MINUTES

LOVELAND CITY COUNCIL MEETING
LOVELAND URBAN RENEWAL AUTHORITY
TUESDAY, APRIL 7, 2015
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

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

CALL TO ORDER, Mayor Gutierrez called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

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

Councilor Krenning read the Proclamation Declaring April 17, 2015 As Arbor Day. City Parks and Recreation Staff member Rob MacDonald, received the proclamation.

Councilor McKean read the Proclamation Declaring April 18, 2015 As The Annual Spring Waterway Clean-Up Event. Leah Browder, Public Works Director, received the proclamation.

Mayor Pro Tem Dave Clark read The Proclamation Declaring April 25, 2015 As Family Discovery Day. LDS representatives Mary Peery and Dan Danowski received the proclamation.

Councilor Shaffer read the Proclamation Declaring April 2015 As Fair Housing Month. Affordable Housing Commission member, Barbara Ireland received the proclamation.

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 have an item removed from the Consent Agenda. Public members Sue Mullins asked for Item 6 to be removed; and Eric Sutherland asked for Item 5 to be removed. Councilor McKean asked for Item 13 to be removed and Councilor Krenning asked for Item 4 to be re moved and considered at the end of the meeting. Councilor Shaffer moved to approve the Consent Agenda with the exception of items 4,5,6, and 13. The motion seconded by Councilor Trenary, carried with all councilors preset voting in favor thereof.

CONSENT AGENDA

1. CITY CLERK

APPROVAL OF MEETING MINUTES

1. A Motion to Approve the City Council Meeting Minutes for the March 3, 2015 Regular Meeting was approved.

(presenter: Terry Andrews)

(presenter: Mark Miller)

This is an administrative action to approve the City Council meeting minutes for the March 3, 2015 Regular Meeting.

2. A Motion to Approve the City Council Meeting Minutes for the March 20, 2015 Special Meeting was approved.

This is an administrative action to approve the City Council meeting minutes for the March 20, 2015 Special Meeting.

3. A Motion to Approve the City Council Meeting Minutes for the March 24, 2015 Study Session and Special Meeting was approved.

This is an administrative action to approve the City Council meeting minutes for the March 24, 2015 Study Session and Special Meeting minutes.

2. FIRE RESCUE AUTHORITY

AMENDMENT TO FIRE CODE APPEALS TITLE 15.04

A Motion to Approve and Order Published on Second Reading an Ordinance Amending Title 15.04 Concerning Fire Code Appeals was approved.

This is a legislative action to consider an ordinance on second reading. On February 25, 2015, the Loveland Fire Rescue Authority (LFRA) Board voted to recommend to City Council that a new Fire Code Board of Appeals be established with LFRA Board members. The Fire Rescue Advisory Commission currently serves in this capacity (per Loveland Municipal Code 15.04.150). The Fire Authority Board recommends that the Appeals Board be comprised of at least three LFRA Board members, provided that one of the members present is from the Rural District. This ordinance was approved unanimously on first reading by Council at the March 17, 2015 regular meeting.

3. FIRE RESCUE AUTHORITY

AMENDMENT TO THE CODE TO APPOINT MEMBERS TO THE LOVELAND FIRE RESCUE AUTHORITY AND DISSOLVE THE FIRE RESCUE ADVISORY COMMISSION A Motion to Approve and Order Published on Second Reading an Ordinance Amending the City Code to dissolve the Loveland Fire Rescue Advisory Commission was approved.

Note: A slight change was made in the title and enacting language of this ordinance after first reading, to clarify the intent. This in an administrative action to dissolve the Fire Rescue Advisory Commission. The Commission has played an important role in strategic planning and policy considerations. Since Loveland Fire Rescue Authority (LFRA) Board is responsible for setting policy of the Authority, the citizen advisory board that is responsible for bringing the citizen's perspective to policy considerations should be aligned with the decision-making authority. Therefore the LFRA Board voted on January 28, 2015 to make a recommendation to the Loveland City Council to dissolve the Commission as a City Commission. If the City Council approves that action, then the LFRA Board would reinstate the existing members as an ad hoc commission and the LFRA Bylaws would be amended. This ordinance was approved unanimously on first reading by Council at the March 17, 2015 regular meeting.

4. <u>CITY ATTORNEY</u> (presenter: Tami Yellico)
SUPPLEMENTAL APPROPRIATION FOR PULLIAM BUILDING QUIET TITLE
Moved to Regular Agenda for consideration

5. ECONOMIC DEVELOPMENT

(presenter: Betsey Hale)

ESTABLISHMENT OF THE LOVELAND DDA Moved to Regular Agenda for consideration

6. FINANCE (presenter: Brent Worthington)
REDUCTION OF SALES TAX ON FOOD FOR HOME CONSUMPTION
Moved to Regular Agenda for consideration

7. WATER & POWER

PUBLIC HEARING

SUPPLEMENTAL APPROPRIATION FOR WATER TREATMENT PLANT

A Motion to Approve and Order Published on First Reading an Ordinance on First Reading Enacting a Supplemental Budget And Appropriation to the 2015 City of Loveland Budget to Correct the Splits of Funding for the Water Treatment Plant Expansion & the Water Transmission Line Replacement to Hwy 34 was approved. This is an administrative action. According to engineering consultants and the Water Engineering staff, the Water Treatment Plant Expansion Project should be allocated as follows: 40% in the Water Fund and 60% in the Water SIF Fund. The Water Transmission Line Replacement to Hwy 34 Project should be allocated as follows: 50% in the Water Fund and 50% in the Water SIF Fund. Between funds rolled over from 2013 and supplemental appropriations done in 2014, the percentage split for the budget between the Water Fund and the Water SIF fund is off slightly for these two projects. This ordinance

addresses these corrections. The total amount of the appropriations are \$506,200 funded by transfers between the funds. There is no net increase in the total budget for either of the two projects.

8. PUBLIC WORKS (presenter: Dave Klockeman)
CONTRACT AWARD FOR THE 29TH STREET PAVEMENT RECONSTRUCTION
PROJECT

A Motion to Award the 29th Street Pavement Reconstruction Project Contract (Project No. ENSR029) to Coulson Excavating Company of Loveland, Colorado in the Amount of \$1,279,683.00 and Authorize the City Manager to Execute the Contract was approved.

This is an administrative action. Approval of this item will allow the 29th Street Pavement Reconstruction Project (Project No. ENSR029) from Wilson Avenue to Taft Avenue to be awarded to Coulson Excavating Company of Loveland, Colorado for work to be completed in 2015. The funding for Project No. ENSR029 is budgeted in the annual Street Resurfacing Program budget within the approved 2015 Budget. Funding is available in the Adopted 2015 Budget for the Public Works Department for Street Rehabilitation Projects.

9. <u>PUBLIC WORKS</u> (presenter: Dave Klockeman)
CONTRACT EXTENSION FOR THE 2015 STREET RESURFACING PROGRAM,
ASPHALT PAVING SCHEDULE

A Motion to Award the Extension of the Asphalt Paving Contract (Schedule AP) to Coulson Excavating Company of Loveland, Colorado in the Amount of \$991,000.00 and Authorize the City Manager to execute the Contract was approved.

This is an administrative action. Approval of this item extends the 2014 Street Resurfacing Program, Asphalt Paving Schedule AP (Project ENSR10-AP) contract to Coulson Excavating Company of Loveland, Colorado for work to be completed in 2015. Extension of an Asphalt Maintenance Contract is in the amount of \$991,000.00 and includes Authorization for the City Manager to execute the contract. The extension is the first of three allowed under the contract and reflects no change in unit prices from the 2014 contract. Funding is available in the Adopted 2015 Budget for the Public Works Department for Street Rehabilitation Projects.

(presenter: Jim Lees)

10. AIRPORT (presenter: Jason Licon)

CONTRACT AMENDMENT NUMBER FIVE FOR AIRPORT FAA PROJECT AIP 34 A Motion to Authorize the City Manager to Execute an Amendment Number Five to the Contract Dated May 14, 2012 with Ch2m Hill for Design and Bidding Services of FAA Project AIP 34 at the Fort Collins-Loveland Municipal Airport and to Ratify all Previous Amendments to the Contract was approved.

This is an administrative action to authorize the City Manager to execute an amendment to the existing contract with the engineering firm CH2M Hill for Airport design and engineering services to include the design and bidding services for the State of Colorado funded project AIP Project number 3-08-0023-34-2015 "Construct Snow Removal Equipment Storage Building". The contract fee for the work included in Amendment Number Five is for \$153,311.31. The Airport's Council-approved 2015 Budget contains the necessary appropriations for the expenditure for the contract and is reimbursable from an approved Colorado Department of Transportation Division of Aeronautics.

11. FINANCE (presenter: Marc Kahn)

RE-APPROPRIATON FOR AIRPORT PROJECTS NOT COMPLETED IN 2014

A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Enacting Re-Appropriation to the 2015 Ft. Collins-Loveland Municipal Airport Budget to Appropriate Funds for Projects Approved but not Completed in 2014 was approved.

This is an administrative action. The ordinance re-appropriates the remaining balance for capital and one-time projects previously approved in 2014. The total re-appropriation is \$1,678,700. The re-appropriation is funded by fund balance within the Airport Fund from grants previously received or to be drawn down and contributed from the two cities.

12. <u>FINANCE</u> (presenter: Marc Kahn)
SUPPLEMENTAL APPROPRIATION FOR AIRPORT PROJECTS NOT ANTICIPATED
AT THE TIME OF ADOPTION OF THE 2015 BUDGET

A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2015 Ft. Collins-Loveland Municipal Airport for Projects or Programs not Anticipated at the Time of Adoption for the 2015 Budget was approved.

This is an administrative action. Since the adoption of the 2015 Budget, the Airport Utilities Master Plan has not been completed and the funds need to be rolled over. This ordinance appropriates \$18,902 to complete the project. The appropriation is funded by fund balance within the Airport Fund from grants previously received or to be drawn down and contributed from the two cities.

13. FINANCE (presenter: Marc Kahn)
RE-APPROPRIATION FOR LURA FOR PROJECTS APPROVED BUT NOT
COMPLETED IN 2014
Moved to Regular Agenda for consideration

14. <u>CITY MANAGER</u> (presenter: Alan Krcmarik)
INVESTMENT REPORT FOR FEBRUARY 2015

This is an information only item. The budget projection for investment earnings for 2015 is \$1,759,080. On the portfolio's beginning balance this equates to an annual interest rate of 0.84%. For February, earnings of \$94,694 were posted to City funds. Interest rates rose in February, reversing the unrealized gain in January to an unrealized loss of \$532,192. Based on the monthly statement, the estimated annualized yield in February on the securities held by US Bank was 1.06%. Due to draws from fund balances to pay for the cost of scheduled capital projects, flood response, and project repair, the portfolio is about \$8 million lower than December 2013 and \$26.8 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.

Marinda Trout, spoke to City Council regarding the Loveland Initiative Monarch Butterfly (LIMB). Ms. Trout and her husband Bob, are encouraging citizens to plant Milkweed in the City of Loveland to encourage an increase in the Monarch Butterfly in the City of Loveland.

Bob Bears, informed City Council that starting Sunday, July, 19th thru Friday, July 24th the Model A Ford convention would be held at the Ranch in Loveland. They are anticipating between 500 and 100 classic cars and all of the persons associated.

Shawn Mitchell, an attorney representing residents of Loveland, Ed Klen and Liam Weston, advised Council he had filed on behalf of his clients a Declaratory Judgement regarding the Sprouts incentive agreement.

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

5. <u>ECONOMIC DEVELOPMENT</u> (presenter: Betsey Hale) ESTABLISHMENT OF THE LOVELAND DDA

This is an administrative action. Economic Development Director, Betsey Halen introduced this item to City Council. On February 10, 2015 an election was held to determine if downtown residents, property owners, business operators and other eligible persons supported the formation of a Downtown Development Authority. The voters approved the establishment of such an entity. At the March 17, 2015 meeting, City Council unanimously approved an ordinance on first reading to establish the Downtown Development Authority and approved the Resolution establishing a DDA Board of 7 members and appointing Councilor John Fogle to the DDA Board. Mayor Gutierrez asked for public comment. Eric Sutherland, Ft. Collins resident, spoke in opposition to the ordinance. Larry Sarner, resident of Ward 2, spoke in opposition to the ordinance. Councilor Shaffer moved to approve and Order Published on Second Reading an Ordinance Creating and Establishing the Loveland Downtown Development Authority in the City of Loveland, Colorado. The motion seconded by Councilor Farley, carried with all councilors voting in favor thereof.

CITY COUNCIL ADJOURNED AND CONVENED AS THE BOARD OF THE LOVELAND URBAN RENEWAL AUTHORITY (LURA) AT 8:05. P.M.

13. <u>FINANCE</u> (presenter: Marc Kahn)
RE-APPROPRIATION FOR LURA FOR PROJECTS APPROVED BUT NOT
COMPLETED IN 2014

This is an administrative action. Finance Director Brent Worthington introduced this item to Council. Reserves in the amount of \$60,190 are reappropriated for the Façade Grant Program. Fund balance created as a result of the projects not being completed fund the ordinance. Mayor Gutierrez asked for public comment. There were not public comments. Councilor Shaffer moved to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and the Re-Appropriation to the Loveland Urban Renewal Authority Budget of the Façade Grant Program Approved in 2014 but not Completed was approved.

THE BOARD OF LOVELAND URBAN RENEWAL AUTHORITY (LURA) ADJOURNED AND RECONVENED AS CITY COUNCIL AT 8:18 P.M.

6. <u>FINANCE</u> (presenter: Brent Worthington) REDUCTION OF SALES TAX ON FOOD FOR HOME CONSUMPTION

This is an administrative action. Finance Director, Brent Worthington, introduced this item to Council. At the March 24, 2015 special meeting, staff presented City Council with information pertaining to Loveland's sales tax on food for home consumption. At that meeting, City Council adopted an ordinance on first reading that reduced sales tax on food for home consumption over a three year period, with the tax being reduced to 2% effective November 1, 2015, 1% effective November 1, 2016 and such sales tax on the sale of food for home consumption is eliminated effective November 1, 2017. Sales tax on food for home consumption would comprise approximately \$6.3 million of General Fund revenue in 2016, with an annual growth rate of approximately 3.5% per year. Reducing or eliminating this sales tax would reduce the General Fund revenue by approximately \$335,000 in 2015; an additional \$2,08 million in 2016; an additional \$2,15 million in 2017; and an additional \$2.19 million in 2018. The total reduction in General Fund Revenue in 2019, after full implementation of the elimination of sales tax on food for home consumption, would be approximately \$6.75 million per year, plus an annual growth rate of approximately 3.5%. This ordinance was approved unanimously on first reading by Council at the March 24, 2015 Special Meeting. Mayor Gutierrez asked for public comment. Sue Mullins, East Loveland, spoke in opposition of the ordinance; David Hallett, 2489 Hamstead Dr. spoke in opposition of the ordinance, encouraged Council place this issue on the ballot; Bob Massaro, East Loveland, expressed concern with the process used to consider this ordinance, Tom Buchanan, 910 W. 8th St, spoke in support of the ordinance: Buddy Meyers, 2429 Cameo Ct, spoke in support, Larry Sarner, Ward 2, spoke in support of the ordinance, Ann Harroun, 3321 Apple Avenue, spoke in opposition of the ordinance: Barry Floyd, North Loveland, spoke in opposition. A Motion to Approve and Order Published on Second Reading an Ordinance Reducing the Sales Tax on Food for Home Consumption. The motion was seconded by Councilor McKean. Councilor Krenning moved to call the question. The motion seconded by Mayor Pro Tem Clark, carried with seven councilors present voting in favor and Councilors Trenary and Fogle voting against. Roll was called on the original motion: The motion failed with four councilors voting in favor and Councilors Gutierrez, Taylor, Farley, Shaffer and Trenary voting against.

Councilor McKean moved that Council direct Staff to bring a resolution to Council setting a ballot question for November 3, 2015 reducing the sales tax on food for home consumption from 3% to 2% effective January 1, 2016; 2% to 1% effective January 1, 2017; and eliminating sales tax on "food for home consumption" effective January 1, 2018. The motion was seconded by Councilor Fogle. Mayor Gutierrez asked for public comment. David Hallett, spoke in support of the motion; Larry Sarner, spoke in opposition of the motion. Bob Massaro suggested the motion be altered to only take 3% to 2% effective January 1, 2016; Jackie Marsh, 243 4th St. suggested

taxing luxury items. Council discussion ensued. Councilor McKean called the question, the motion, seconded by Councilor Krenning, failed with four councilors voting in favor and Councilors Shaffer, Trenary, Clark, Gutierrez and Taylor voting against. Discussion ensued. Roll was called on the original motion: The motion failed with four councilors voting in favor and Councilors Gutierrez, Taylor, Farley, Shaffer and Trenary voting against.

Mayor Gutierrez moved to direct Staff to bring back on May 19, 2015, for consideration "the ordinance reducing the Sales Tax on food for home consumption" as considered on 04-07-2015. The motion was seconded by Councilor Shaffer. There was no public comment given. Roll was called and the motion carried with seven councilors voting in favor and Councilors Krenning and Clark voting against.

15. <u>FINANCE</u> (presenter: Marc Kahn) RE-APPROPRIATION FOR CITY PROJECTS APPROVED BUT NOT COMPLETED IN 2014

Finance Director, Brent Worthington, introduced this item to Council. This is an administrative action. The ordinance re-appropriates funding approved in 2014 for capital, one-time projects and equipment not completed or received prior to the end of the fiscal year. The net expenditures (total expense less transfers) included in the ordinance is \$62,511,054. The projects or programs in the ordinance were funded in 2014. Funding is available since the expenditures that did not occur became fund balance at the end of 2014. The re-appropriation of these projects, does not have an impact on the 2015 Budget since the assumption in developing the 2015 Budget was that these funds would be spent by the end of 2014. Mayor Gutierrez opened the public comment at 11:21 p.m. and with no further public comment it was closed at 11:24 p.m.

Councilor Shaffer moved to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2015 City of Loveland Budget to Reappropriate Remaining Funds for Projects Approved but not Completed in 2014. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.

16. FINANCE (presenter: Marc Kahn) SUPPLEMENTAL APPROPRIATION FOR CITY PROJECTS NOT ANTICIPATED AT ADOPTION OF THE 2015 BUDGET

Budget Officer, Mark Kahn introduced this item to Council. This is an administrative action. Since the adoption of the 2015 Budget several issues have emerged that require increased appropriations. This ordinance addresses those issues. The total amount of appropriation is \$719,728 funded primarily by available fund balance. Nearly all of the appropriation is funded by fund balance reducing the flexibility to fund future projects. Mayor Gutierrez opened the public comment at 11:29 p.m. and with no further public comment it was closed at 11:29 p.m.

Councilor Shaffer moved to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2015 City of Loveland Budget for Projects or Programs not Anticipated at the Time of Adoption for the 2015 Budget. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.

4. <u>CITY ATTORNEY</u> (presenter: Tami Yellico) SUPPLEMENTAL APPROPRIATION FOR PULLIAM BUILDING QUIET TITLE A Motion to Approve and Order Published on Second Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2015 City of Loveland Budget for the Payment of Legal Fees and Costs in Connection with the Quiet Title

Action on the Pulliam Building was approved.

This is an administrative action to consider an ordinance on second reading making a supplemental appropriation in the amount of \$30,000 to fund the quiet title action pertaining to the Pulliam Community Building. The funding for the appropriation of \$30,000 is from fund balance in the General Fund. The General Fund balance is \$5,791,750. This ordinance was unanimously approved on first reading by Council at the March 17, 2015 regular meeting. City Attorney, Tami Yellico gave Council an update. Mayor Gutierrez opened the public comment at 11:37 p.m. and hearing no public comment it was closed at 11:37 p.m.

17. CITY ATTORNEY

(presenter: Tami Yellico) PRESIDING MUNICIPAL JUDGE POSITION

This is an administrative action to conduct an executive session as a result of interviews that were conducted for the Presiding Municipal Judge position on March 20, 2015. Councilor McKean moved to appoint Geri Joneson as Municipal Judge and direct Staff to negotiation an agreement. Mayor Pro Tem Clark seconded the motion. City Attorney Tami Yellico asked, Councilor McKean for a point of clarification, was his motion conditional on Staff bringing a contract that is in agreement with Ms. Joneson to Council and her resignation as Deputy Municipal Judge. Councilor McKean concurred. Roll was called and the motion passed with all Councilors present voting in favor thereof.

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.

McKean Requested Council have an update of the South Catalyst project at the next

meeting, which could include an executive session if necessary.

Attended a retreat of the Visual Arts Commission; The Youth Advisory Commission Farley

(YAC) will be reporting to Council on April 21, 2015.

Announced the North I-25 Coalition meeting at the Weld County Center. Urban Shaffer

Land Institute Healthy Places.

Take project specific tax increases to the voters: Reception from the Municipal Krenning

> Judge; Have staff research Resolutions that govern Council regarding policy or procedures. These should come to Council every 2 years, around election time; meeting with Council and County Commissioners to discuss the implementation of

the new radios for the police department.

Discussion regarding City Council requests for records. Be aware of time, when Gutierrez

making requests from Staff. There was significant discussion regarding making

email available to the public.

CITY MANAGER REPORT

None

CITY ATTORNEY REPORT

None

ADJOURN

12:53 a.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor