

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 The Boy Scouts led the Pledge of Allegiance

ROLL CALL Roll was called and the following responded: Gutierrez, Farley, Klassen, Trenary, McKean, Shaffer and Clark. Councilor Fogle arrived at 6:33 p.m. Councilor Taylor was absent.

PROCLAMATION Councilor Farley read the proclamation declaring February 17, 2013 through February 23, 2013 as "national Engineers Week" which was accepted by City Engineer Dave Klockeman.

PROCLAMATION

Whereas, National Engineers Week, founded in 1951 by the National Society of Professional Engineers, is always celebrated at the time of George Washington's Birthday in February because he was our first president and a military engineer, and
Whereas, the purpose of National Engineers Week is to increase public awareness and appreciation of the engineering profession; and
Whereas, engineers are encouraging our young math and science students to realize the practical power of their knowledge; and
Whereas, The Engineers of the State of Colorado will actively help to maintain and sustain the vital infrastructure of our civilized and national environments; and
Whereas, engineers help America remain at the forefront of technological development and contribute to countless breakthroughs that improve the quality of life for people throughout the world.

Now, Therefore , we, the Loveland City Council of the City of Loveland, do hereby proclaim February 17 through 23, 2013 as National Engineers Week in the City of Loveland.

Signed this 19th day of February, 2013
Cecil A. Gutierrez, Mayor

PROCLAMATION Councilor Shaffer read the Proclamation declaring February 24, 2013 through March 2, 2013 , "Peace Corps Week" , which was accepted by Matt Hogue.

PROCLAMATION

Whereas, the Peace Corps has become an enduring symbol of the United States' commitment to encourage progress, create opportunity and expand development at the grass-roots level in the developing world; and
Whereas, since 1961, more than 210,000 Americans have served as Peace Corps volunteers in 139 countries and, during the course of the past 52 years, 79 men and women from Loveland have responded to the Unites States' call to join the Peace Corps; and
Whereas, Peace Corps volunteers have made significant and lasting contributions around the world in agriculture, business development, information technology, education, the environment as well as health and HIV/AIDS, and have improved the lives of individuals and communities worldwide; and
Whereas, Peace Corps volunteers have strengthened the ties of friendship and understanding between the people of the United States and those of other countries; and

Whereas, Peace Corps volunteers, enriched by their experiences overseas, have brought their communities throughout the United States a deeper understanding of other cultures and traditions, thereby bringing a domestic divide to our nation; and

Whereas, the City of Loveland recognizes the achievements of the Peace Corps and honors its volunteers – past and present – and reaffirms the United States' commitment to helping people help themselves throughout the world.

Now, Therefore, we, the Loveland City Council of the City of Loveland, do hereby proclaim February 24 through March 2, 2013 as Peace Corps Week in the City of Loveland.

Signed this 19th day of February, 2013
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 asked for items 11 and 13 to be removed from the Consent Agenda. Councilor Shaffer moved to approve the Consent Agenda, with the exception of items 11 and 13. 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 February 5, 2013 regular meeting were approved.

2. CITY CLERK Board & Commission Appointments

Administrative Action: The following appointments to the Senior Advisory Board, and the Planning Commission were approved:

Richard Zlamany as a regular member of the Senior Advisory Board for a partial term effective until December 31, 2012

Anne Brown to the Senior Advisory Board as the representative for Senior Singles for a two-year term effective until February 19, 2015

Bob Massaro to the Planning Commission for a partial term effective until December 31, 2013

17. DEVELOPMENT SERVICES Historic Designation – Elks Lodge / Lovelander Hotel

Ordinance # 5743

Legislative Action: "AN ORDINANCE DESIGNATING AS A HISTORIC LANDMARK THE LOVELAND ELKS LODGE/LOVELANDER HOTEL LOCATED AT 103 EAST 4TH STREET IN LOVELAND, COLORADO" was approved and ordered published on second reading.

4. PUBLIC WORKS

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

Ordinance #5744

Administrative Action: "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 second reading.

5. PUBLIC WORKS

Railroad Crossing Repairs – U.S. Hwy 287

Ordinance #5745

Administrative Action: "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 second reading.

6. PARKS & RECREATION

Award of construction contract – River's Edge Natural Area

Motion

Administrative Action: Motion to approve and award a services contract to Taylor Kohrs, LLC for a lump sum cost of \$1,373,834, and authorizing the City Manager to sign the contract was approved.

7. DEVELOPMENT SERVICES

Vacating Portion Of Drainage Easements- Mineral First Subdivision

1st Rdg. Ord. & P.H.

Legislative Action: A Public Hearing was held and a motion making the findings in Section V of the Staff memorandum dated February 19, 2013 was approved and "AN ORDINANCE VACATING A PORTION OF DRAINAGE EASEMENTS ON LOTS 5 AND 6, BLOCK 1, MINERAL FIRST SUBDIVISION, CITY OF LOVELAND" was approved and ordered published on first reading.

8. Finance

PUBLIC HEARING

Supplemental Budget And Appropriation-Fleet And Police Funds

1st 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 EXPENSES RELATED TO THE COST OF FUEL AND PARTS FOR THE OPERATION OF THE CITY FLEET AND FOR POLICE OVERTIME EXPENSES FOR SPECIAL INVESTIGATIONS" was approved and ordered published on first reading.

9. PUBLIC WORKS AND FINANCE

Award Construction Contract – Coulson Excavating Company

Motion

Administrative Action: A motion to award the 2013 Street Resurfacing Program, Asphalt paving Contract (Schedule AP) to Coulson Excavating Company of Loveland, CO in the amount of \$1,550,000 and to authorize the City Manager to execute the contract was approved.

10. PUBLIC WORKS AND FINANCE

Award Construction Contract- Jag's Enterprises, Inc.

Motion Administrative Action: A motion to approve the extension of the 2013 Street Resurfacing Program-Concrete Rehabilitation Project Schedule TA to JAG's Enterprises, Inc. of Greeley, CO in the amount of \$650,000 and to authorize the City Manager to execute the contract, was approved.

11. PUBLIC WORKS

PUBLIC HEARING

Sale of City Property This item was removed from the Consent Agenda and will be considered on the Regular Agenda.

12. DEVELOPMENT SERVICES

PUBLIC HEARING

1st Rdg. Ord. & P.H. Administrative Action: A Public Hearing was held and 'AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY LOCATED IN LOTS 1 AND 2, BLOCK 1 AND TRACT C, BUCK FOURTH SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on first reading.

13. WATER AND POWER

Intergovernmental Agreement – Joint Compensation Study

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

14. CITY MANAGER

PUBLIC HEARING

Amendment to Municipal Code Pertaining to Senior Advisory Board

Motion Legislative Action: A Public hearing was held and "AN ORDINANCE AMENDING SECTION 2.60.240 OF THE LOVELAND MUNICIPAL CODE PERTAINING TO THE SENIOR ADVISORY BOARD" was approved and ordered published on first reading.

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports None

b) Business from Council

Shaffer There was an audit of the Housing Authority of the City of Loveland (HACOL) financial records and everything was found to be in order. Housing Authority ready to have tenants move into phase II of Mirasol. Councilor Shaffer attended the following: Innovation after hours, Love and Lights at the Feed and Grain, CDOT Transportation Commission. Councilor Shaffer informed the public regarding her vote on the Artspace development and her leases with Barry Floyd, owner of the Feed and Grain building, that after conferring with the City Attorney, Councilor Shaffer determined there was no conflict of interest with regard to the development.

Fogle Attended Love and Lights at the Feed and Grain. Councilor thanked ELE, (Engaging Loveland Events) for their work with the snow sculpture event, adding that in 2014 the City of Loveland will host the National Snow Sculpture.

13. WATER AND POWER

Intergovernmental Agreement – Joint Compensation Study

Resolution #R-17-2013

Administrative action: Water and Power Director Steve Adams introduced this item to Council. This is consideration of an intergovernmental agreement with Platte River Power Authority, Estes Park, Fort Collins and Longmont for participation in a joint compensation study for certain power utility positions. Councilor Shaffer moved to approve Resolution #R-17-2013, of the Loveland City Council approving an intergovernmental agreement between the City of Loveland, Colorado, Platte River Power Authority, the Town of Estes Park, the City of Fort Collins, and the City of Longmont for participation in a Joint Compensation Study. The motion, seconded by Councilor Trenary, carried with all Councilors present voting in favor thereof.

RESOLUTION #R-17-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO, PLATTE RIVER POWER AUTHORITY, THE TOWN OF ESTES PARK, THE CITY OF FORT COLLINS, AND THE CITY OF LONGMONT FOR PARTICIPATION IN A JOINT COMPENSATION STUDY

WHEREAS, Platte River Power Authority ("Platte River") is coordinating a study to benefit its member cities to determine market compensation rates for certain power utility positions; and

WHEREAS, the City of Loveland desires to participate in the study and share in the cost of the study with the Town of Estes Park, the City of Fort Collins, and the City of Longmont; and

WHEREAS, as governmental entities in Colorado, the City, Platte River, Estes Park, Fort Collins, and Longmont 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 "Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation 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 19th day of February, 2013.

Cecil Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

18. CITY CLERK

Approval of Council Minutes

Motion

This is an administrative action. City Clerk Terry Andrews introduced this item to Council. Councilor Klassen moved to approve the minutes from the January 22, 2013

study session. Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

19. CITY MANAGER
Water Enterprise Funding
Resolution #R-16-2013

Administrative Action: This item was introduced by Utility Accounting Manager, Jim Lees. This resolution provides funding mechanisms for the Water Enterprise through external and internal loans, and a series of rate increases, and an annual transfer of funds from the General Fund to the Water Enterprise. This funding will be used to improve the Water Treatment Plant and undertake a comprehensive water line replacement program. Discussion of section 3 of the resolution regarding the General Fund transfer ensued. Loveland Utility Commission members, Dave Schneider, Dan Herlihey, and John Rust spoke. Mayor Gutierrez opened the public hearing at 8:57p.m. Salvador Valdivia, 800 E. 4th St. recommended that Council postpone this item, until the oil and gas issues were resolved. Mayor Gutierrez closed the public hearing at 9:00 p.m. Councilor Shaffer moved to approve Resolution #R-16-2013 on first reading. Councilor Klassen seconded the motion. City Council discussion ensued. Councilor Trenary made the following amendment to the original motion:

Resolution #R-16-2013 be amended as follows:

The 4th Whereas-strike the words "General Fund transfer" and Section 3; Change "Section 4" to "Section 3" and "Section 5" to "Section 4" and the new Section 3 be amended as follows:

Currently:		Amended:
"2014 13% increase"	Shall read as	2014 15.55% increase
"2015 9% increase"	Shall read as	2015 11.55% increase
"2016 9% increase"	Shall read as	2016 11.55% increase
"2017 9% increase"	Shall read as	2017 11.55% increase
"2018 9% increase"	Shall read as	2018 8.0% increase
"2019 9% increase"	Shall read as	2019 6.59% increase
"2020 8% increase"	Shall read as	2020 6.5% increase
"2021 8% increase"	Shall read as	2021 5.6% increase
"2022 8% increase"	Shall read as	2022 5.0% increase

Councilor Farley seconded the motion to amend Resolution #R-16-2013. Discussion ensued. Councilor Trenary moved to "Call the Question" on the amendment. All Councilors present voted in favor to call the question. A roll call vote of the motion to amend the resolution was taken with four Councilors present voting in favor and Councilors Klassen, McKean, Fogle, and Clark voting against. The motion failed.

Further discussion ensued. A motion to "Call the Question" on the original motion was made by Councilor Fogle. A roll call vote was taken to "Call the Question" and failed with four Councilors present voting in favor and Councilors McKean, Fogle, Clark and Farley voting against. Discussion ensued. A roll call vote was taken on the original motion approving Resolution #R-16-2013, on first reading as proposed. The motion carried with five Councilors voting in favor and Councilors Farley, Shaffer and Trenary voting against.

FIRST READING

RESOLUTION #R-16-2013

A RESOLUTION CONCERNING FUNDING FOR THE WATER ENTERPRISE TO IMPROVE THE WATER TREATMENT PLANT AND UNDERTAKE A COMPREHENSIVE WATER LINE REPLACEMENT PROGRAM

WHEREAS, for well over one hundred years, the City of Loveland Water Utility has provided the Loveland community with a safe and reliable source of potable water at some of the lowest rates in the State of Colorado; and

WHEREAS, the Water Utility is now facing significant financial challenges due to escalating regulatory requirements, increasing operation and maintenance costs, aging infrastructure, and water treatment plant capacity limitations; and

WHEREAS, to meet these challenges and provide for the City's future economic growth and development, the Water Utility must improve the water treatment plant and undertake a comprehensive water line replacement program; and

WHEREAS, the City Council desires to secure adequate funding for the Water Utility to meet these project needs through a combination of sources, specifically external borrowing, internal borrowing, General Fund transfer, and water rate increases, designed to equitably distribute the financial impacts between current and future Water Utility customers and the citizens of Loveland who will benefit from the City's future economic growth and development; and

WHEREAS, Section 13-3(b) of the Loveland Municipal Charter provides that loans from one utility account to another shall be allowed with the City Council's approval, but shall require the affirmative vote of a majority of the entire City Council; and

WHEREAS, the Loveland Municipal Charter and Code provide that all utility rates, charges, and fees shall be set by the City Council by resolution adopted upon two readings.

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

Section 1. That the City Council hereby directs the City Manager to secure for the City Council's future consideration and approval as the Board of the City's Water Utility Enterprise a twenty-year amortized loan from an external source (or sources) to the Water Enterprise, on the most advantageous terms available as determined by the City Manager, in consultation with the City Attorney and the City's Executive Fiscal Advisor, in the principal amount necessary to pay all financing costs and establish any required reserves to achieve net loan proceeds of Ten Million Dollars (\$10,000,000).

Section 2. That the City Council hereby authorizes and approves the Power Enterprise loaning to the Water Enterprise in 2013 Six Million Dollars (\$6,000,000) to be repaid by the Water Enterprise to the Power Enterprise in eight annual, fully-amortized principal and interest payments with the interest to be determined and accrue at the variable rate and in the manner required by Loveland Municipal Charter Section 13-3(b).

Section 3. That the City Council hereby directs that, in each year during the eight-year term of the loan contemplated in Section 2 above, the City Manager shall include in the City's annual budget and appropriation ordinances for each of those years the transfer of Seven Hundred Fifty Thousand Dollars (\$750,000) from the General Fund to the Water Enterprise to be used by the Water Enterprise to pay the principal due on the Six Million Dollar (\$6,000,000) loan from the Power Enterprise.

Section 4. That the City Council hereby adopts the following rate increases across all Water Utility customer classes for each of the next nine years as listed below, said rate increases to take effect beginning with billings mailed on or after January 1 of the then-current year:

2014	13% increase
2015	9% increase
2016	9% increase
2017	9% increase

2018	9% increase
2019	9% increase
2020	8% increase
2021	8% increase
2022	8% increase

The rate increases adopted herein shall be in addition to, and not in lieu of, any other rate increases for water service that may hereafter be adopted by the City Council to more accurately reflect the cost of providing water service to the Water Utility's customers.

Section 5. That this Resolution shall be effective as of the date of its adoption on second reading as provided in the Loveland Municipal Code.

ADOPTED this ____ day of March, 2013.

20. CITY MANAGER

Extension of Comcast Franchise Agreement

Ordinance #5746

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. Councilor Shaffer moved to approve and ordered published on second 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 Trenary seconded the motion and a roll call vote was taken with eight Councilors present voting in favor and Councilor Klassen voting against.

21. FINANCE

(presenter: Brent Worthington)

DECEMBER 2012 PRELIMINARY FINANCIAL REPORT

This is an information only item. Finance Director, Brent Worthington introduced this item to Council. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending December 31, 2012.

19. CITY MANAGER

(presenter: Alan Krcmarik)

INVESTMENT REPORT FOR DECEMBER 2012

This is an information only item. Executive Fiscal Advisor, Alan Krcmarik introduced this item to Council. The budget estimate for investment earnings for 2012 was \$2,729,560. Through December 2012, the amount posted to the investment account is \$2,520,033 including realized gains. Actual year-to-date earnings are lower than the budget projection by \$209,525. Based on the monthly statement, the estimated annualized 1.22% yield on the securities held by USBank was down from last month and under the annual target rate of 1.70% for 2012. Reinvestment rates are near record low levels, much lower than the budget projection.

Mayor Gutierrez directed Item 21 to be considered before Item 20.

22. CITY MANAGER

SETTLEMENT OF THE KLEN V. CITY OF LOVELAND LAWSUIT

Resolution #R-18-2013

City Attorney John Duval recused himself from this item stating a conflict of interest and directed Deputy City Attorney Judy Schmidt to advise City Council on this issue.

This is an administrative matter to consider a resolution approving the Material Terms of Settlement Agreement ("Agreement") pertaining to the Klen Lawsuit against the City and several City employees, on the condition that the settlement payment under the Agreement will be made by the City's insurer, the Colorado Intergovernmental Risk Sharing Agency ("CIRSA"). The resolution also authorizes the City Manager, in consultation with legal counsel appointed by CIRSA, to enter into a formal "Final Settlement Agreement" on the City's behalf. Councilor Shaffer moved to approve Resolution #R-18-2013. The motion seconded by Councilor Clark, carried with six voting in favor and Mayor Gutierrez voting against.

RESOLUTION #R-18-2013

A RESOLUTION APPROVING SETTLEMENT OF THE KLEN V. CITY OF LOVELAND LAWSUIT

WHEREAS, in early 2007, Edward J. Klen, Stephen J. Klen, Diverse Construction, Inc. and Holstein Self-Service Storage, LLC (collectively, the "Klens"), commenced Civil Action No. 07-CV-00347 in the U.S. District Court for Colorado (the "Lawsuit") naming the City of Loveland ("City") and several City employees as defendants; and

WHEREAS, while most of the Klens' claims against the City and its employees have been dismissed by the courts over the course of the past six years, some of the remaining claims against the City and some of its employees are still to be decided at trial; and

WHEREAS, Chief District Court Judge Marcia S. Krieger recently ordered the parties to participate in a settlement conference to be mediated by Magistrate Judge Michael E. Hegarty; and

WHEREAS, attending this conference with City representatives was a representative from the City's insurer, the Colorado Intergovernmental Risk Sharing Agency ("CIRSA"); and

WHEREAS, the CIRSA representative attended this conference, in part, because the City has already spent its \$150,000 deductible in defense of this Lawsuit, so any settlement reached would require CIRSA's approval and its payment of any settlement amount; and

WHEREAS, as a result of the mediation, a proposed settlement was reached by the parties, and approved by CIRSA; and

WHEREAS, the proposed settlement was reduced to writing in the "Material Terms of Settlement Agreement" attached as Exhibit "A" (the "Agreement"); and

WHEREAS, Section 1. of the Agreement expressly provides that it and the parties' "Final Settlement Agreement" are subject to the City Council's approval; and

WHEREAS, the Council has reviewed the settlement terms and conditions of the Agreement and finds that the proposed settlement is in the best interests of the City to avoid the continued expense and vagaries of litigation, but to do so without any admission of wrongdoing in this matter by the City or its employees.

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

Section 1. That the Agreement is hereby approved with the understanding and on the condition that the \$495,000 settlement payment to the Klens under the Agreement will be made by CIRSA.

Section 2. That the City Manager, in consultation with the City's CIRSA appointed legal counsel, is authorized to enter into the formal "Final Settlement Agreement" on the City's behalf on terms and conditions consistent with the Agreement and or such other terms and conditions as the City Manager determines are in the City's best interests.

Section 3. That the City Council received the recommendation of the parties that the Council consider a proposal from the Klens to expand their existing gun range and finds, in connection therewith, as follows:

A. Provided the Klen proposal for expansion, when submitted to the City, is in substantial compliance with the currently approved "Anasazi Park Phase 2 - Major Amendment to Special Review No. 835" ("Special Review No. 835"), there may be no need for additional special review or modification of a special review, as otherwise required under City Code Title 18, with respect to such a proposed expansion of the existing gun range into the existing, but currently unfinished, approximately 9,000 square foot portion of the Anasazi Park Phase 2 building located at 697 North Denver Avenue, Loveland, Colorado (the "Expansion").

B. Provided that a proposed expansion, as described in Section 3.A. above, is hereafter submitted to the City by the Klens in substantial compliance with Special Review No. 835, the existing capital expansion fee credits held by the City with respect to the Anasazi Park Phase 2 building located at 697 North Denver Avenue will suffice to cover any capital expansion fees owed for such a proposed expansion, and, therefore, no further capital expansion fees will be owed by the Klens, Diverse or Holstein (whichever might be responsible for same) to the City for any such proposed expansion.

C. That the City will consider entering into a services contract (subject to annual appropriation as required by City Charter Section 11-6(b) and Section 20, Article X of the Colorado Constitution) between the City and the Klens, Diverse or Holstein (as the case might be) for the Loveland Police Department's use of Plaintiffs' gun range in the Anasazi Park Phase 2 building for training purposes, provide such contract is at the same cost as the original 2008 contract, \$47,870 per year (prorated at \$3,989.17 per month), between the City and the previous gun range operator. Any such services contract shall include such other applicable conditions as the City currently includes in its similar services contracts and shall be completed in accordance with the City's current purchasing requirements.

Based on the foregoing, the City Manager is authorized to acknowledge and confirm these findings in the parties' formal "Final Settlement Agreement" and to enter into on the City's behalf the services contract described above in paragraph C.

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

ADOPTED this 19th day of February, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

Teresa G. Andrews, City Clerk

22. CITY MANAGER

Executive Session concerning *Beierwaltes v. City of Loveland* lawsuit

At 11:19 p.m. Councilor Shaffer moved that the City Council go into executive session, as authorized in CRS Sections 24-6-402(4)(b),(4)(c) 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 Larimer County District Court, City of Loveland v. Beierwaltes, together with such other matters as may relate to or affect this lawsuit. The purpose of the executive session will be to receive legal advice from the City Attorney and special legal counsel Kent Campbell; and since this lawsuit is a matter that is 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 provisions of the Colorado Open Records Act, including, without limitations, work product documents. The motion seconded by Councilor Clark carried with five voting in favor and two against.

Council reconvened at 12:21 p.m.

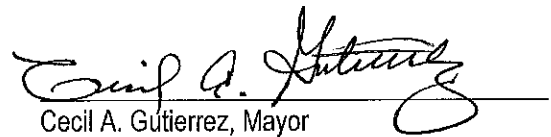
ADJOURNMENT

Having no further business to come before Council, the February 19, 2013 Regular Meeting was adjourned at 12:21 p.m.

Respectfully Submitted,



Teresa G. Andrews, City Clerk



Cecil A. Gutierrez, Mayor

