

**MINUTES**  
**LOVELAND CITY COUNCIL MEETING**  
**TUESDAY, JULY 21, 2015**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

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

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** Roll was called and the following responded: Gutierrez, Clark, McKean, Farley, Trenary, Krenning, and Fogle. Councilor Taylor was absent. Councilor Shaffer arrived at 6:45 p.m.

*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. Councilor Krenning asked for item #10 to be removed from the Consent Agenda and moved to after item #16 on the regular agenda. Councilor Clark moved to approve the consent agenda with the exception of item #10. The motion seconded by Councilor Krenning, carried with seven councilors present voting in favor thereof.**

**CONSENT AGENDA**

1. **CITY CLERK'S OFFICE** (presenter: Beverly Walker)  
**APPROVAL OF MEETING MINUTES**
  1. A Motion to Approve the City Council Meeting Minutes for the July 7, 2015 Regular meeting was approved.
  2. A Motion to Approve the City Council Meeting Minutes the July 14, 2015 Study Session was approved.
  
2. **CITY MANAGER** (presenter: Bill Cahill)  
**APPOINTMENTS TO THE AFFORDABLE HOUSING COMMISSION, THE HUMAN SERVICES COMMISSION AND THE LOVELAND UTILITIES COMMISSION**
  1. A motion to reappoint Pam McCrory to the Affordable Housing Commission for a term effective until June 30, 2018 was approved.

2. A motion to appoint **Patrick Dillon** to the **Human Services Commission** for a term effective until June 30, 2018 was approved.
  3. A motion to reappoint **Tim Hitchcock** to the **Human Services Commission** for a term effective until June 30, 2018 was approved.
  4. A motion to reappoint **Gary Hausman** to the **Loveland Utilities Commission** for a term effective until June 30, 2018 was approved.
  5. A motion to reappoint **Dan Herlihey** to the **Loveland Utilities Commission** for a term effective until June 30, 2018 was approved.
  6. A motion to reappoint **Anita Marchant** to the **Loveland Utilities Commission** for a term effective until June 30, 2018 was approved.
  7. A motion to appoint **Dave Kavanagh** as an alternate member on the **Loveland Utilities Commission** for a term effective until June 30, 2016 was approved.
- These are administrative actions recommending the appointment of members to the Appointments to the Affordable Housing Commission, the Human Services Commission and the Loveland Utilities Commission.

3. **PUBLIC WORKS** (presenter: Chris Carlson)  
**SUPPLEMENTAL APPROPRIATION FOR HWY 287 FLOOD MITIGATION STUDY**  
**A Motion Approving And Order Published On Second Reading Ordinance #5941 Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Budget For Highway 287 Bridge Flood Mitigation Feasibility Study was approved.**  
This is an administrative action. The ordinance on second reading appropriates funding for engineering costs to complete a Highway 287 Bridge Flood Mitigation Feasibility Study. The project is anticipated to cost up to \$172,150, of which \$125,000 will be reimbursed by a Community Development Block Grant – Disaster Recovery (CDBG-DR) planning grant recently awarded to the City of Loveland by the State of Colorado. The City's matching share is \$47,150 maximum. The City will contract with a consulting engineering firm to complete the study and will coordinate with the Colorado Department of Transportation throughout the project, which is expected to be completed in approximately 6-9 months after contracting. On July 7, 2015, City Council unanimously approved this ordinance on first reading.
4. **DEVELOPMENT SERVICES** (presenter: Kerri Burchett)  
**WATERFALL 6<sup>TH</sup> SUBDIVISION (THE EDGE) VACATION**  
**A Motion Approving and Order Published on Second Reading Ordinance #5942 Vacating A Utility Easement Located Within Lot 1, Block 1 Of The Waterfall Sixth Subdivision, City Of Loveland, Larimer County, Colorado was approved.**  
This is a legislative action to consider adoption of an ordinance on second reading, vacating a 360 square foot utility easement located on E. 15th Street, west of Boyd Lake Avenue. The utility easement in question was established within the former waterpark development. This easement is no longer needed and will hinder redevelopment of the property into a 70-unit apartment complex. The applicant is the Loveland Housing Authority. On July 7, 2015, City Council unanimously approved this ordinance on first reading.
5. **CITY ATTORNEY** (presenter: Vincent Junglas)  
**AMENDMENT TO PANHANDLING**  
**A Motion Approving and Order Published on Second Reading Ordinance #5943 Amending Chapter 9.30 of the Loveland Municipal Code Pertaining to Prohibited Solicitations and Panhandling was approved.**  
This is a legislative action to amend Section 9.30.010 and Section 9.30.020 of the

Loveland Municipal Code to address the current case law with regard to panhandling in a public place. On July 7, 2015, City Council unanimously approved this ordinance on first reading.

6. **CITY CLERK'S OFFICE** (presenter: Beverly Walker)  
**LARIMER COUNTY VOTER PRECINCTS CHANGE**  
**A Motion Approving Ordinance #5944 On Second Reading, Amending Section 1.24.040 And 1.24.050 Of The Loveland Municipal Code To Add New Larimer County Voter Precinct in the City's Third and Fourth Wards was approved.**  
This is an administrative action. On Tuesday, May 12, 2015, the Larimer County Board of Commissioners approved Resolution #5122015R007 to Establish Precincts and Boundary Changes to include no more than 2,000 eligible electors in any voter precinct, due to population increases in some areas. (per C.R.S.§1-5-101(3)) This resulted in the addition of two new voter precincts; one in Ward three and one in Ward four. On July 7, 2015, City Council unanimously approved this ordinance on first reading.
  
7. **POLICE** (presenter: Luke Hecker)  
**SUPPLEMENTAL APPROPRIATION FOR THE COPS GRANT**  
**A Motion Approving And Order Published On Second Reading Ordinance #5945 Enacting A Supplemental Budget And Appropriation to the 2015 City of Loveland Budget for a School Resource Officer was approved.**  
This is an administrative action. The Police Department has been awarded a Federal Cops grant for a School Resource Officer. The grant is for \$125,000 to partially fund this position over a three year period. The local match requirement is \$143,800 of which The Thompson School District will fund 75% or \$107,850 and the City will fund 25% or \$35,950. On July 7, 2015, City Council unanimously approved this ordinance on first reading.
  
8. **POLICE** (presenter: Rick Arnold)  
**PUBLIC HEARING**  
**ANIMAL TRAPPING AND RETURN TO OWNERS**  
**A Motion Approving And Order Published On First Reading An Ordinance Amending Chapter 6.16 Of The City Of Loveland Municipal Code Regarding The Humane Trapping And Return Of Animals To Their Owners Or Keepers was approved.**  
This a legislative action. Larimer Humane Society requests a revision to Loveland City Code Section 6.16.040 to allow humanely trapped domestic animals to be returned to their owners or keepers. There is no budgetary impact.
  
9. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Pat Mialy)  
**PUBLIC HEARING**  
**SUPPLEMENTAL APPROPRIATION FOR CHILSON EMERGENCY GENERATOR**  
**A Motion Approving And Order Published On First Reading An Ordinance Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Budget For An Emergency Generator At The Chilson Recreation Center was approved.**  
This is an administrative action to consider acceptance of a grant and to conduct a public hearing and first reading of an ordinance to appropriate the total cost of the project, including the grant proceeds. FEMA (Federal Emergency Management Agency) through the Colorado Division of Homeland Security and Emergency Management awarded the City of Loveland \$365,150 of a \$486,867 project to install a generator at the Chilson Center, a designated emergency evacuation center. This grant is awarded through the

Hazard Mitigation Grant Program (HMGP). The State will contribute 12.5% or \$60,828.50 and the City of Loveland match would be 12.5% or \$60,828.50. This action would authorize the City Manager to sign a contract accepting the grant. A public hearing and first reading of the supplemental ordinance is the first step for appropriating the funds for the project.

10. **DEVELOPMENT SERVICES** (presenter: Alan Krcmarik)  
**PUBLIC HEARING**  
**SUPPLEMENTAL BUDGET AND APPROPRIATION FOR CAPITAL EXPANSION FEE PLAN BASED STUDY**  
This item was moved to the Regular Agenda.
  
11. **CITY CLERK'S OFFICE** (presenter: Beverly Walker)  
**PUBLIC HEARING**  
**NOVEMBER 3, 2015 ELECTION COORDINATION WITH LARIMER COUNTY**
  1. **A Motion to Adopt Resolution #R-39-2015 Of The Loveland City Council Authorizing The City Clerk To Notify The Larimer County Clerk And Recorder Of The City Of Loveland's Intention To Participate In The Statewide Election To Be Held On November 3, 2015, As A Coordinated Election With The County was approved.**  
The proposed resolution is an administrative action authorizing the City Clerk to notify the Larimer County Clerk and Recorder of the City's intent to participate in a coordinated election with the County on November 3, 2015.
  2. **A Motion Approving and Order Published On First Reading An Ordinance Providing That The City Of Loveland's Regular Election To Be Held November 3, 2015 Shall Be Conducted As A Coordinated Election With The Larimer County Clerk and Recorder And, To The Extent Necessary To So Conduct That Election As A Coordinated Election, The Colorado Uniform Election Code Of 1992 Shall Govern was approved.**  
The proposed Ordinance is a legislative action needed to allow the City's regular election on November 3, 2015, to be so conducted on November 3, 2015 as a coordinated election with the Larimer County Clerk and Recorder.
  
12. **PARKS AND RECREATION** (presenter: Marilyn Hilgenberg)  
**BIG THOMPSON RECREATION AND CONSERVATION PLAN**  
**A Motion to Adopt Resolution #R-40-2015 Adopting "A Bigger Vision For The Big T: A Conservation And Recreation Assessment" was approved.**  
This is a legislative action to adopt "A Bigger Vision for the Big T: A Recreation and Conservation Assessment." The assessment includes recommendations regarding priority projects and opportunities to address the impacts of the 2013 Flood on recreation amenities and conservation areas in the Big Thompson River corridor from west Loveland to Estes Park.
  
13. **FORT COLLINS-LOVELAND MUNICIPAL AIRPORT** (presenter: Jason Licon)  
**FAA AIRPORT GRANT AGREEMENT**  
**A Motion to Adopt Resolution #R-41-2015 Authorizing The City Manager To Execute The 2015 Grant Agreement (AIP Project No. 3-08-0023-034-2015) With The Federal Aviation Administration For Improvements At The Fort Collins-Loveland Municipal Airport was approved.**  
This is an administrative action. The resolution would authorize the City Manager to execute a Grant Agreement from the Federal Aviation Administration for up to \$760,000.

This FAA Grant will be used to construct a snow removal equipment building.

14. **WATER AND POWER** (presenter: Melissa Morin)  
**EXTENSION OF A WATERLINE OUTSIDE CITY LIMITS**  
A Motion to Adopt Resolution #R-42-2015 Authorizing The Provision Of Water Service Outside Of The Loveland City Limits Pursuant To Loveland Municipal Code Sections 13.04.070 And 13.04.080 was approved.  
This is an administrative action to approve a water main extension for a commercial water and fire service tap to serve Jack Cantley's Sweetheart City Winery property located outside of the City limits in the vicinity of West Highway 34. The owner will construct this waterline extension and then dedicate it to the City for operations and maintenance.
15. **HUMAN RESOURCES** (presenter: Julia Holland)  
**SPECIAL MEETING REGARDING CITY ATTORNEY'S SIX MONTH EVALUATION**  
A Motion Setting A Special Meeting Of City Council On July 27, 2015 And August 3, 2015 At 5:30 p.m. In The Parks And Recreation Large Conference Room To Conduct An Executive Session For The Purpose Of The City Attorney's Six Month Evaluation was approved. Council Waives The Requirement Of Notice Of The Meeting Delivery To Their Homes.  
This is an administrative action to set a special meeting and to conduct an executive session for the purposes of the City Attorney's six month evaluation.

#### **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.*

- 1) *Presentation of Metropolitan Planning Organization (MPO) Transportation Issues (presenter: Terri Blackmore, MPO Executive Director, 10 min.)*

John Medders, Loveland resident, spoke about the fluoride levels in the City drinking water.

Steve Adams, Director of Water & Power, spoke regarding the fluoride levels having been lowered to the required CDC levels.

Stacy Linn, Larimer County resident, spoke about the Detective Koopman litigation, Chief Hecker and the City Manager.

Kent Campbell, Berthoud resident, spoke in regards to Chief Hecker.

#### **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

#### 16. ECONOMIC DEVELOPMENT

##### **PUBLIC HEARING**

##### **DDA ELECTION AND BALLOT QUESTION**

Economic Development Director, Betsey Hale, introduced this item to Council. This is an administrative action recommending the approval of an ordinance on first reading. Approval of the ordinance will direct the City Clerk and other staff to conduct an election on November 3, 2015 for the Downtown Development Authority (DDA) and submit ballot questions regarding an ad valorem tax increase and authorization of debt to the qualified electors within the DDA boundaries. The ballot language can be found in Section 1 of the attached City of Loveland ordinance.

Mayor Gutierrez opened the hearing at 7:25 p.m. There were no public comments.

**Councilor Shaffer moved To Approve And Order Published On First Reading An Ordinance Approving A Downtown Development Authority Election To Be Held November 3, 2015, To Authorize Debt, Taxes And Revenue Retention. The motion, seconded by Councilor Farley, carried with all councilors present voting in favor thereof.**

#### 10. DEVELOPMENT SERVICES

##### **PUBLIC HEARING**

##### **SUPPLEMENTAL BUDGET AND APPROPRIATION FOR CAPITAL EXPANSION FEE PLAN BASED STUDY**

Executive Fiscal Advisor, Alan Krcmarik, introduced this item to Council. This is an administrative action. The proposed ordinance appropriates a total of \$35,800 from General Fund balance, the proceeds of which would be used to pay for additional professional and consulting services necessary to complete the Capital Expansion Fee Plan Based Study. The original estimated cost for the study was \$85,000. The work completed so far on the study has required more research than originally anticipated and a far higher level of interaction and participation with the Boards and Commissions that have a stakeholder interest in the level of the Capital Expansion Fees. The requested supplemental appropriation is necessary to complete the study in time for the September 22, 2015 Council study session. Discussion ensued regarding the timeline and the percentage of the additional amount over the original budget. Mayor Gutierrez opened the public hearing at 8:00 p.m. There were no public comments.

**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 the Capital Expansion Fee Plan Based Study. The motion, seconded by Councilor Farley, and carried with all councilors present voting in favor thereof.**

#### 17. WATER & POWER AND INFORMATION TECHNOLOGY

##### **PUBLIC HEARING**

##### **BALLOT QUESTION REGARDING SB152 – BROADBAND**

Water and Power Director, Steve Adams, introduced this legislative item to Council. He also introduced the project team members, John Ham, Information Technology (IT); Alicia Calderon, Assistant City Attorney; and Tom Hacker, Public Information Officer. At a May 12, 2015 City Council Study Session the project team of Loveland Water and Power,

Information Technology (IT) and the City Attorney's Office received general guidance to draft a ballot question for the November 3, 2015 election. The ballot question proposes to voters that without increasing taxes, and to restore local authority that the City be authorized to provide high speed internet, cable television and telecommunication services either directly or indirectly with public or private sectors to residents, businesses and other users of such services within the boundaries of the City of Loveland and the service territory of the City of Loveland's power enterprise as expressly permitted by Title 29, Article 27 of the Colorado Revised Statutes. Mayor Gutierrez opened the public hearing at 8:10 p.m. Russ Crescent, Loveland resident, spoke in favor of the ordinance. Hearing no other comments, Mayor Gutierrez closed public comment at 8:12 p.m.

**Councilor Shaffer moved To Approve And Order Published On First Reading An Ordinance Submitting To The Registered Electors Of The City Of Loveland At The City's Regular Election To Be Held On November 3, 2015, The Ballot Question Of Whether, Without Increasing Taxes, And To Restore Local Authority, Shall The City Of Loveland Be Authorized To Provide Advanced Service (High Speed Internet), Cable Television Service, Or Telecommunications Service, Directly Or Indirectly With Public And/Or Private Sector Partners, To Residents, Businesses, Schools, Health Care Facilities, Libraries, Nonprofit Entities, And Other Users Of Such Services Located Within The Boundaries Of The City Of Loveland And The Service Territory Of The City Of Loveland's Power Enterprise As Expressly Permitted By Title 29, Article 27 Of The Colorado Revised Statutes. The motion, seconded by Councilor Farley, and carried with all councilors voting in favor thereof.**

**18. CITY ATTORNEY  
PUBLIC HEARING**

**AMENDMENT TO DOOR TO DOOR SOLICITATION**

City Attorney, Tami Yellico introduced this item to Council. This is a legislative action to amend the City Code to remove the ban on all uninvited commercial door to door solicitations. Door to door solicitations at private residences and businesses with a posted "No solicitation" or "No trespassing" sign remains prohibited. At the July 7 meeting, the Council approved the ordinance 6-2 and also directed staff to schedule a study session on regulation and taxation of casual retail sales in Loveland. Mayor Gutierrez opened the public hearing at 8:30 p.m. There were no public comments. Discussion ensued and a future study session was requested.

**Councilor Shaffer moved to Approve and Order Published on Second Reading Ordinance #5946 Amending Chapter 5.12 Regarding Door to Door Solicitations. The motion, seconded by Councilor Farley, carried with six councilors in favor and Councilors McKean and Gutierrez voting against.**

**19. CITY ATTORNEY  
PULLIAM BUILDING SETTLEMENT DISCUSSION**

**Discussion and Possible Staff Direction Regarding City of Loveland v. Thompson School District; Evan Patterson; Jon-Mark Patterson, Which is a Quiet Title/Declaratory Judgment Action Regarding the Pulliam Building, Including a Possible Executive Session.**

City Attorney, Tami Yellico introduced this administrative action item to Council. Jon-Mark Patterson spoke to Council to address their questions. Discussion ensued regarding the Pulliam "family" and representation in the future.

The City Attorney and Jon-Mark Patterson will continue negotiations and report back to Council. No executive session was considered.

20. **CITY ATTORNEY**

**DISCUSSION AND POSSIBLE EXECUTIVE SESSION**

City Attorney, Tami Yellico introduced this item to Council.

**Councilor Shaffer moved that City Council go into executive session to receive legal advice and to determine negotiation positions, develop negotiation strategy and to instruct negotiators with regard to two lawsuits known as Jeremy Myers versus Brian Koopman and Tammy Fisher versus Koopman and Hecker as authorized by the following sections of the Colorado Open Meetings Law and the City Charter: to receive legal advice from the City Attorney's Office as authorized by C.R.S. §24-6-402(4)(b) and Charter Section 4-4(c)(3); and may be the subject of future negotiations, to determine negotiation positions, develop negotiation strategy and to instruct negotiators concerning such positions and strategy as authorized by C.R.S. §24-6-402(4)(e) and Charter Section 4-4(c)(1), the motion was seconded by Councilor Clark.**

Discussion ensued regarding the need for executive session since Attorney Kim Schutt would not be present for the Meyers versus Koopman discussion.

**Councilor Krenning moved to amend the original motion to only discuss the Tammy Fisher versus Koopman and Hecker lawsuit. The amendment, seconded by Councilor Fogle, carried with all councilors voting in favor thereof.**

**Roll was called on the original motion as amended and carried with all councilors voting in favor thereof at 10:05 p.m. Council reconvened at 11:30 p.m.**

**BUSINESS FROM CITY COUNCIL**

McKean, Shaffer and Fogle: Congratulated Councilor Farley and his wife for being chosen as Corn Roast Grand Marshals.

Trenary: will be attending the Big Thompson Water Quality Semiannual Meeting on September 24<sup>th</sup>.

Gutierrez: Passport to Water at the Water and Power Service Center will be held July 23<sup>rd</sup>. Colorado Cares Day is this weekend. July 27<sup>th</sup> Governor Hickenlooper will announce ArtSpace as part of the state's "Space to Create" initiative.

**CITY MANAGER REPORT**

None

**CITY ATTORNEY REPORT**

None

**ADJOURNMENT**

Having no further business to come before Council, the July 21, 2015, Regular Meeting was adjourned at 11:37 p.m.

Respectfully Submitted,

  
Teresa G. Andrews, City Clerk

  
Cecil A. Gutierrez, Mayor

