropriation ordinance, the use tax waiver, and a loan agreement (including a note and deed of trust) would occur with no guarantee of approval. Consensus of Council was to hear public comment. The following people spoke in support of the resolution: Meagan Tracy, 620 E. 6<sup>th</sup> Street; Bob Campana, 2216 Flora Ct; Jan "Rosetta"-Schockner; 1145 N. Harrison; and Lori Wells, 817 4<sup>th</sup> St. Councilor asked Mr. Handberg to state definitively that Artspace would not be coming back to request additional funds from the City Council to support the project as presented to Council this evening. Mr. Handberg stated that was correct.

Councilor Shaffer moved to approve Resolution #R-15-2013 approving a Conditional Loan and Materials Use Tax Waiver for the Artspace Project. Councilor Trenary seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

#### RESOLUTION #R-15-2013

#### A RESOLUTION APPROVING A CONDITIONAL LOAN AND MATERIALS USE TAX WAIVER FOR THE ARTSPACE PROJECT

WHEREAS, In October, 2010, the Loveland City Council ("Council") approved a contract with ArtSpace, Inc. ("ArtSpace") to provide pre-development services for a mixed use live/work artist space in Downtown Loveland; and

WHEREAS, since 2010 ArtSpace has been engaged in pre-development and planning activities and now has the Feed and Grain Building located on North Railroad Avenue under contract, with plans to build a new 30 unit affordable housing project to the west of the Building and to renovate the Building for gallery and studio space to complement the housing (the "Project"); and

WHEREAS, Artspace has estimated the total Project cost at approximately \$8.8 million, a significant portion of which is anticipated to be funded by Low Income Housing Tax Credits (the "Tax Credits"); and

WHEREAS, ArtSpace has identified a funding gap in the financing of the Project based on current estimates and has requested that the City provide a commitment to make a loan in the amount of \$300,000 (the "Loan") and approve a

construction materials use tax waiver to demonstrate to the Colorado Housing and Finance Authority ("CHFA") that ArtSpace has completed its financing package for and is ready to proceed with the Project; and

WHEREAS, Council desires to provide a conditional commitment to make the Loan and provide a materials use tax waiver in an amount not to exceed \$71,000 (the "Use Tax Waiver") as set forth herein.

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

Section 1. That Council hereby approves the Loan Commitment Letter attached hereto as Exhibit A and incorporated herein by reference (the "Commitment Letter"), which includes a commitment to make the Loan and provide the Use Tax Waiver conditioned upon satisfaction of all of the following on or before December 31, 2013: (a) award of the Tax Credits by CHFA; (b) appropriation of the Loan amount and final approval of the Use Tax Waiver by City Council; and (c) approval and execution of a final loan agreement, note, and deed of trust securing the Loan, which shall include, but not be limited to, the terms and conditions set forth in the Term Sheet attached to the Commitment Letter.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify the Commitment Letter in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City; provided, however, that the Commitment Letter shall remain subject to the conditions set forth in Section 1 above.

Section 3. That the City Manager is hereby authorized and directed to execute the Commitment Letter on behalf of the City of Loveland and deliver the same to ArtSpace.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

Councilor Taylor left the meeting at 10:38 p.m.

**22. WATER & POWER**  
**Water Enterprise Funding**  
**Resolution #R-16-2013**  
**(1<sup>st</sup> Reading)**

Administrative Action: Councilor Klassen moved to continue this item to February 19, 2013 due to the lateness of the hour. The motion seconded by Councilor Fogle was approve with all Councilors voting in favor thereof.

**23. CITY MANAGER**  
**Executive Session concerning Klen v. City of Loveland lawsuit**

At 10:40 p.m. Councilor Shaffer moved that the City Council go into executive session, as authorized in CRS Sections 24-6-402(4)(b), (4)(e) and (4)(g) and in City Charter Sections 4-4(c)(1), (c)(3) and (c)(6). This executive session will address a lawsuit currently pending in Colorado Federal District Court; *Klen v. City of Loveland*, together with such other matters as may relate to or affect this lawsuit. The purposes of the executive session will be to receive legal advice from the City's legal counsel, including from attorney Tom Lyons; and since this lawsuit is a matter that may become subject to negotiations; to receive reports concerning any negotiation discussions; to develop the City's negotiation positions and strategies; and to instruct the City's negotiators concerning those positions and strategies. In addition, documents and records related to this lawsuit may be considered that are protected by the mandatory non-disclosure provision of the Colorado Open Records Act, including, without limitation, work product documents. The motion was seconded by Councilor Trenary and carried with all Councilors present voting in favor thereof.

Council reconvened at 11:26 p.m.

**ADJOURNMENT**

Having no further business to come before Council, the February 5, 2013 Regular Meeting was adjourned at 11:26 p.m.

Respectfully Submitted,



*Teresa G. Andrews*  
Teresa G. Andrews, City Clerk

*Cecil A. Gutierrez*  
Cecil A. Gutierrez, Mayor