

MINUTES
LOVELAND CITY COUNCIL MEETING
TUESDAY, JUNE 2, 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: Roll was called and the following responded: Gutierrez, Clark, McKean, Farley, Trenary, Taylor, Fogle, and Krenning. Shaffer arrived at 6:38 p.m.

Councilor Taylor read the proclamation declaring June 22-26, 2015 as Bike Week. Ed Reif, President of PEDAL, received the proclamation.

Vaughn Baker, Parks Superintendent and Kyle Patterson presented the Rocky Mountain National Park Annual Update.

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. No items were removed. Councilor Shaffer moved to approve the consent agenda, the motion seconded by Councilor Farley, carried with all councilors present voting in favor.

CONSENT AGENDA

1. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF MEETING MINUTES
 1. A Motion to Approve the City Council Meeting Minutes for the, May 12, 2015 Study Session was approved.
 2. A Motion to Approve the City Council Meeting Minutes for the May 19, 2015 Regular meeting was approved.

2. **DEVELOPMENT SERVICES** (presenter: Brian Burson)
EASEMENT VACATION IN ANDERSON FARMS 5TH SUBDIVISION
A Motion to Approve and Order Published on Second Reading An Ordinance

Vacating A Portion Of A Shared Access Easement Located Within Lots 1 And 2, Block 1, Anderson Farms 5th Subdivision, City Of Loveland, County Of Larimer, State Of Colorado was approved.

This is a legislative action to consider adoption of an ordinance, on second reading, to vacate a shared access easement across two lots in Anderson Farm 5th Subdivision. In conjunction with pending development by Drywall Supply, the two lots will be merged into a single lot, and the shared access easement will serve no purpose and is unnecessary. On May 19, 2015, City Council held a public hearing and approved of the ordinance on first reading unanimously.

**3. WATER AND POWER (presenter: Jim Lees)
PUBLIC HEARING**

SUPPLEMENTAL APPROPRIATION FOR FEMA SUBSTATION AND SOLAR FACILITY ALTERNATE PROJECTS

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 Both The Anticipated Revenue And Expenditures Associated With The FEMA Substation And Solar Facility Alternate Projects was approved.

This is an administrative action. Loveland Water and Power is requesting supplemental appropriations for both revenue and expense for the Power Utility budget. We are requesting an expense appropriation of \$9,068,018, with a total of \$5,068,018 appropriated from the Power Utility PIF fund for the solar facility project and \$4,000,000 appropriated from the Power Utility General fund for the substation project. The revenue appropriation total request is \$7,934,516 which is 87.5% of the anticipated \$9,068,018 expense. This is the amount that FEMA and the State of Colorado Office of Emergency Management normally reimburse for the FEMA alternate projects. These funds are requested to allow the Power Utility to move forward with the Council approved Substation and Solar Facility FEMA Alternate Projects. We intend to award contracts and perform project design in 2015 with construction beginning towards the end of 2015 and continuing through to the required deadline of September 2017.

**4. DEVELOPMENT SERVICES (presenter: Greg George)
PUBLIC HEARING**

SUPPLEMENTAL APPROPRIATION FOR BUILDING DIVISION

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 Additional Building Inspections and Permit Processing was approved.

This is an administrative action. The ordinance would appropriate a total of \$160,000 (\$151,000 in Professional Services and \$9,000 in Overtime-Benefited Employees) into the Building Division budget to meet the workload and demand for services for permitting and building inspections. Permitting and inspection activity levels have greatly exceeded projections through April 2015. The Building Division has experienced a number of vacancies in both Building Inspector and Plans Reviewer positions so far in 2015, requiring the use of additional contract employees to manage the workload during the recruiting process. The \$160,000 would come out of the Unassigned General Fund. The balance in that fund as of April is \$4.2 million.

**5. DEVELOPMENT SERVICES (presenter: Alison Hade)
2015 HUMAN SERVICES AND COMMUNITY DEVELOPMENT BLOCK GRANTS
A Motion to Adopt A Resolution #R-31-2015 For The 2015 Grant Funding**

Recommendations Of The Loveland Human Service Commission And The Loveland Affordable Housing Commission was approved.

This is an administrative action. The Human Services Commission and Affordable Housing Commission considered 50 grant requests totaling \$1.35 million, and recommended funding 36 with allocations of \$548,370 for human services and \$209,607 for affordable housing and public facilities. The attached staff report describes how the commissions made their decisions. The resolution authorizes the allocations of the 2015 Human Services Grant and Community Development Block Grant that were appropriated in the 2015 City Budget.

**6. POLICE DEPARTMENT (presenter: Luke Hecker)
FEDERAL JUSTICE ASSISTANCE GRANT**

A Motion For Approval Of Staff Application For A Federal Justice Assistance Grant (JAG Grant) was approved.

This is an administrative action. The Federal JAG grant of \$13,240 for the Police Department will fund overtime for Detectives in the Special Investigations Unit at the Northern Colorado Drug Task Force. There is no match.

**7. FINANCE (presenter: Brent Worthington)
APRIL 2015 FINANCIAL REPORT**

This is an information only item. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending April 30th, 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 April 30, 2015. Citywide Revenue (excluding internal transfers) of \$82,762,129 is 101.9% of year to date (YTD) budget or \$1,542,718 above the budget. Sales Tax collections are 98.5% of the YTD budget or \$205,847 under budget. Building Material Use Tax is 101.7% of YTD budget, or \$13,670 over budget. Sales and Use Tax collections combined were 100.6% of YTD budget or \$98,230 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 6.7% or \$984,399.

**8. CITY MANAGER (presenter: Alan Krcmarik)
INVESTMENT REPORT FOR APRIL 2015**

This is an information only item. 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 on the securities held by USBank was 1.05%. For April, earnings of \$98,132 were posted to City funds. Interest rates rose slightly in April, bringing the unrealized loss up to \$100,770 compared to \$49,403 in March. Due to draws from fund balances to pay for the cost of scheduled capital projects, flood response, and project repair, the portfolio is about \$8.2 million lower than December 2013 and \$23.7 million lower than the pre-flood peak.

**9. CITY CLERK (presenter: Terry Andrews)
SPECIAL MEETING REGARDING THE DOWNTOWN CATALYST PROJECT**

A Motion calling for a Special meeting to be held at 6:30 p.m., in these Council Chambers on June 9, 2015, immediately following the study session. The purpose of the special meeting is to discuss and give Staff direction regarding the Downtown Catalyst Project. Council agrees to waive their right for notice delivered to their homes was approved.

This is an administrative action. Staff is requesting a special meeting to discuss the Downtown Catalyst Project on June 9, 2015, immediately following the Study Session. City Council may be asked to consider formal action, which could include calling an Executive Session. This special meeting is at the request of Economic Development. The City Charter requires Council to receive notice at their place of residence, unless they waive the requirement.

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.

Darin Barrett, Loveland resident, expressed concern regarding the tax dollars used in Koopman vs. Myers.

John Medders, Loveland resident, spoke in support of Councilor Krenning.

Andrea Hall, Loveland resident, expressed concern in the Koopman vs. Myers litigation, and asked that Detective Koopman to be placed on administrative leave and an internal investigation be conducted by the Loveland Police Department.

Rosemary VanGorder, Fort Collins resident, expressed concern regarding integrity in law enforcement. She works with a group called The Committee for Judicial Justice that does "Court Watch" in the 8th Judicial District.

Michelle DeMarco, Loveland resident, expressed concern regarding her son, Jeremy Meyers arrest and conviction and requested that Detective Koopman be investigated or removed.

Sandy Lindberg, Fort Collins resident, expressed concern about police departments across the Nation. Encouraged Council to use proposed funds for the police training facility on refraining from excessive force instead.

Greg Liverette, Fort Collins resident, expressed concern within the police department.

Stacy Linn, Larimer County resident and investigative journalist, suggests that Detective Koopman be immediately suspended and emphasized the need for an external investigation.

Mike Ray, Loveland resident, would like the City Charter to be rewritten to allow for a citizen committee to have oversight of the Police Department.

Lisa Romanic, Loveland resident, supported an investigation of Detective Koopman.

Richard Nelson, Arvada resident, expressed concern about the Loveland Police Department.

Bill Cahill, City Manager, indicated that there is an external investigation being done by a Special Prosecutor from the Weld County District Attorney's Office regarding Detective Koopman. Bill will follow-up on some of the public comments made. Council discussion ensued regarding the Myers v. Koopman litigation.

Mayor Gutierrez spoke to Ed Gasman, Chair of the Police Citizens Advisory Board. Mr. Gasman told him Police Citizens Advisory board recommends that all processes are allowed to move forward and then determine an appropriate action.

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**

10. MUNICIPAL COURT

MUNICIPAL COURT JUDGE POSITION ANALYSIS

Judge Geri Joneson introduced this item to Council. This is an information item only. At City Council's request, Jo Mattoon Associates prepared a third-party evaluation of the design of the Loveland Municipal Judge position to assist City Council in determining how to best meet the needs for this function in the next three to five years. Interview and survey themes were reported and analyzed from eight comparison cities, City of Loveland's Municipal Court employees, management, and stakeholders, as well as municipal court staff from four surrounding cities. Council discussion ensued and it was asked of the judge what her recommendation is on the need to change to a citizen board. Judge Joneson stated that she recommends that it not change according to the research she has done the Judge should remain the liquor licensing authority.

Mayor Gutierrez asked for public comment. Hal Rogers, Clay Caldwell, and Kathy Rogers spoke in opposition to a citizen liquor licensing board.

Consensus of Council was to direct the staff supervision to the Municipal Judge and revisit the citizen liquor licensing board in nine months after a survey has been conducted.

11. ECONOMIC DEVELOPMENT

LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT

Economic Development Director, Betsey Hale, introduced this item to Council. Attorney Lucia Liley, representing the LDP, explained the plan and tax increments. The Plan of Development (DDA Plan) for the Loveland Downtown Development Authority (DDA) is required by State law to be reviewed by the Planning Commission and a recommendation thereon to be made to the City Council. The DDA Plan is defined as a plan for the development or redevelopment of the DDA District over a thirty year period. After receipt of the Planning Commission recommendation, the City Council will hold a public hearing on July 7, 2015 and immediately thereafter consider a resolution approving the DDA Plan. The DDA may not undertake any development project until the City Council has approved the DDA Plan. This is the first official step that is required to begin the approval process for the DDA Plan. If approved, the DDA Plan will be delivered on June 3, 2015 to all Planning Commission members. The Planning Commission is scheduled to consider the DDA Plan at its regular meeting on June 8, 2015. Mayor Gutierrez and asked for public comment at 9:58 p.m. Hearing none, Mayor Gutierrez closed public comment at 9:59 p.m.

Councilor Shaffer moved to refer the Loveland Downtown Development Authority Plan of Development to the Loveland Planning Commission for Planning Commission review and recommendation to City Council. The motion was seconded by Councilor Farley and carried with all councilors voting in favor thereof.

12. ECONOMIC DEVELOPMENT

ESH'S SURPLUS MARKET INCENTIVE AGREEMENT

Business Development Manager, Mike Scholl, introduced this item to Council. Reuben Esh of Esh's Discount Groceries has requested a deferral of Capital Expansion Fees not to exceed \$200,000 and a waiver of fees not to exceed \$50,000 for the construction of the business headquarters, warehouse and retail store at 301 W. 71st Street. Esh's currently operates a 5,000 square foot store in Larimer County on W. Eisenhower just outside of City limits. Once the new building is complete, Esh's plans to close that store. The Capital Expansion Fees to be deferred would be paid in five annual installments following the issuance of the Certificate of Occupancy or July 1, 2016, whichever is early. Reuben Esh

is also providing a personal guarantee to ensure payment of the deferred fees. The City will forgo \$50,000 in revenue from the collection of fees and roughly \$10,500 on interest income as a result of the deferral. Council discussion ensued regarding giving incentives to projects and if a policy is needed to approve incentive agreements administratively. Economic Development Director, Betsey Hale, indicated that the Economic Development Incentive Policy will be looked at for next year as well as the Economic Development Strategic Plan. Mayor Gutierrez asked for public comment at 10:31 p.m. Hearing none, Mayor Gutierrez closed public comment at 10:31 p.m.

Councilor Shaffer moved to Adopt Resolution #R-32-2015 Approving The Terms And Conditions Of The Esh's Surplus Market Incentive Agreement. Discussion ensued. **The motion was seconded by Councilor McKean and carried with all councilors voting in favor thereof.**

13. ECONOMIC DEVELOPMENT

TECH TRANSFER PROGRAM AND "THE WAREHOUSE" UPDATE

Business Development Specialist, Marcie Erion, introduced this item to Council. Executive Director of The Warehouse Business Accelerator, Kelly Peters, shared with council The Warehouse update. Currently they rely on public and private donations. They are looking into charging a monthly fee to clients. The Warehouse is a private non-profit organization in Loveland whose mission is to assist second stage companies with services to accelerate and cultivate their growth. The Warehouse is in its second year of operation and recently hired Kelly Peters as Executive Director. In 2014, the City of Loveland provided matching funds of \$30,000 to the Loveland Development Fund to support additional tech transfer services from David Lung and DA2 for The Warehouse. In 2015, the City of Loveland is investing \$40,000 in The Warehouse for the provision of accelerator services to local companies, supply chain development support and assistance with city initiatives such as EWI.

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: Discussion regarding county involvement in URA's.
- Farley: Complimented Felicia Harmon and ArtSpace for the Commerce Departments Economic Development Grant of \$862,557 to ArtSpace Project, Inc. for the restoration of the Feed and Grain, the total cost of the project is \$2.4 million, it will be finished in 2017. The Governors Art Show has begun and shows until July at the museum.
- Fogle: Noted that he will be attending the Nation League of Cities Conference in Salt Lake City. He participated in rewriting the policies for truth in advertising for cable television companies.
- Shaffer: The North I-25 Focus meeting is Wednesday night and the MPO is Thursday in Milliken.
- Gutierrez: Received an email regarding a concern over the Marten Marietta asphalt plant east of Loveland in Weld County that will have 2,000 trucks per day traveling in and out. Staff will look into the situation. Congratulated Jason Licon for successfully acquiring commercial

airline service to Rockford/Chicago three days a week through Elite Airlines.

MANAGER REPORT

Cahill: Announced the CML – Urban Renewal Special Committee 1348 Implementation.

CITY ATTORNEY REPORT

None


ADJOURN

Having no further business to come before Council, the June 2, 2015, Regular Meeting was adjourned at 11:26 p.m.

Respectfully Submitted,


Teresa G. Andrews, City Clerk




Cecil A. Gutierrez, Mayor