

**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**

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

**PROCLAMATION** Councilor Trenary read the proclamation declaring the week of May 5 through May 11, 2013 as "MUNICIPAL CLERKS WEEK", which was accepted by Terry Andrews, City Clerk.

**PROCLAMATION**

**WHEREAS** The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

**WHEREAS** The Office of the Municipal Clerk is the oldest among public servants, and

**WHEREAS** The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

**WHEREAS** Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

**WHEREAS** The Municipal Clerk serves as the information center on functions of local government and community.

**WHEREAS** Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

**WHEREAS** it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

**NOW, THEREFORE**, we the City Council of Loveland, do hereby recognize the week of May 5 through May 11, 2013 as **MUNICIPAL CLERKS WEEK**

and further extend appreciation to our Municipal Clerk Team and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Signed this 7th day of May, 2013

Cecil A. Gutierrez  
Mayor

**PROCLAMATION** Councilor McKean read the proclamation declaring the week of May 12, 2013 through May 18, 2013 as "NATIONAL POLICE WEEK", which was accepted by Captain Rob McDaniel.

**PROCLAMATION**

To recognize National Police Week 2013 and to honor the service and sacrifice of those law enforcement officers killed in the line of duty while protecting our communities and safeguarding our democracy.

**WHEREAS**, there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Loveland, Colorado Police Department; and,

**WHEREAS**, nearly 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 16,000 injuries; and,

**WHEREAS**, since the first recorded death in 1791, almost 20,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty, including one member of the Loveland, Colorado Police Department; and,

WHEREAS, the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and,  
WHEREAS, 321 new names of fallen heroes are being added to the National Law Enforcement Officers Memorial this spring, including 127 officers killed in 2012 and 194 officers killed in previous years; and,  
WHEREAS, the service and sacrifice of all officers killed in the line of duty will be honored during the National Law Enforcement Officers Memorial Fund's 25<sup>th</sup> Annual Candlelight Vigil, on the evening of May 13, 2013; and,  
WHEREAS, the Candlelight Vigil is part of National Police Week, which takes place this year on May 12-18; and,  
WHEREAS, May 15 is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families.  
THEREFORE, BE IT RESOLVED that the City of Loveland City Council formally designates May 12-18, 2013, as

**POLICE WEEK**

In Loveland, Colorado, and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

Signed this 1st day of May, 2013

Cecil A. Gutierrez

Mayor

**PROCLAMATION** Councilor Fogle read the proclamation declaring May 2013, to be "ARCHAEOLOGY & HISTORIC PRESERVATION MONTH", which was accepted by Matt Newman, Chair of the Historic Preservation Commission.

**PROCLAMATION**

WHEREAS, historic preservation helps provide a deeper understanding of the diversity of our uniquely local and American heritage; and  
WHEREAS, historic preservation is an effective tool for revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability of communities across America; and  
WHEREAS, Colorado Archaeology & Historic Preservation Month 2013 provides an opportunity for citizens of all ages and from all walks of life to make the connection between historic preservation and the aesthetic, environmental and economic well-being of their communities; and  
WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and  
WHEREAS, "See it. Save it. Celebrate it." is the theme for Archaeology & Historic Preservation Month 2013; and  
WHEREAS, eighteen heritage-related events, ranging from a wood window preservation workshop, toolbox discussions, a historic homes tour, a presentation on ghost signs, a guided downtown walking tour, and many others will be held by the Loveland community in May 2013 and are listed on the City's website.

NOW, THEREFORE, we, the City Council of the City of Loveland, do hereby proclaim May 2013, as

**ARCHAEOLOGY & HISTORIC PRESERVATION MONTH**

and call upon the people of Loveland to recognize and participate in this special observance. In recognition of Archaeology & Historic Preservation Month, we would like to honor all the buildings and sites in Loveland that are on the National Register of Historic Places, Colorado State Register of Historic Places, and Loveland Historic Register.

Signed this 7<sup>th</sup> day of May, 2013

Cecil A. Gutierrez

Mayor

**PROCLAMATION**

Councilor Clark read the proclamation declaring May 2013, to be "MENTAL HEALTH MONTH", which was accepted by Emily Dawson Peterson & Kathy Roth from Touchstone Health Partners.

**PROCLAMATION**

WHEREAS, mental health is essential to everyone's overall physical health and emotional well-being; and  
WHEREAS, one in every four families is affected by a mental illness in a given year regardless of age, gender, race, ethnicity, religion or economic status; and  
WHEREAS, Colorado is ranked as the 18<sup>th</sup> most depressed state and has the 9<sup>th</sup> highest suicide rate in the United States; and  
WHEREAS, the vast majority of children, youth, and adults in Colorado who have mental health disorders are not receiving the help they need; and  
WHEREAS, access to medically necessary medication and treatment helps prevent individuals from ending up in emergency rooms and corrections facilities and from becoming homeless and, most importantly, prevents suicide; and  
WHEREAS, it costs 6.5 times more to incarcerate an individual experiencing mental health issues than to treat them in the community; and  
WHEREAS, improvements are being made in the quality of and quantity of mental health care that is being delivered, and research in this field is being accelerated; and  
WHEREAS, indirect costs of mental illness in Larimer County total over \$22 million per year; and  
WHEREAS, comprehensive, community-based services that respond to individuals with mental health needs and their families are cost-effective and beneficial to consumers and to our community.  
WHEREAS, with appropriate care, people who have a mental illness can recover and lead full productive lives; and  
WHEREAS, Touchstone Health Partners observes nationally recognized Mental Health Month every May to raise awareness and understanding of mental health and illness.

NOW, THEREFORE, we, the City Council of the City of Loveland do hereby proclaim May 2013 as MENTAL HEALTH MONTH

in the City of Loveland and call upon the citizens, government agencies, public and private institutions, businesses and schools to recommit our community to increasing awareness and understanding of mental health, and the need for appropriate and accessible services for all citizens.

Signed the 7th day of May, 2013  
Cecil Gutierrez  
Mayor

**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 Clark asked

that Item #5 be removed from the Consent Agenda. Councilor Shaffer moved to approve the Consent Agenda, with the exception of Item 5. The motion was seconded by Councilor Trenary and a roll call vote was taken with all councilors present voting in favor thereof.

#### **1. CITY CLERK**

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

Administrative Action: The minutes from the April 9, 2013 Study Session, April 16, 2013 City Council Meeting, and the April 23, 2013, Study Session were approved.

#### **2. DEVELOPMENT SERVICES**

##### **Koldeway Industrial 2<sup>nd</sup> Subdivision Rezoning**

##### **1) Ordinance # 5757**

Quasi-judicial Action: "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN LOTS 2 AND 3, BLOCK 1, KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

##### **2) Ordinance # 5758**

Legislative Action: "AN ORDINANCE VACATING A PUBLIC RIGHT-OF-WAY (ALLEY) ADJACENT TO LOTS 1, 2, AND 3, BLOCK 1, KOLDEWAY INDUSTRIAL SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

#### **3. DEVELOPMENT SERVICES**

##### **Range View 3<sup>rd</sup> (Lake Vista) Utility Easement**

##### **Ordinance #5759**

Legislative Action. "AN ORDINANCE VACATING A PORTION OF A PRIVATE ACCESS, EMERGENCY ACCESS, AND CITY OF LOVELAND WATER AND SEWER EASEMENT ON LOT 4, BLOCK 1, RANGE VIEW THIRD SUBDIVISION, CITY OF LOVELAND" was approved and ordered published on second reading.

#### **4. FINANCE**

##### **Supplemental Appropriation – Appropriate Unused Funds from 2012 City Budget**

##### **Ordinance # 5760**

Administrative Action. "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE LOVELAND URBAN RENEWAL AUTHORITY BUDGET REAPPROPRIATING THE FAÇADE GRANT PROGRAM AND FUNDING FOR PARKING LOT IMPROVEMENTS APPROVED IN 2012 BUT NOT COMPLETED" was approved and ordered published on second reading.

#### **5. FINANCE**

##### **Supplemental Appropriation – Appropriate Unused Funds From 2012 LURA Budget**

##### **Ordinance # 5761**

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

**CITY COUNCIL ADJOURNED AND CONVENEED AS THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID)**

#### **6. FINANCE**

##### **Supplemental Appropriation – Appropriate Unused Funds from 2012 GID Budget**

**Ordinance # 5762**

Administrative Action. "AN ORDINANCE ADOPTING A SUPPLEMENTAL BUDGET AND APPROPRIATION FOR THE 2013 LOVELAND GENERAL IMPROVEMENT DISTRICT #1 TO REAPPROPRIATE FUNDS FOR SIGNAL LIGHT UPGRADES AND PARKING LOT IMPROVEMENTS APPROVED IN 2012 BUT NOT COMPLETED" was approved and ordered published on second reading.

**THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID) ADJOURNED AND RECONVENED AS CITY COUNCIL**

**7. FINANCE**

**Supplemental Appropriation – Appropriate Unused Funds from 2012 Airport Budget**

**Ordinance # 5763**

Administrative Action. "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2012." was approved and ordered published on second reading.

**8. FINANCE**

**Supplemental Appropriation – Appropriate Unused Funds from 2012 New Projects Budget**

**Ordinance # 5764**

Administrative Action. "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR PROJECTS OR PROGRAMS NOT ANTICIPATED AT THE TIME OF ADOPTION FOR THE 2013 BUDGET" was approved and ordered published on second reading.

**9. LIBRARY**

**UNITED WAY OF LARIMER COUNTY GRANT TO LOVELAND PUBLIC LIBRARY**

**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 A CONTRIBUTION FROM THE UNITED WAY OF LARIMER COUNTY FOR THE SUMMER LITERACY PROGRAM" was approved and ordered published on first reading.

**10. PUBLIC WORKS**

**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 THE TRANSIT VIDEO SURVEILLANCE PROJECT" was approved and ordered published on first reading.

**11. WATER & POWER**

**IGA FOR PLATTE RIVER POWER AUTHORITY (PRPA)**

**Resolution #R-28-2013**

Legislative Action: Resolution #R-28-2013 regarding an Intergovernmental Agreement between the City of Loveland, Colorado and Platte River Power Authority for Substation Maintenance was approved.

**RESOLUTION #R-28-2013**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND PLATTE RIVER POWER AUTHORITY FOR SUBSTATION MAINTENANCE**

**WHEREAS, the City of Loveland ("City") desires to hire Platte River Power Authority ("Platte River") to perform certain substation maintenance services, and Platte River desires to provide those services to the City; and**

WHEREAS, as governmental entities in Colorado, the City and Platte River 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 Substation Maintenance, 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 the Director of Water and Power is hereby authorized to negotiate changes to Exhibit B to the Intergovernmental Agreement and execute a revised Exhibit B on behalf of the City.

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

ADOPTED this 7th day of May, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

Teresa G. Andrews, City Clerk

Exhibits available in City Clerk's Office

**END OF CONSENT AGENDA**

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

**CITY COUNCIL**

a) Citizens' Reports None

b) Business from Council

Clark	Update on Chamber of Commerce, Loveland Center Business Development staff will bring a quarterly report to City Council; Community Marketing Commission (CMC) gave finance report and discussed 2014 budget; CMC voted not to fund the request for assistance for the City fireworks event; Loveland Downtown Team (LDT) staff would like to have a study session to update City Council on "Electrification Coalition" (charging station).
McKean	Attended a Trap Shooting event for Colorado Youth Outdoors.
Farley	Attended the Mirasol Senior Living Community presentation at HACOL to the Senior Advisory Board; Attended the Governor's Art Show which is being sponsored by the Loveland Rotary
Fogle	Attended the Mirasol Senior Living Community presentation; Governor's Art Show offered through June 2 <sup>nd</sup> . Motion was made to appoint Councilor Fogle to Construction Advisory Board (CAB) and Councilor Trenary to the Affordable Housing Commission (AHC). The motion was seconded by Councilor Klassen and carried with all councilors voting in favor.
Trenary	Attended "LulzBot" awarded 3D Digital copiers to eight national and international companies; Attended "Mission for Lauren Project" final participation day; Jr. ROTC classes Loveland & Thompson Valley High School; Attended the Green Transportation System seminar; Attended Summer Celebration for the CMC Visitor Center; Attended the Loveland Fire Rescue Authority (LFRA) open house for Fire Station #6.

Klassen Met with Commissioner Steve Johnson, who complimented City Manager, Bill Cahill, on his assistance with a tax issue; May 1 was "Law Day"; acknowledged the Governor's support of the Market Place Fairness Act, regarding tax on Internet sales.

Shaffer Attended the Governor's Art Show; updated Council on North Front Range Metropolitan Planning Organization (MPO); Will be serving on the MPO Finance Committee.

Mayor Gutierrez Attended "Cinco de Mayo" at the Boys and Girls Club; Attended the Marine Corps League Dinner; Attended Silveredge award as one of top 50 companies to watch in Colorado; Mayor Gutierrez indicated that he had received correspondence that was unsigned, and is unable to contact them.

c) City Manager Report None

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**

**CITY COUNCIL ADJOURNED AND CONVENED AS THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY (LURA) at 7:35 p.m.**

#### **5. FINANCE**

##### **Supplemental Appropriation – Appropriate Unused Funds From 2012 LURA Budget**

##### **Ordinance # 5761**

Administrative Action. John Hartman presented this item. "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE LOVELAND URBAN RENEWAL AUTHORITY BUDGET REAPPROPRIATING THE FAÇADE GRANT PROGRAM AND FUNDING FOR PARKING LOT IMPROVEMENTS APPROVED IN 2012 BUT NOT COMPLETED". Councilor Shaffer moved to approve the ordinance and order published on second reading. The motion, seconded by Councilor Trenary, carried with all councilors voting in favor.

**THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY (LURA) ADJOURNED AND RECONVENED AS CITY COUNCIL at 7:40.**

#### **12. DEVELOPMENT SERVICES**

##### **FIRE STATION NO. 2 ADDITION**

##### **1) Resolution #R-29-2013**

Legislative Action: Kerri Burchett introduced this item to Council. Fire Chief of the Loveland Fire Authority, Randy Mlrowski was available to answer questions. Mayor Gutierrez opened the Public Hearing at 7:40 p.m. Hearing no public comment Mayor Gutierrez closed the public hearing at 8:20 p.m. with no public comment. Councilor Shaffer moved that Resolution #R-29-2013 regarding the Annexation to the City of

Loveland, Colorado of a certain area designated as the "Fire Station No. 2 Addition" more particularly described herein, and setting forth findings of fact and conclusions based thereon as required by the state constitution and state statutes be approved. Councilor Farley seconded the motion. The motion carried with all councilors voting in favor thereof.

RESOLUTION # R-29-2013

A RESOLUTION CONCERNING THE ANNEXATION TO THE CITY OF LOVELAND, COLORADO, OF A CERTAIN AREA DESIGNATED AS "FIRE STATION NO. 2 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 January 28, 2013, 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 C.R.S. §§31-12-104(1)(a) and 31-12-105; is eligible for annexation under C.R.S. §31-12-106(3); that an election is not required under Section 30(1)(a) of Article II of the Colorado Constitution or under C.R.S. §31-12-107(2); 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:

Section 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 C.R.S. §§31-12-104(1)(a) and 31-12-105; is eligible for annexation under C.R.S. §31-12-106(3); no election is required under Section 30(1)(a) of Article II of the Colorado Constitution or under C.R.S. §31-12-107(2); 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 C.R.S. §31-12-108.5 has been waived.
- E. The perimeter of the area proposed to be annexed within is 6,137.03 linear feet, of which 2,303.16 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.

Section 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 C.R.S. §§31-12-104(1)(a) and 31-12-105.
- B. No additional terms and conditions are to be imposed.

Section 3. This Resolution shall become effective on the date and at the time of its adoption.

APPROVED the 7th day of May, 2013

CITY OF LOVELAND, COLORADO:

Cecil A. Gutierrez, Mayor

ATTEST

Teresa G. Andrews, City Clerk

Exhibit available in the City Clerk's Office

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

Legislative Action: Councilor Shaffer moved to approve and order published on first reading, "AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF LOVELAND, COLORADO, TO BE KNOWN AND DESIGNATED AS "FIRE STATION NO. 2 ADDITION" TO THE CITY OF LOVELAND". Councilor Farley seconded the motion, which carried with all councilors voting in favor thereof.

**3) 1<sup>st</sup> Rdg. Ord. & P.H.**

Legislative Action: Councilor Shaffer moved to approve and order published on first reading, "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR "FIRE STATION NO. 2 ADDITION" TO THE CITY OF LOVELAND". Councilor Farley seconded the motion, which carried with all councilors voting in favor thereof.

**13. FIRE & RESCUE**  
**BURN BAN & RESTRICTIONS**  
**Ordinance #5765**

Legislative Action: Fire Chief, Randy Mlrowski introduced this item to Council. Discussion ensued. Councilor Shaffer moved to approve and ordered published on second reading "AN ORDINANCE ON AMENDING CITY CODE CHAPTER 15.28 GRANTING THE CITY COUNCIL AND THE CITY MANAGER AUTHORITY TO ENACT OUTDOOR FIRE BANS AND RESTRICTIONS UNDER CERTAIN EMERGENCY CIRCUMSTANCES WITHIN THE CITY OF LOVELAND". Councilor Fogle seconded the motion. The motion carried with eight councilors voting in favor and Councilor McKean voting against.

**14. CULTURAL SERVICES**  
**VISUAL ARTS COMMISSION ACTIVITIES UPDATE**

Information Only Item: Chair of Visual Arts Commission, Sherri Heckel Kuhlmann, (Commission member) Roger Clark, and Suzanne Janssen introduced this item to Council. Report of the "State of the Arts" in Loveland, highlighted 2012 acquisitions, accomplishments, and 2013's highly visible public art projects undertaken for the Art in Public Places Program.

#### **15. CULTURAL SERVICES/FINANCE**

##### **ONE YEAR RIALTO THEATER CENTER REPORT**

Information Only Item: Rialto Theater Center Manager, Jan Sawyer and Finance Director, Brent Worthington introduced this item to Council to report on the first year of operation of the Rialto Theater Center and the Facilities Maintenance Agreement between the City of Loveland Rialto Bridge, LLC. Economic Development Manager, Mike Scholl spoke briefly. Discussion ensued. Staff will bring regular reports to City Council.

#### **16. FINANCE**

##### **MARCH 2013 FINANCIAL REPORT**

This item was removed.

#### **17. FINANCE**

##### **MARCH 2013 INVESTMENT REPORT**

This item was removed.

#### **18. CITY MANAGER**

##### **Executive Session**

##### *City of Loveland v. Beierwaltes* Litigation

Councilor Shaffer moved for Council to go into an Executive Session at 11:03 pm, 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 the Colorado Court of Appeals and Larimer County district Court, *City of Loveland v. Beierwaltes*, 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 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 provision of the Colorado Open Records Act, including, without limitation, work product documents. Councilor Farley seconded the motion. Councilor Fogle and Councilor Taylor recused themselves. The motion carried with all councilors voting in favor thereof.

Council reconvened at 12:28 p.m.

City Attorney John Duval gave an update on the Beierwaltes case. Councilor Shaffer made a motion that the Council instruct the City Attorney and special legal counsel to make a final settlement offer in the *City v. Beierwaltes* lawsuit in the amount of \$599,000, but if that offer is not accepted, to direct them to end settlement negotiations and proceed with the appeal. The motion was seconded by Councilor McKean. The motion carried with seven councilors voting in favor thereof.

**ADJOURNMENT**

Having no further business to come before Council, the May 7, 2013 Regular Meeting was adjourned at 12:39 am, May 8, 2013.

Respectfully Submitted,

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

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

