

MINUTES
LOVELAND CITY COUNCIL MEETING
LOVELAND URBAN RENEWAL AUTHORITY
TUESDAY, MAY 5, 2015
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

CALL TO ORDER; Mayor Gutierrez called the meeting to order.

PLEDGE OF ALLEGIANCE

ROLL CALL: The following responded Gutierrez, Clark, McKean, Farley, Shaffer, Trenary, Taylor, Fogle, and Krenning.

Councilor Fogle read the Proclamation Declaring May 2015 As Archaeology & Historic Preservation Month. Stacey Kersley from the Historic Preservation Commission received the proclamation.

Councilor McKean read the Proclamation Declaring May 16, 2015 As Kids To Parks Day Elizabeth Anderson, Parks and Recreation Director received the proclamation.

Councilor Krenning read the Proclamation Declaring May 2015 As Mental Health Month. Cpt. Tim Brown and Touchstone Health Partners representative, Chris Fine received the proclamation.

Mayor Gutierrez read the Proclamation Declaring May 3 Through May 9, 2015 As Municipal Clerks' Week. City Clerk, Terry Andrews received the proclamation.

Mayor Gutierrez read the following: "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. Members of the public 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 comments to no more than three minutes. Mayor Gutierrez asked if anyone would like to remove anything from the Consent Agenda. Citizen and Planning Commission Chair, Buddy Meyers asked for item #6 to be removed from the Consent Agenda. **Councilor Shaffer moved to approve the consent agenda with the exception of item #6. The motion seconded by Councilor Farley, carried with all councilors present voting in favor thereof.***

CONSENT AGENDA

1. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF MEETING MINUTES
A Motion to Approve the City Council Meeting Minutes for the April 7, 2015 Regular Meeting, April 14, 2015 Study Session and the April 21, 2015 Regular meeting minutes, was approved.

1. This is an administrative action to approve the City Council meeting minutes for the April 7, 2015 Regular Meeting.
2. This is an administrative action to approve the City Council meeting minutes for the April 14, 2015 Study Session.
3. This is an administrative action to approve the City Council meeting minutes for the April 21, 2015 Regular Meeting.

2. **CITY MANAGER** (presenter: Bill Cahill)
APPOINTMENTS TO THE DOWNTOWN DEVELOPMENT AUTHORITY

A Motion adopting a Resolution #R-28-2015 Appointing Members to Downtown Development Authority Board was approved.

This is an administrative action recommending the appointment of members to the Downtown Development Authority Board as follows:

Sharon Cook	Designated representative of Business Lessee	June 30, 2016
Joe Goacher	Officer of Property Owner	June 30, 2016
Clay Caldwell	Business Lessee	June 30, 2017
Dionne Liggett	Officer of Property Owner	June 30, 2017
Cmmr. Tom Donnelly	Designated Representative of Property Owner	June 30, 2018
Doug Rutledge	Officer of Property Owner	June 30, 2018

CITY COUNCIL ADJOURNED AND CONVENED AS THE BOARD OF THE LOVELAND URBAN RENEWAL AUTHORITY (LURA)

3. **FINANCE** (presenter: Marc Kahn)
PUBLIC HEARING

SUPPLEMENTAL APPROPRIATION FOR 2015 LURA BUDGET

A Motion to Approve and Order Published An Ordinance Enacting A Supplemental Budget And Appropriation To The 2015 Loveland Urban Renewal Authority Budget For Projects Or Programs Not Anticipated At The Time Of Adoption For The 2015 Budget was approved.

This is an administrative action. In 2013, City Council approved an interfund loan of \$1,500,000 from the Recreation CEF Fund, Library CEF Fund, and the General Government CEF Fund to the Loveland Urban Renewal Authority to help fund a mixed-use building in the downtown area (the Gallery Flats project). The principal payments were included in the 2015 Budget, but the interest payments were not. The ordinance authorizes repayment into the identified CEF funds to increase the appropriation to include the interest payment on the loan. This is repayment to the City from the URA. The total amount of the appropriation is \$45,960 funded by available fund balance.

THE BOARD OF THE LOVELAND URBAN RENEWAL AUTHORITY (LURA) ADJOURNED AND RECONVENED AS CITY COUNCIL

4. **CULTURAL SERVICES** (presenter: Susan Ison)
PUBLIC HEARING

SUPPLEMENTAL APPROPRIATION FOR VARIOUS CULTURAL SERVICES EVENTS

A Motion to Approve and Order Published on First Reading An Ordinance Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Budget For Foote Lagoon Concerts, Strings In The Gallery Program, And Artsteps was

approved.

This is an administrative action. Donations were received for the following programs presented by the Cultural Services Department: \$20,000 from Kaiser Permanente for the 2015 Foote Lagoon Concert Series; \$2,200 from the Erion Foundation to support four performances by string quartets in the main art gallery; \$1,000 from the Erion Foundation to support the Museum/Thompson School District ArtSteps residency program for students. These programs would not be possible without the support of the donors.

5. **CULTURAL SERVICES** (presenter: Susan Ison)
AMENDING 2015 SCHEDULE OF RATES, CHARGES AND FEES FOR CULTURAL SERVICES

A Motion to Adopt a Resolution #R-29-2015 Amending The 2015 Schedule Of Rates, Charges And Fees For City Services, Other Than Services Provided By The Water And Power Department And The Stormwater Enterprise With Respect Only To The Rialto Theater And Museum Membership Fees was approved.

This is an administrative action. This resolution amends the 2015 Schedule of Rates, Fees and Charges with these three revisions: 1) Existing Loveland Museum/Gallery membership fees, including replacing the "Individual plus one" to a "Dual" membership and creating a "Supporter" level; and 2) Creates multiple Rialto Theater Center and joint memberships; and 3) Sets fees for the new membership levels. Membership programs are opportunities for users to support the theater and the museum.

6. **CITY ATTORNEY** (presenter: Vincent Junglas)
PUBLIC HEARING
CODE ENFORCEMENT ISSUE SUMMONS INTO MUNICIPAL COURT
Moved To Regular Agenda

7. **FIRE AUTHORITY** (presenter: Mark Miller)
PUBLIC HEARING
SALE OF PROPERTY ON ROSSUM DRIVE
A Motion to Approve and Order Published on First Reading An Ordinance Authorizing the Sale of Real Property Located within the City of Loveland on Rossum Drive Pursuant to Section 4-7 of the City of Loveland Municipal Charter was approved.

This is an administrative action and public hearing on first reading regarding the sale of City property on Rossum Drive for \$135,000. The City of Loveland owns 1.83 acres on Rossum Drive located near 1220 Rossum Drive along West Highway 34. The property was purchased in 2002 for \$230,000 with fire capital expansion fees for a future station location. In Fire's judgment, the property is not the appropriate location for a new station. The buyer, Shannon Jaeger, is proposing to combine this property with an adjoining property to build a senior living facility. The proposed facility is intended to serve seniors that can live independently with limited health care services. \$135,000 on the sale of the land would be deposited to the Fire Capital Expansion Fee Fund that originally purchased the property on November 13, 2002.

8. **FINANCE** (presenter: Brent Worthington)
FINANCIAL REPORT FOR MARCH 2015

The Snapshot Report is submitted for Council review and includes the reporting of the City's revenue and expenditures, including detailed reports on tax revenue and health claims as of March 31, 2015. Citywide Revenue (excluding internal transfers) of \$60,870,285 is 85.8% of year to date (YTD) budget or \$10,105,936 under the budget. There are two primary sources for this variance: timing issues with several of the Special

Revenue Funds (we are still early in the year, so actuals haven't caught up with Budget); and Water and Power charges (due to relatively mild weather in the early part of 2015). Sales Tax collections are 98.5% of the YTD budget or \$153,586 under budget. Building Material Use Tax is 104.3% of YTD budget, or \$24,752 over budget. Sales and Use Tax collections combined were 100.7% of YTD budget or \$76,246 over budget. When the combined sales and use tax for the current year are compared to 2014 for the same period last year, they are higher by 6.5% or \$710,020. Citywide total expenditures of \$57,584,749 (excluding internal transfers) are 90.4% of the YTD budget or \$6,114,299 under the budget.

9. **CITY MANAGER** (presenter: Alan Krcmarik)
INVESTMENT REPORT FOR MARCH 2015

This is an information only time. The budget projection for investment earnings for 2015 is \$1,759,080. On the portfolio's 2015 beginning balance this equates to an annual interest rate of 0.84%. Based on the monthly statement, the estimated annualized yield in March on the securities held by USBank was 1.05%. For March, earnings of \$189,340 were posted to City funds. Interest rates fell in March, bringing the unrealized loss down to \$49,403 from \$532,192 in February. Due to draws from fund balances to pay for the cost of scheduled capital projects, flood response, and project repair, the portfolio is about \$6.8 million lower than December 2013 and \$25.6 million lower than the pre-flood peak.

END OF CONSENT AGENDA
CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

PUBLIC COMMENT

Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.

PROCEDURAL INFORMATION

Anyone in the audience will be given time to speak to any item on the Regular Agenda before the Council acts upon it. The Mayor will call for public comment following the staff report. 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

6. **CITY ATTORNEY** (presenter: Vincent Junglas)
PUBLIC HEARING

CODE ENFORCEMENT ISSUE SUMMONS INTO MUNICIPAL COURT

A Motion To Approve And Order Published On First Reading An Ordinance Repealing Section 18.68.045 And Creating Section 1.28.070 Of The Loveland Municipal Code Authorizing Code Enforcement Officers To Issue A Summons And Complaint Into Municipal Court Pursuant To Rule 204 Of The Colorado Municipal Court Rules was approved.

Assistant City Attorney, Vincent Junglas, introduced this item to Council. This is a legislative action to move Code Enforcement authority from Title 18 of the City Code to Title 1 where other general provisions are located, to specify that a limited commissioned code enforcement officer is a peace officer for purposes of issuing summonses into municipal court pursuant to Rule 204 of the Colorado Municipal Court Rules, and to make conforming changes to related City Code provisions. This is a housekeeping measure to

locate these enforcement provisions in one section of the code and it does not create any new authority. This matter is being brought forward by the Loveland City Attorney's Office. There was Council discussion regarding the use of the term "peace officer" in these code provisions. Mayor Gutierrez asked for public comment: Buddy Meyers, 2429 Cameo Ct, spoke in opposition; Ed Klen, 1609 Shannon Ct, spoke in opposition; Larry Sarner, Ward II, spoke in opposition to the Ordinance. **Councilor Krenning moved to refer this matter back to the Planning Commission after further research was conducted regarding the term of "peace officer". The motion, seconded by Councilor Fogle, carried with all councilors present voting in favor thereof.**

10. **CITY COUNCIL**

DISCUSSION REGARDING MAY 19, 2015 SALES TAX ON FOOD

This is an administrative action. On May 5, 2015 City Staff received notice from four Councilors requesting discussion of the process for May 19, 2015 consideration of "an ordinance concerning sales tax on food for home consumption", added to the agenda. Council discussed suspending the "reconsideration" rule, in order to consider the ordinance on sales tax on food on second reading, at the May 19, 2015. The following citizens spoke in opposition of suspending the rules: Roger Weidland, Ward 4; Sue Mullins, Bob Massaro, Ward 4. Linda Rosa, Ward 2 spoke in support. The motion to consider suspending the rule, was withdrawn.

11. **POLICE** (presenter: Cpt. Tim Brown and Cheryl O'Shell)
RESTORATIVE JUSTICE PROGRAM

Cpt. Tim Brown introduced this item to Council. This an administrative action to authorize the City Manager to enter into a services contract with the Restorative Justice Community Council for managing a youth diversion program associated with misdemeanor criminal offenses. The proposal requests a \$20,000.00 annual contract to support a part-time Program Coordinator position to recruit, screen, and train approved volunteers; manage the referral process; schedule restorative conferencing after appropriate referrals are made; and provide administrative support for the program (grant applications, reporting, etc.). Mayor Gutierrez asked for public comment: Tristen Hague, Mountain View High School spoke in support of the program; Linda Leary, Loveland resident, spoke in support; Susan Briggs, Loveland resident, spoke in support. **Councilor Shaffer moved to award a Services Contract to The Restorative Justice Community Council in the amount of \$20,000.00 and authorize the City Manager to execute the contract. The motion, seconded by Councilor McKean, carried with all councilors present voting in favor thereof.**

12. **DEVELOPMENT SERVICES** (presenter: Troy Bliss)
PUBLIC HEARING

TURNEY BRIGGS ADDITION VACATION

A Motion To

City Planner, Troy Bliss introduced this item to Council. This is a legislative action to consider adoption of an ordinance on first reading, vacating a portion public right-of-way (alley) within the Turney-Briggs Addition and Turney-Briggs First Subdivision – located at the northeast corner of N. Lincoln Avenue and E. Eisenhower Boulevard. The right-of-way to be vacated includes a "T" shaped portion of alley that exists on properties proposed for redevelopment of a Sprouts grocery store. The alley does include existing utilities that would need to be rerouted with new easements established which are being addressed through separate development applications. Mayor Gutierrez opened the public hearing at 10:15 p.m. and asked for public comment. Hearing no comments, Mayor Gutierrez closed the public hearing at 10:15 p.m. **Councilor Shaffer moved to approve and order published on first reading An Ordinance Vacating A Portion Of A Public Right-Of-Way Located In Block 4 Of The Turney-Briggs Addition To The City Of Loveland,**

Larimer County, Colorado. The motion seconded by Councilor Farley, carried with eight councilors voting in favor and Councilor McKean voting against.

13. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)
EXECUTIVE SESSION

DOWNTOWN SOUTH CATALYST PROJECT

Business Development Manager, Mike Scholl introduced this item to Council. The City of Loveland has been working to acquire property in a two block area in Downtown Loveland for the purposes of facilitating a redevelopment project in partnership with the Michaels Development Company and Larimer County. This session is a follow up to the Executive Session held on April 21, 2015. Councilor Shaffer moved that the City Council go into executive session to discuss (1) the City 's acquisition of real property in Downtown Loveland for the South Catalyst Project and related negotiations with the potential developer, The Michaels Corporation; and (2) negotiations with Larimer County concerning a potential agreement for the disposal and redevelopment of a portion of said real property, both as authorized by the following sections of the Colorado Open Meetings law and the City Charter: a) the acquisition or disposal of real property as authorized by C.R.S. §24-6-402(4)(a) and by Charter section 4-4(c)(2) since, in the judgment of Council, premature disclosure of information might give an y person an unfair competitive or bargaining advantage; and b) since the acquisition, disposal, and development of such real property is a matter that is subject to negotiations, to receive reports concerning negotiations, to develop the City 's negotiation positions and strategies, and to instruct the City 's negotiators concerning those positions and strategies an authorized by C.R.S. § 24-6-402(4)(c) and Charter Section 4-4(c)(1); and c) as needed, receive legal advice from the City Attorney's Office as authorized in C.R.S. § 24-6-402(4)(b) and Charter Section 4-4(c)(3) at 10:28 p.m. The motion, seconded by Councilor Farley, carried with eight councilors voting in favor and Councilor Krenning voting against.

Mayor Gutierrez asked if the both executive session motions could be considered prior to Council moving upstairs. Council concurred.

14. **CITY ATTORNEY** (presenter: Tami Yellico)
POSSIBLE EXECUTIVE SESSION

A Motion to Allow City Council the Option to go into Executive Session for the Purpose of Receiving Legal Advice Regarding the Klen & Weston v. City of Loveland Lawsuit

This is an administrative action to allow for the possibility of an executive session for the purpose of receiving legal advice regarding the Klen & Weston v. City of Loveland lawsuit. Council discussion ensued as to the merits of the litigation and whether an executive session was necessary. CIRSA Attorney, Steve Dawes, co-council with the City Attorney for this case, was available to answer questions. Could ask for depository judgment. City Attorney summarized her understanding of Councils direction: 1) City Attorney to defend the City of Loveland in this lawsuit; 2) have the incentive agreement upheld; and 3) pursue a depository judgment early on if possible. Councilor Trenary moved to instruct the City Attorney to defend the city as described by City Council on the record. Mayor Gutierrez asked for public comment. Guadalupe Lima spoke up in support of the motion. Roger Weidland, Ward 4, asked what the City would lose, if they lost the litigation. The motion, seconded by Councilor Farley, carried with Councilors McKean and Clark voting against and seven councilors voting in favor, including an abstention by Councilor Krenning.

Council adjourned into Executive Session at 11:14. Councilor McKean did not participate

in the Executive session.

Council reconvened at 12:15 a.m.

BUSINESS FROM CITY 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.

None

CITY MANAGER REPORT

None

CITY ATTORNEY REPORT

None


ADJOURN

Mayor Gutierrez hearing no other business to come before this Council, adjourned the meeting at 12:17 a.m. Wednesday, May 6, 2015.

Respectfully Submitted,




Teresa G. Andrews, City Clerk


Cecil A. Gutierrez, Mayor

