

MINUTES
LOVELAND CITY COUNCIL MEETING
TUESDAY, DECEMBER 3, 2013
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

6:30 P.M. REGULAR MEETING - City Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll was called and the following responded: Mayor Gutierrez, Mayor Pro Tem Clark, Councilors Shaffer, Fogle, Farley, Krenning, Trenary, Taylor, and McKean.

PROCLAMATION LOVELAND REMEMBERS PEARL HARBOR WEEK (Marilee Rayome)
Councilor Trenary read the proclamation and it was received by Marilee Rayome.

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.

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 Krenning asked to remove Items #4 and #5 from the Consent Agenda to be considered on the Regular Agenda. Councilor Shaffer moved to approve the Consent Agenda with the exceptions of Items #4 and #5. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.

CONSENT AGENDA

1. **CITY MANAGER** (presenter: Bill Cahill)
 APPOINTMENT TO THE DISABILITY ADVISORY BOARD
 1. A motion to reappoint Vern Richardson, John Teumer and Zach Wood to the Disabilities Advisory Board, each for a term effective until June 30, 2016 was approved.
 2. A motion to appoint B. J. Michels to the Disabilities Advisory Board for a partial term effective until June 30, 2015 was approved.

This is an administrative action recommending the appointment of members to the Disabilities Advisory Board.

2. **DEVELOPMENT SERVICES** (presenter: Bob Paulsen)
WEED CONTROL AMENDMENT

A motion to approve and order published on second reading Ordinance #5831 on Repealing and Re-Enacting Chapter 7.18 of the Loveland Municipal Code Regarding Weed Control was approved.

This is a legislative action to adopt an ordinance on second reading that modifies the weed control provisions of the Loveland Municipal Code, aligning the provisions with State and County weed control regulations, clarifying requirements and allowances for native and ornamental grasses, and providing compliance with the State Constitution and state agricultural policies relating to the growth of marijuana and industrial hemp. This ordinance was approved unanimously on first reading by City Council at the November 19, 2013 regular meeting.

3. **POLICE** (presenter: Luke Hecker)
THEFT CODE AMENDMENT

A motion to approve and order published on second reading Ordinance #5832 Amending Chapter 9.34 of the City of Loveland Municipal Code to Combine in One Section the Offenses of Theft and Theft of Rental Property and to Combine With Them the New Offense of Theft by Receiving was approved.

This is a legislative action. This ordinance on second reading combines the two different types of theft currently set forth as separate Code sections and adds a third type of theft (Theft by Receiving) into one Code section. A similar state law took effect on June 5, 2013. The Police Department would like to adopt this ordinance to be consistent with State law and to allow summonses to be issued into Municipal Court for persons committing Theft by Receiving, as well as, the two other types of theft. This ordinance was approved unanimously on first reading by City Council at the November 19, 2013 regular meeting.

4. **POLICE** (presenter: Luke Hecker)
TRAFFIC CODE AMENDMENT

This item was removed from the Consent Agenda.

5. **POLICE** (presenter: Luke Hecker)
MAXIMUM FINE AMENDMENT

This item was removed from the Consent Agenda.

6. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)
MILLENNIUM SW 7TH SUBDIVISION VACATION OF ACCESS EASEMENTS

A public hearing was held and a motion to approve and order published on first reading an Ordinance Vacating Access Easements within Outlots 1 and 2 of the Millennium SW Seventh Subdivision, City Of Loveland, Colorado was approved.

This item is a legislative action to consider adoption of an ordinance on first reading vacating four access easements within the Millennium SW Seventh Subdivision. The access easements are within a 20 acre property located northwest of the intersection of Corvus Drive and Sculptor Drive. The owner of the property is Vertex at Stone Creek, LLC.

7. **DEVELOPMENT SERVICES** (presenter: Karl Barton)
THREE MILE PLAN

A public hearing was held and a motion to approve Resolution R#-103-2013 Adopting a Three Mile Plan for the City of Loveland, Colorado was approved.

This item is a legislative action to formally adopt a Three Mile Plan for 2013. The Three Mile Plan would consist of the City's comprehensive plan, other adopted plans covering infrastructure, services and surrounding areas, and procedures.

8. **CITY MANAGER** (presenter: Rod Wensing)
COMCAST FRANCHISE TEMPORARY EXTENSION

A public hearing was held and a motion to approve and order published on first and only reading of Emergency Ordinance #5833 Amending the Existing Cable Television Franchise Agreement Between the City of Loveland, Colorado and Comcast of Colorado II, LLC, to Extend the Term of the Existing Franchise was approved.

This is an administrative action. This second amendment to the cable franchise agreement ordinance moves the expiration of the current cable franchise from December 31, 2013 to June 30, 2014. The Emergency Ordinance on first and only reading, requires an affirmative vote of 2/3 of the entire Council (6 votes) under Charter Section 4-10.

9. **CITY ATTORNEY** (presenter: John Duval)
CODE AMENDMENT FOR MEDICAL MARIJUANA AND PRIMARY CAREGIVERS

A public hearing was held and a motion to approve and order published on first reading an Ordinance Amending Loveland Municipal Code Section 7.60.030 To Remove Obsolete Language In Section 7.60.030 And To Clarify That All Patients And Primary Caregivers In The City Cultivating, Selling Or Storing Medical Marijuana Must Comply With All Applicable State And Local Laws, Rules And Regulations was approved.

This is a legislative action to adopt an ordinance on first reading relating to medical marijuana to remove obsolete language in Section 7.60.030 and to clarify that the storage of medical marijuana, as well as its cultivation and sale, may only be done within the City by lawfully registered patients and primary caregivers that do so in full conformity with the Colorado Medical Marijuana Code, C.R.S. § 25-1.5-106, the City's ordinances and all other applicable rules and regulations promulgated under state law

END OF CONSENT AGENDA

CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

CITY COUNCIL

- a. **Citizens' Report** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*
- b. **Business from Council** *This is an opportunity for Council Members to report on recent activities or introduce new business for discussion at this time or on a future City Council agenda.*

Shaffer: **Attended the North I-25 Transportation Meeting regarding CDOT Revenue and corridor expansion, adaptations will be considered. April 6th Coalition Committee needs more time to establish, will ask for an extension, I-25 Elected Coalition Meeting on December 4, 2013, at 6:30, at the Weld County Service Center; Colorado Municipal League Policy**

Commission is on Friday, December 6, 2013.; Announced Night on the Town, Friday, December 6, 2013, Announced the Metropolitan Planning Organization Meeting regarding the I-25 Expansion will be held on December 12, 2013 at 5:30 p.m. in the City Council Chambers.

Farley: Thanked the Visual Arts Commission (VAC) for the selection of I-25 & Hwy 34 intersection artwork. Thanked the artists, Kritzer; Erion, and Rutledge.

Trenary: Announced the Pearl Harbor Memorial Ceremony on Saturday, December 7, 2013 at 10:55 at the Associated Veterans Club for the WWII Vets and Diggs Brown will be the keynote speaker; Announced the Christmas Tree Lighting Event for the City; Announced Trumpet Christmas at the Oak Street Plaza in Ft. Collins on Saturday, December 21, 2013.

Gutierrez: Announced Highway 34 reopening; Announced the City Christmas Tree Lighting Event, December 6, 2013 at 5 pm at the Municipal Building; Attended the Menorah Lighting Event; Announced the Ft. Collins Tuba Christmas on December 14, 2013, at 2 p.m., at the Oak Street Plaza.

Boards & Commission Liaison Appointments:

Councilor Shaffer moved to approve the Boards & Commission Liaison Appointments with the addition of Troy Krenning to the Planning Commission Liaison and Councilors are to forward their allotted preferences as the Mayor will make final determinations. Councilor Taylor seconded the motion which carried with all councilors present voting in favor thereof.

- c. City Manager Report
- d. City Attorney Report

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 quorum 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

4. **POLICE** (presenter: Luke Hecker)

TRAFFIC CODE AMENDMENT

Police Chief, Luke Hecker, introduced this item to Council. This is a legislative action. This ordinance on first reading amends the City's adopted 2003 Model Traffic code to reflect recent changes in the state law allowing drivers who are contacted by law enforcement for a traffic violation, to present proof of insurance. The proof of insurance may be in paper or electronic format, such as a cell phone or tablet, and creates a new provision which makes it unlawful for a driver to present false evidence of motor vehicle insurance. There is also a change to the gross vehicle weight (GVW) provision, primarily in the rewording of the formulas used for determining when a vehicle is in violation of the GVW limits. The Police Department would like to adopt this ordinance to be consistent with state law. **Mayor Gutierrez opened the public hearing at 7:07 p.m. and with no**

further public comment, the public hearing was closed at 7:07 p.m. Councilor Shaffer moved to approve and order published on first reading an Ordinance Amending Section 10.04.020 to Amend the City's Model Traffic Code Concerning Recent State Law Changes Relating to Gross Weight of Vehicles and Compulsory Motor Vehicle Insurance. The motion was seconded by Councilor Farley, which carried with all councilors present voting in favor. Council directed staff to review the administrative fee for no proof of insurance (NPOI) and return to Council at a later date.

5. **POLICE** (presenter: Luke Hecker)
MAXIMUM FINE AMENDMENT

Police Chief, Luke Hecker introduced this item to Council. Municipal Court Judge, Bill Starks, presented a graph of the Municipal Court Yearly Cases and Revenue. This is a legislative action. This ordinance on first reading increases the maximum fine amount for municipal code and Charter violations committed by adults from \$1000 to \$2,650 and allows the amount to be adjusted for inflation beginning January 1, 2015, and each year thereafter, on January 1st. A similar state law was enacted and became effective April 18, 2013. The Ordinance also increases the maximum fine amount for juvenile violators from \$500 (established in 1992) to \$1000. With the maximum fine increase, there are also specific penalty provisions within certain Code chapters that need to be amended to be consistent with the amended general penalty provisions in Chapter 1.12. **Mayor Gutierrez opened the public hearing at 7:52 p.m. and with no further public comment, the public hearing was closed at 7:52 p.m. Discussion ensued. This item was removed from the agenda and will be brought back at a later time.**

ITEMS # 14 & 15 WERE REMOVED FROM THE AGENDA.

10. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF MINUTES

City Clerk, Terry Andrews, introduced this item to Council. This is an administrative action to approve the November 12, 2013 Special Meeting & Study Session Minutes. Councilor Fogle and Councilor McKean were absent.

Councilor Shaffer moved to approve the City Council Meeting minutes from the November 12, 2013 Special Meeting & Study Session. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof. Councilor Fogle and Councilor McKean abstained.

11. **CITY ATTORNEY** (presenter: John Duval)
CODE AMENDMENTS RELATING TO PERSONAL POSSESSION AND USE OF MARIJUANA

City Attorney, John Duval, introduced this item to Council. This is a legislative action to adopt an ordinance on first reading that would eliminate conflicts and discrepancies that exist now between Amendment 64 and City Code Chapters 7.40 and 9.41 relating to the regulation of the personal possession and use of marijuana and marijuana accessories. **Mayor Gutierrez opened the public hearing at 9:08 p.m. Citizen, Wes Molander, spoke in support of the ordinance. With no further public comment, the Mayor closed the public hearing at 9:13 p.m. Councilor Shaffer moved to approve and order published on first reading an Ordinance of the City Council of the City of Loveland Amending the Loveland Municipal Code to Eliminate Conflicts Between the Code and Amendment 64 Relating to the Regulation of the Personal**

Possession and Use of Marijuana and Marijuana Accessories. Councilor Farley seconded the motion which carried with eight councilors voting in favor and Councilor Farley voting against.

12. DEVELOPMENT SERVICES (presenter: Greg George)

OIL & GAS CODE AMENDMENTS

Development Services Director, Greg George, introduced this item to Council. This item is a legislative action to consider adoption of an ordinance on first reading amending certain provisions in the oil and gas ordinance (City Code Chapters 18.77 and 18.78) adopted by City Council on March 19, 2013. Chapter 18.77 establishes regulations on new oil and gas facilities within Loveland city limits, while Chapter 18.78 establishes regulations on new development in the vicinity of existing oil and gas facilities. **Mayor Gutierrez opened the public hearing at 11:13 p.m. County Citizen, Evie Buckner, suggested a process for oil and gas facilities regarding changing ownership requiring the new owners to abide by the original contract conditions. City Attorney, John Duval, affirmed this is already a requirement. With no further public comment, the public hearing was closed at 11:16 p.m. Councilor Shaffer moved to approve and order published on first reading an Ordinance Amending City Code Chapter 18.77 Concerning the Regulation of Oil and Gas Operations and Code Chapter 18.78 Concerning Overlay Zoning Districts for Development Setbacks from Existing Oil and Gas Facilities. Councilor Treanary seconded the motion which carried with eight councilors voting in favor and Mayor Gutierrez voting against.**

13. WATER & POWER (presenter: Jim Lees)

SUPPLEMENTAL APPROPRIATION FOR IDYLWILDE DAM REMOVAL

Utility Accounting Manager, Jim Lees, and Water & Power Director, Steve Adams, introduced this item to Council. This is an administrative action. This Emergency Ordinance appropriates \$6,000,000 from revenues and fund balance in the Power Fund. The ordinance is necessary to provide funding for the emergency removal of Idylwilde Dam, sediment material behind the dam, penstock and the hydro power house at Viestenz-Smith Park. These projects all came as a result of the Flood of 2013. The Emergency Ordinance on first and only reading requires an affirmative vote of 2/3 of the entire Council (6 votes) under Charter Section 4-10. **Mayor Gutierrez opened the public hearing at 11:57 p.m. and with no further public comment, the public hearing was closed at 11:57 p.m. Councilor Shaffer moved to approve and order published on first and only reading of Emergency Ordinance #5834 Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for Removal of the Idylwilde Dam, Sediment Material, Penstock and the Hydro Power House. Councilor Taylor seconded the motion which carried with all councilors present voting in favor thereof.**

14. FINANCE (presenter: Brent Worthington)

October 2013 Financial Report

This item was removed from the Agenda.

15. CITY MANAGER (presenter: Alan Krcmarik)

Investment Report for October 2013

This item was removed from the Agenda.

ADJOURNMENT

Having no further business to come before Council, the December 3, 2013 Regular Meeting was adjourned on December 4, 2013 at 12:13 a.m.

Respectfully Submitted,


Teresa G. Andrews, City Clerk




Cecil A. Gutierrez, Mayor

