

**AGENDA**  
**LOVELAND CITY COUNCIL MEETING**  
**(CHANGE OF DAY) MONDAY, FEBRUARY 29, 2016**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

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“La Ciudad de Loveland está comprometida a proporcionar igualdad de oportunidades para los servicios, programas y actividades y no discriminar en base a discapacidad, raza, edad, color, origen nacional, religión, orientación sexual o género. Para más información sobre la no discriminación o para asistencia en traducción, favor contacte al Coordinador Título VI de la Ciudad al [TitleSix@cityofloveland.org](mailto:TitleSix@cityofloveland.org) o al 970-962-2372. La Ciudad realizará las acomodaciones razonables para los ciudadanos de acuerdo con la Ley de Discapacidades para americanos (ADA). Para más información sobre ADA o acomodaciones, favor contacte al Coordinador de ADA de la Ciudad en [bettie.greenberg@cityofloveland.org](mailto:bettie.greenberg@cityofloveland.org) o al 970-962-3319”.

*Please Note: Starting times shown on agenda are estimates only; actual times may vary.*

**(5:00 P.M.) DINNER – City Manager’s Conference Room**  
**RECEPTION- HOST: McKee Medical Center Foundation – Council Chambers**  
**Lobby**

**(6:00 P.M.) REGULAR MEETING - City Council Chambers**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PROCLAMATION DECLARING LOVELAND A HEART SAFE COMMUNITY**  
**(TVEMS Captain Mark Turner)**

*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. Comments will be limited to no more than three minutes, the City Clerk will start the timer once an introduction is made and a buzzer will sound when the three minutes have expired.*

**(6:05) CONSENT AGENDA**

1. **CITY CLERK** (presenter: Terry Andrews)  
**APPROVAL OF MEETING MINUTES**  
**A Motion To Approve City Council Minutes For the January 26, 2016 Study Session, February 9, 2016 Study Session and the February 16, 2016 Regular meeting**  
 This is an administrative action to approve the City Council minutes for January 26, 2016 the February 9, 2016 Study Sessions and the February 16, 2016 regular meeting.
  
2. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Mark Miller)  
**DESIGN OF FIRE TRAINING GROUNDS**  
**A Motion To Approve On Second Reading, Ordinance #5997 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Design Of The Fire Training Grounds**  
 This is an administrative action to approval on second reading of \$321,442 supplemental appropriation to carryover funding appropriated in 2015 from Fire Capital Expansion Fees and meet actual project costs based on the Request for Proposal process for the design of the Fire Training Grounds. On February 16, 2016, City Council unanimously approved this ordinance on first reading.
  
3. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Mark Miller)  
**ROSSUM DRIVE PROPERTY SALE**  
**A Motion To Approve On Second Reading, Ordinance #5998 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**  
 This is an administrative action on second reading regarding the sale of City property on Rossum Drive for \$145,000. 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 2015, a separate developer attempted to purchase the property along with an adjoining property to build a senior living facility. That proposed purchase agreement required that the developer rezone the two properties and the Loveland Planning Commission rejected the rezoning request in October, 2015. This new \$145,000 cash offer is from a neighbor who lives east of the property, and is \$10,000 more than the previous purchase offer. On February 16, 2016, City Council unanimously approved this ordinance on first reading.
  
4. **FINANCE** (presenter: Alan Krcmarik)  
**SID BOND APPROPRIATIONS**  
**A Motion To Approve On Second Reading, Ordinance #5999 Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Special Improvement District No. 1 Budget For Bond Appropriations**  
 This is an administrative action. The City of Loveland recently completed the refunding of its Special Improvement District No. 1 (Series 2007) revenue bonds. The proposed Ordinance appropriates the final payments on the old bond (Series 2007) and the revenue generated from the new refunding bond. On February 16, 2016, City Council unanimously approved this ordinance on first reading.
  
5. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)  
**PUBLIC COMMENT**  
**SOUTH CATALYST PROJECT FUNDING**  
**An Ordinance On First Reading Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Re-Appropriate Funding**

**Approved In 2014 For The Purchase Of Property And Other Costs Associated With Downtown Land Purchases For The South Catalyst Project**

This is an administrative action. The ordinance re-appropriates \$1,734,414, which is the balance of the \$6.5 million that was originally approved in 2014 for the acquisition of Downtown property and other activities in support of the South Catalyst redevelopment project. The proposed project, a partnership with the Brinkman Partners, is expected to result in a vertically dense mixed-use project that would include office, residential and retail. The total investment is expected to be \$50 to \$70 million. Since the initial appropriation in 2014, the City has purchased twelve properties and completed extensive pre-development activities. The funding for the appropriation of \$1,734,414 is from Unassigned Fund Balance in the General Fund. The remaining available unassigned fund balance in the General Fund will be \$6,446,959 if the request is approved.

**6. PUBLIC WORKS (presenter: Chris Carlson)**

**PUBLIC COMMENT**

**FLOOD RECOVERY PROJECTS FINAL DESIGN**

**A Motion To Approve On First Reading, An Ordinance Enacting a Supplemental Budget and Re-Appropriation (Rollover) to the 2016 City of Loveland Budget for Final Design of the Wilson to Taft Reach Flood Recovery Projects and for Completion of the Highway 287 Bridge Flood Mitigation Feasibility Study**

This is an administrative action to re-appropriate funding approved in 2015 for engineering/final design of the Wilson to Taft Reach Flood Recovery Projects and for the Highway 287 Flood Mitigation Feasibility Study. Funding for both projects was previously approved in 2015, but work was delayed pending FEMA approval of a scope change request, signature of a Community Development Block Grant – Disaster Recovery (CDBG-DR) planning grant contract, and selection of an engineering consultant. Because time is of the essence affecting analysis, design, permitting, bidding, construction and deadlines outside City control (FEMA and State deadlines), Public Works needs to move forward quickly to complete each of the two projects on schedule. Therefore, re-appropriation of \$246,000 for the flood recovery project work (Wilson to Taft reach projects) and \$172,150 for the Highway 287 Bridge Flood Mitigation Feasibility Study is requested.

**7. HUMAN RESOURCES (presenter: Karen Rees)**

**EMPLOYEE BENEFITS FUND APPROPRIATION**

**A Motion To Approve On First Reading, An Ordinance On First Reading Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Budget For A General Fund Contribution To The Employee Benefits Fund**

The Employee Benefits Fund ended 2015 negative due to higher claims than expected in the months of November & December. In order to correct the shortfall, an appropriation of \$610,000 is needed. The total \$5,342,782 General Fund contribution to the Employee Benefits Fund will not change, but the timing of the contribution will. The requested appropriation will reduce the 2015 ending General Fund unassigned fund balance by \$610,000 and increase the projected ending 2016 General Fund unassigned fund balance by \$610,000.

**8. CITY MANAGER (presenter: Bill Cahill)**

**BROADBAND TASK FORCE**

**A Motion To Appoint John Fogle As Council Liaison To The Broadband Task Force For A Term Effective Until June 1, 2017**

This is an administrative item appointing a Council liaison to the recently formed Broadband Task Force to support the broadband initiative for the City of Loveland.

**9. FINANCE (presenter: Brent Worthington)**

**JANUARY 2016 FINANCIAL REPORT**

The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending January 31, 2016.

**10. CITY MANAGER (presenter: Alan Krcmarik)  
JANUARY 2016 INVESTMENT REPORT**

The budget projection for investment earnings for 2016 is \$2,229,818. On the portfolio's 2016 beginning balance this equates to an annual interest rate of 1.02%. Based on the January monthly statement, the estimated yield on the fixed income securities held by USBank was at 1.32%, for total assets the yield was 1.16%. For January, total earnings of \$129,599 were posted to City funds; the year-to date target was \$196,461. U.S. short-term Treasury interest rates fell in January; the portfolio's change in unrealized gain was \$1.5 million. The end of January portfolio market value is estimated to be \$212.5 million. The total amount of the portfolio is lower than the end of 2015 by \$4.8 million. The peak amount for the portfolio was reached before the 2013 flood when it had estimated market value of \$226.3 million.

**END OF CONSENT AGENDA**

**(6:25) CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA**

**(6:30) 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**

**(6:45) 11. CITY MANAGER (presenters: Bill Cahill and Tim Hand)  
MANDATORY PAROLE RECOMMENDATION**

**A Motion To Direct Staff To Prepare A City Of Loveland Letter Of Opposition To The Recommendations Of The Colorado Commission On Criminal And Juvenile Justice Subcommittee**

This is an administrative action directing staff to prepare and submit a letter of opposition to the mandatory parole recommendations of the Colorado Commission on Criminal and Juvenile Justice Subcommittee. The Subcommittee has developed recommendations which may become a legislative proposal. Larimer County has registered their opposition to the recommendations and request that Loveland also send a letter of opposition, due to potential negative effects on community safety.

**(7:30) 12. CITY ATTORNEY (presenter: Tami Yellico)  
PUBLIC COMMENT**

**CONSTRUCTION DEFECTS**

**A Motion to Approve On First Reading, An Ordinance Adding a New Chapter 15.58 to the Loveland Municipal Code to Encourage Construction of Condominiums**

This ordinance is a legislative action to consider the adoption of an ordinance that addresses the issues of builder and developer liability as it relates to construction defects.

**(8:15) 13. POLICE (presenter: Tim Brown and Brent Worthington)**

**PUBLIC COMMENT**

**SUPPLEMENTAL APPROPRIATION FOR OFFICERS AND VEHICLES**

**A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Three Police Officers And Four Police Vehicles**

City Council approved the addition of three (3) officers funded by existing appropriations. Three (3) vehicles are needed to support the additional officers. One (1) vehicle is requested for a School Resource Officer approved in 2016. The remaining unassigned fund balance in the Police Capital Expansion Fee Fund will be \$5,289,723 if the ordinance is approved. The cost of the additional officers is offset by reductions in other expenses, so there is no impact to fund balance in the General Fund.

**(9:00) 14. CITY ATTORNEY (presenter: Tami Yellico)**

**LITIGATION UPDATE**

**An Update To City Council On Two Lawsuits And A Possible Motion To Allow City Council The Option To Go Into Executive Session For The Purpose Of Receiving Legal Advice And For Matters That May Be Subject To Negotiation Concerning The Lawsuits Of Jeremy C. Myers V. Brian Koopman And Tammy Fisher V. Brian Koopman And Luke Hecker**

The City is involved in the lawsuits of Jeremy C. Myers v. Brian Koopman and Tammy Fisher v. Brian Koopman and Luke Hecker. Plaintiffs Jeremy Meyers and Western Salvage, Ltd., first filed suit in 2009 alleging violations of their Fourth and Fourteenth Amendment rights. Generally speaking, the claims stemmed from the September 6, 2007, execution of a no- knock search warrant by the Larimer County Sheriff’s Office SWAT Team at 1101 North Madison Street in Loveland, seeking evidence of a methamphetamine manufacturing laboratory being operated at the premises. The City has spent \$200,000 on this case. Having met its deductible/self-insured retention, the City’s additional costs are now being paid by CIRSA, which has spent \$52,058, bringing the total amount paid to date to \$252,058. On July 25, 2014, Tammy Fisher filed a Notice of Claim alleging that she suffered damages and monetary loss in excess of \$100,000 as a result of a police investigation regarding Plaintiff’s conduct during an investigation of a separate criminal matter in which the primary suspect was not Plaintiff. Plaintiff was alleged to have “tipped off” the primary suspect that the police were coming with a search warrant. To date \$60,246 has been spent by the City on this case.

**(10:15) 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.*

**CITY MANAGER REPORT**

**CITY ATTORNEY REPORT**

**ADJOURN**



## PROCLAMATION

- WHEREAS:** The "Heart Safe Community" designation, is a communitywide effort to educate citizens on the dangers of Sudden Cardiac Arrest (SCA). Identifying symptoms, learning how to administer cardiopulmonary resuscitation (CPR), and using automated external defibrillators (AEDs) are major components of the "Heart Safe City" designation; and
- WHEREAS:** The McKee Medical Center Foundation has partnered with McKee Medical Center, the CardioVascular Institute of Northern Colorado, Thompson School District, Thompson Valley EMS, the Loveland Police Department, Loveland Fire Rescue Authority and the City of Loveland's dispatch services, to become a designated "Heart Safe City." Tom Lucero and Julie Kruit; parents of a high school student and baseball player Tommy Lucero, are also part of the partnership. Tommy's life was saved thanks to the coaching staffing being trained in CPR, and AED on the premises; and
- WHEREAS:** To date the effort has raised over \$520,228.00, trained over 600 volunteers in CPR and will shortly hit their goal of an additional 100 AEDs in Loveland, not to mention they have strong community partnerships including Thompson Valley EMS, the Loveland Police Department, and Loveland Fire Rescue Authority; and
- WHEREAS:** Sudden Cardiac Arrest is a leading cause of death in the United States, claiming over 325,000 lives each year. Brain death begins to occur in just four to six minutes after cardiac arrest. Chances of survival are reduced by 7 to 10 percent with every minute that passes without CPR and the use of an AED. If more people were educated in CPR, and AEDs were more widely available in our community, survival rates could be as high as 50 percent; and,
- WHEREAS:** The "Heart Safe Community" initiative calls for the placement of AEDs in public gathering spots throughout the City of Loveland. Placements include shopping malls, swimming pools, schools, grocery stores, theaters, museums, golf courses and churches. These easy to use AEDs are equipped with simple step-by-step user instructions and will be maintained by Thompson Valley EMS; and
- WHEREAS:** As a culmination to the success of this initiative there will be "Heart Safe Community" signs placed on the main roads entering Loveland, so people coming into our community know it is designated a Heart Safe Community.

Now, Therefore, we the City Council of Loveland do hereby declare Loveland as a

## HEART SAFE COMMUNITY

to support the effort of saving lives from Sudden Cardiac Arrest. in the City of Loveland, Colorado

Signed this 29 day of February, 2016

Cecil A. Gutierrez, Mayor



**MINUTES**  
**LOVELAND CITY COUNCIL STUDY SESSION**  
**TUESDAY, JANUARY 26, 2016**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

**STUDY SESSION 6:30 P.M.**

**Councilors present:** Gutierrez, Ball, Johnson, Overcash, and McKean were present. Councilors Shaffer, Fogle, Clark and Krenning were absent. City Manager, Bill Cahill was also present.

**1. ECONOMIC DEVELOPMENT**  
**REVIEW OPTIONS FOR THE PULLIAM BUILDING AND TO SEEK DIRECTION FROM COUNCIL ON NEXT STEPS RELATED TO THE PULLIAM BUILDING**

Mike Scholl, Economic Development Manager, and Ken Cooper, Facilities Operations Manager, presented this item to Council. Staff was seeking direction from Council on the future of the Pulliam Community building. Staff presented different options for consideration and review. The information included the current lease rates, annual revenue and cost associated with operating the building. The title issues were resolved by action of Council on September 15, 2015.

No specific funding is requested at this time. However, the Pulliam Community Foundation ("Foundation") has offered to invest \$100,000 in the building if the City agrees to invest a minimum of \$200,000 subject to the conditions of the offer. The Foundation has asked that the improvements be for the main auditorium.

Staff will work with the Pulliam Community Foundation and return to Council in 4-5 months with a business plan to cover the following 4 aspects: (1) vision and purpose; (2) market analysis, business plan, and financial projections; (3) possible RFP and partners; and (4) more data about current building conditions and assessment.

**2. CITY CLERKS**  
**DOOR-TO-DOOR SOLICITATION**

Terry Andrews, City Clerk and Tree Ablao, Assistant City Attorney, presented this item regarding Chapter 5.12 of the City Code, pertaining to door to door solicitation within the City of Loveland. Based on the Analysis presented, the Councilors in attendance agreed to not institute a Door to Door Solicitation permitting/licensing program at this time.

Jim Wedding, Revenue Manager and Vincent Junglas, Assistant City Attorney, presented information on the sales tax issues related to not-for-profit organizations. Charitable Organizations who are engaged in the sale of tangible personal property within the City are exempt from collecting and remitting sales tax under what is called the "occasional sales" provision. In order to effectively utilize the aforementioned provision, a qualifying charitable organization must limit sale activities to no more than twelve days in a calendar year and shall not collect more than twenty-five thousand dollars in a calendar year. The qualifying charitable organization must also utilize collected revenue from "occasional sales" in furtherance of the qualifying charitable organizations service. Importantly, if a qualifying charitable organization exceeds either the twenty-five thousand dollar in net proceeds cap or the twelve day sale cap, the organization must obtain a sales tax license from the City and the State and remit sales tax on all sales that occurred in that calendar year, including sales in that calendar year that were previously exempt prior to the date when the threshold was exceeded. Staff will keep Council informed in changes that the State and the Colorado Municipal League will be making and the City recommended exemptions.

**ADJOURN**

Hearing no further business to come before Council, Mayor Gutierrez adjourned the January 26, 2016 Study Session at 8:27 p.m.

Respectfully Submitted,

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Teresa G. Andrews, City Clerk

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Cecil A. Gutierrez, Mayor



**MINUTES**  
**LOVELAND CITY COUNCIL STUDY SESSION**  
**TUESDAY, FEBRUARY 9, 2016**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

**STUDY SESSION 6:30 P.M.**

**Councilors present:** Gutierrez, Fogle, Krenning, Ball, Johnson, Overcash, McKean, Shaffer, and Clark were present. City Manager, Bill Cahill was also present.

**1. WATER & POWER AND INFORMATION TECHNOLOGY  
BROADBAND UPDATE**

Steve Adams, Water and Power Director and Bill Westbrook, Information Technology Director presented this informational item. The Broadband Project Team consisting of staff representatives from Loveland Water and Power, Information Technology (IT), the City Manager's Office, the Public Information Office, Finance and the City Attorney's Office performed the research provided in the information given to Council. On November 3, 2015, 82% of Loveland citizens voted in support of Ballot Issue 2C. The passage of this ballot measure effectively overturned Loveland's restrictions imposed through Senate Bill 152 (SB 152) and allowed the City of Loveland to investigate alternatives for promoting broadband options while considering the needs and desires of the community.

Upon Council direction a future consideration will be brought forward for a 2016 supplemental budget appropriation through the General Fund to cover the expenses for broadband studies, community engagement, marketing and other items. This supplemental appropriation will need to be approved prior to the award of the contract for the proposed Broadband Assessment and Feasibility Analysis. Council directed staff to keep the process moving forward to promote the broadband initiative for Loveland, including continued community engagement, developing the Broadband Task Force and releasing the RFP for the broadband assessment and feasibility analysis. The Broadband Task Force will return to a future City Council Meeting to present the results of the RFP responses and recommend a contract award. Council also expressed support for Councilor Fogle to join the Broadband Task Force as Council Liaison.

**2. MUNICIPAL COURT  
2015 FOURTH QUARTER UPDATE**

Geri Joneson, Municipal Judge, presented the 2015 Fourth Quarter case statistics for Municipal Court. Councilors expressed appreciation to the judge and for the work being done in the courts.

**3. DEVELOPMENT SERVICES  
IMPROVEMENTS TO THE DEVELOPMENT REVIEW PROCESS**

Kerri Burchett, Principal Planner and Bob Paulsen, Current Planning Manager presented the improvements to the development review and building permitting processes. The staff presented improvements that have been recently implemented along with upcoming changes that will better serve our customers.

The staff presentation focused on the following items:

1. The Development Review Team: A general description of the team, its members, and its mission;

2. Developing in Loveland: An overview of the process, breaking down the 3 major components of development review: the planning process, infrastructure installation, and the building process;
  3. Achievements: A highlight of items that we are currently implementing;
  4. Upcoming Improvements: Changes on the way that will help us better serve our customers. Changes include the move to the development center, projects that the 5 strategic teams are working on, and changes to submittal templates, signs and correspondence with customers; and
  5. Measuring Success: The tools that we will use to ensure that our efforts are successful
- Council thanked staff for the update.

**ADJOURN**

Hearing no further business to come before Council, Mayor Gutierrez adjourned the January 26, 2016 Study Session at 9:40 p.m.

Respectfully Submitted,

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Teresa G. Andrews, City Clerk

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Cecil A. Gutierrez, Mayor

**MINUTES**  
**LOVELAND CITY COUNCIL MEETING**  
**LOVELAND GID BOARD OF DIRECTORS**  
**TUESDAY, FEBRUARY 16, 2016**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

**CALL TO ORDER:** Mayor Gutierrez called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL, Councilors Present:** Gutierrez, Johnson, Ball, Krenning, Fogle, Clark, McKean, Shaffer and Overcash. Councilor Shaffer was absent. Council McKean arrived at 6:42 p.m.

**Introduction of Miss Loveland Valentine 2016: Alice Mueller**

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*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 Pro-Tem Fogle moved to approve Consent Agenda Items 1-15. The motion, seconded by Councilor Johnson, 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 January 12, 2016 Study Session and The January 19, 2016 Regular Meeting was approved.**  
This is an administrative action to approve the City Council meeting minutes for the January 12, 2016 Study Session the January 19, 2016 Regular Meeting.
2. **CITY MANAGER** (presenter: Bill Cahill)  
**APPOINTMENTS TO THE CULTURAL SERVICES BOARD, HUMAN SERVICES COMMISSION, LIBRARY BOARD, PARKS AND RECREATION COMMISSION AND VISUAL ARTS COMMISSION**
  1. **Adopt a motion to reappoint Juanita Cisneros to the Cultural Services Board a term effective until December 31, 2019 was approved.**

2. **Adopt a motion to appoint Suzanne Janssen to the Cultural Services Board a term effective until December 31, 2019 was approved.**
3. **Adopt a motion to appoint Krystal Rowland to the Human Services for a partial term effective until June 30, 2017 was approved.**
4. **Adopt a motion to appoint Carolyn Benson to the Human Services for a partial term effective until June 30, 2018 was approved.**
5. **Adopt a motion to appoint Maren Soreide as an alternate member on the Human Services Commission for a term effective until June 30, 2016 was approved.**
6. **Adopt a motion to reappoint Sandy Darby to the Library Board for a term effective until December 31, 2020 was approved.**
7. **Adopt a motion to appoint Sue Mullins as an alternate member on the Library Board for a term effective until December 31, 2016 was approved.**
8. **Adopt a motion to reappoint Gene Alvine to the Parks and Recreation Commission for a term effective until December 31, 2018 was approved.**
9. **Adopt a motion to reappoint Deborah Manderscheid to the Parks and Recreation Commission for a term effective until December 31, 2018 was approved.**
10. **Adopt a motion to reappoint Leighton Millar to the Parks and Recreation Commission for a term effective until December 31, 2018 was approved.**
11. **Adopt a motion to appoint Constance Faber to the Parks and Recreation Commission for a partial term effective until December 31, 2016 was approved.**
12. **Adopt a motion to reappoint Greg Hoff to the Visual Arts Commission for a term effective until December 31, 2018 was approved.**
13. **Adopt a motion to reappoint Judy O'Gorman to the Visual Arts Commission for a term effective until December 31, 2018 was approved.**
14. **Adopt a motion to reappoint Margaret Rosborough to the Visual Arts Commission for a term effective until December 31, 2018 was approved.**
15. **Adopt a motion to appoint Jade Windell as an alternate member on the Visual Arts Commission for a term effective until December 31, 2016 was approved.**  
These are administrative actions appointing members to the Cultural Services Board, Human Services Commission, Library Board, Parks and Recreation Commission and Visual Arts Commission.

3. **DEVELOPMENT SERVICES** (presenter: Troy Bliss)  
**VACATION OF EASEMENTS FOR PETCO AT ORCHARDS SHOPPING CENTER**
  1. **A Motion To Adopt On Second Reading, Ordinance #5993 Vacating An Easement Located Within Lots 4 And 5, Replat Of Tract "G" Of Orchards Addition, City Of Loveland, County Of Larimer, State Of Colorado was approved.**
  2. **A Motion To Adopt On Second Reading, Ordinance #5994 Vacating A Portion Of A Reciprocal Private Access, Utility And Drainage Easement Located Within Lot 2, Block 1 Of The Orchards Thirteenth Subdivision, City Of Loveland, County Of Larimer, State Of Colorado was approved.**

This is a legislative action to adopt two associated ordinances, on second reading, vacating easements within the Orchards Addition and Orchards Thirteenth Subdivision – located east of N. Garfield Avenue and north of E. 29<sup>th</sup> Street. This item is associated with plans to locate a Petco retail store in the Orchards Shopping Center. A small private access, drainage, and utility easement is of no consequence to the City because it is private and includes no public utilities. A larger, triangular shaped easement, however, contains public utilities. In order to vacate this triangular-shaped easement, a new easement will be dedicated and utilities rerouted. On January 19, 2016, City Council unanimously approved these vacations on first reading.

**ADJOURNED AS CITY COUNCIL AND CONVENED AS THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID) at 6:15 p.m.**

**4. DEVELOPMENT SERVICES (presenter: Troy Bliss)  
PROPERTY INCLUSION WITHIN THE GID**

**A Motion To Adopt On Second Reading, Ordinance #5995 Granting A Petition For Inclusion Of The West Fifty Feet Of SW Block 34, Everetts Subdivision, City Of Loveland, County Of Larimer Within The Loveland General Improvement District No. 1 In Loveland, Colorado was approved.**

This is a legislative action to consider adoption of an ordinance, on second reading, to include the property legally described as the west 50 feet of the southwest portion of Block 34, Everetts Subdivision, City of Loveland, County of Larimer, State of Colorado in the General Improvement District (GID). This property includes an existing two-story building and a single family home. The owner (Charles Salwei) wishes to renovate the two story building generally located at the northeast corner of N. Jefferson Avenue and E. 3rd Street (348 N. Jefferson Avenue) for additional apartment units and office use. On January 19, 2016, City Council unanimously approved this request for inclusion into the GID on first reading.

**ADJOURNED AS THE BOARD OF DIRECTORS FOR THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1 (GID) AND RECONVENED AS CITY COUNCIL at 6:15 p.m.**

**5. PARKS AND RECREATION (presenter: Marilyn Hilgenberg)  
GREAT OUTDOORS COLORADO GRANT**

**Motion to Adopt On Second Reading, Ordinance #5996 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget for the Ward Trust Property Open Lands Acquisition was approved.**

This is an administrative action. The City applied for and was awarded a Great Outdoors Colorado ("GOCO") grant for the Ward Trust Property Open Lands Acquisition, which includes the acquisition of a 73-acre parcel and associated George Rist Ditch water rights. This is an administrative action to approve the grant agreement and authorize the City Manager to sign the agreement on behalf of the City. In addition, the ordinance appropriates funding for the acquisition of the Ward Trust Open Lands Acquisition. On January 19, 2016, City Council unanimously approved this ordinance on first reading.

**6. LOVELAND FIRE RESCUE AUTHORITY (presenter: Mark Miller)  
PUBLIC COMMENT**

**DESIGN OF FIRE TRAINING GROUNDS**

**A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Design Of The Fire Training Grounds was approved.**

This is an administrative action to conduct a public hearing and consider approval on first reading of \$321,442 supplemental appropriation to carryover funding appropriated in 2015 from Fire Capital Expansion Fees and meet actual project costs based on the Request for Proposal process for the design of the Fire Training Grounds.

**7. LOVELAND FIRE RESCUE AUTHORITY (presenter: Mark Miller)  
PUBLIC COMMENT**

**ROSSUM DRIVE PROPERTY SALE**

**A Motion To Approve 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 on first reading regarding the sale of City property on Rossum Drive for \$145,000. 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 2015, a separate developer attempted to purchase the property along with an adjoining property to build a senior living facility. That proposed purchase agreement required that the developer rezone the two properties and the Loveland Planning Commission rejected the rezoning request in October, 2015. This new \$145,000 cash offer is from a neighbor who lives east of the property, and is \$10,000 more than the previous purchase offer.

**8. FINANCE (presenter: Alan Krcmarik)**

**PUBLIC COMMENT**

**SID BOND APPROPRIATIONS**

**A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Special Improvement District No. 1 Budget For Bond Appropriations was approved.**

This is an administrative action. The City of Loveland recently completed the refunding of its Special Improvement District No. 1 (Series 2007) revenue bonds. The proposed Ordinance appropriates the final payments on the old bond (Series 2007) and the revenue generated from the new refunding bond.

**9. PUBLIC WORKS (presenter: Jeff Bailey)**

**NORTH TAFT AVENUE BRIDGE IGA**

**A Motion to Adopt Resolution #R-14-2016 Approving An Intergovernmental Agreement Between The City Of Loveland, Colorado And The State Of Colorado, Acting By And Through The Colorado Department Of Transportation, For Design And Construction Of The Taft Avenue Bridge Replacement And Widening Project In Loveland, Colorado was approved.**

This is an administrative action for City Council approval of an IGA with CDOT, to authorize the use of Federal grant funds to replace the structurally deficient bridge on Taft Avenue over the Big Barnes Ditch. The grant award is \$736,000.00 to be used specifically for bridge replacement and roadway tie-in construction with CDOT serving as administrator. While the local matching fund requirement for the bridge replacement project is \$184,000, the project as proposed also incorporates a road widening component extending north from the bridge to just south of 11<sup>th</sup> Street. Overall funding approval will be required once this project is competitively bid and a contractor is selected to complete the work.

**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.*

Stacy Lynne, Larimer County Resident, expressed concern regarding Loveland Police Detective Koopman. Ms. Lynne indicated she and eleven other members of the public, had a series of videos they would like Council to review. Ms. Lynne acknowledging the children in the audience and advised that the video may not be suitable for children.

**Mayor Pro-Tem Fogle moved to direct the videos that Ms. Lynne provided be viewed by the City Attorney for appropriateness prior to being shown at a meeting. The motion was seconded by Councilor Ball.** Mayor Gutierrez asked for public comment.

Rick Nelson, Arvada resident, expressed concern with not allowing the video to be seen tonight. John Medders, Loveland Resident, expressed concern with being censored. John Craig, indicated he drove 3 hours to get here tonight, and is disappointed this evidence may not be

allowed.

**Roll was called and the motion failed with two councilors voting in favor and Councilors Johnson, Overcash, Krenning, Gutierrez and Clark voting against.** Mayor Gutierrez excused the Boy Scouts before Ms. Lynne resumed her discussion. The following individuals introduced themselves and requested certain videos be played.

Holly Kennedy, Loveland resident, video 1; John Wynes, Larimer County resident, video 2; Donna Meddors, Loveland resident, video 3; Lisa Romanek, Loveland resident, video 4; Jim Myers, Larimer County resident, video 5; John Meddors, Loveland resident, video 6; Michael Vote, Loveland resident; video 7; Jeremy Myers, Larimer County resident, video 8; Mark Stahl, Jefferson County resident, video 9; Bill Maleny, Larimer County resident, video 10; Stan Romanek, Lincoln County resident, video 11.

Richard Nelson, Arvada resident, expressed concern with Detective Koopman's handling of the Myers v. Koopman case

Greg Liverette, Lincoln County resident, expressed concern with the City allowing Chief Hecker to retire, instead of terminating his employment.

**Council asked City Attorney, Tami Yellico to provide a litigation update on two cases: Myers v. Koopman and Fisher v. Koopman at the next meeting.**

**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. **CITY MANAGER** (presenter: Bill Cahill)  
**LARIMER COUNTY SOLID WASTESHED POLICY GROUP**  
**Appointment of a Council Member to Larimer County Solid Watershed Planning Coalition Policy Group**

This is an administrative item. Mayor Gutierrez appointed Ward 2 Councilor Leah Johnson to the Larimer County Solid Wasteshed Planning Coalition Policy Group. Councilor Johnson was the only nomination by Council.

- 11. **CITY ATTORNEY** (presenter: Tami Yellico)  
**PUBLIC HEARING**  
**LEE FARM METRO DISTRICT 1-4 SERVICE PLAN**

City Attorney, Tami Yellico introduced the item to Council. Applicant representatives, Alan Pogue, Peggy Doswell, Brock Chapman and City of Loveland Chief Fiscal Advisor, Alan Krcmarik were present to answer questions. This resolution is an administrative action to approve the Consolidated Service Plan for Lee Farm Metropolitan Districts Nos. 1 – 4 (the "Districts"). The Districts are generally located west of Wilson Avenue between West 35th Street and West 43rd Street in the City of Loveland. They consist of approximately 247 acres for primarily residential development. The Districts will provide for the design, acquisition, installation, construction, financing, operations, and maintenance of streets, traffic and safety signals, sewer, water, and parks and recreation facilities within the

boundaries of the Districts. A mill levy cap of 65 mills is proposed for the Districts, subject to certain adjustment provisions. Mayor Gutierrez opened the public hearing at 9:45 p.m. Irene Fortune, 4830 Avon, inquired into the process for the Metro District to collect unpaid taxes. Mayor Gutierrez closed the public hearing. **Mayor Pro-Tem Fogle moved to Adopt Resolution #R-15-2016 Approving the Consolidated Service Plan for Lee Farm Metropolitan Districts Nos. 1 – 4. The motion seconded by Councilor Clark carried with all councilors present voting in favor thereof.**

**12. ECONOMIC DEVELOPMENT (presenter: Mike Scholl)  
EXCLUSIVE NEGOTIATION AGREEMENT**

This is an administrative action. Economic Development Manager, Mike Scholl introduced this item to Council. Jim Cox member of the contract negotiating team and Loveland Downtown Partnership, recommended approval of the contract. At the January 19, 2016 regular meeting, the City Council directed City staff to bring the Exclusive Negotiation Agreement with Brinkman Capital, LLC to Council for consideration. The Exclusive Negotiation Agreement is a contract with the developer as the City’s exclusive development partner. If approved, City staff along with the downtown stakeholder groups will begin negotiation on a development agreement for the South Catalyst project. Both parties anticipate completing the draft terms of agreement prior to the August 2, 2016 deadline. Public comment: Jackie Marsh, Rabbask Designs, asked Council to not allow Larimer County to put the County Probations program in the South Catalyst project, downtown. **Mayor Pro-Tem Fogle moved to Adopt Resolution #R-16-2016 Of The Loveland City Council Approving The Execution Of An Exclusive Negotiation Agreement With Brinkman Capital, LLC For The South Catalyst Project. The motion, seconded by Councilor Clark, carried 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.*

- Ball** Attended the Downtown “Fire and Ice” Event.
- Clark** US 34 Coalition are looking at performing a Pell Study. Up for discussion are: CDOT approval; portion of cost borne by CDOT and individual Municipalities.
- McKean** Would like to see some options for improving West Hwy 34 in town. i.e. enterprise zones, etc...; Expressed concern with handling of citizen escalated emails.
- Johnson** Affordable Housing Commission is looking at the City of Loveland Affordable Housing Policy and would request a joint meeting with City Council.
- Fogle** Working on a Lobbyist communication regarding “Truth in Advertising” for Broadband providers. Will send to Council draft.
- Krenning** Asked for an update on the Franchise Agreement with Comcast. Comcast has obtained a local office as “requested” by City Council. The Franchise agreement will be coming back, since this request has been met; Asked for an update regarding the Building Department charrette with local builders.
- Overcash** Kudos to Golf Manager, Steve Southard, for great customer service.



**Gutierrez** Encouraged Council and the public to visit the “Artspace” project. Attended the luncheon with Valentine “stampers” and expressed appreciation for all of their time and hard work. King Soopers (lunch), USPS and the Chamber of Commerce; Happy 20<sup>th</sup> anniversary to the “Modern” Rialto Theatre.

**CITY MANAGER REPORT**

**Cahill** Reminded Council of a few meeting dates:  
1) **February 23, 2016, 6:30 p.m.**, Special meeting will be devoted to the South Catalyst project with a possible Executive Session.  
2) **February 29, 2016, 6:00 p.m.**, Regular meeting (original) March 1, 2016.  
3) **CANCELLED: March 8, 2016.**

**CITY ATTORNEY REPORT**

None

**ADJOURN**

Mayor Gutierrez, after hearing no further business before Council, adjourned the February 16, 2016 Regular meeting at 10:20 p.m.

Respectfully submitted,

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Teresa G. Andrews, City Clerk

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Cecil A. Gutierrez, Mayor



## CITY OF LOVELAND

### LOVELAND FIRE RESCUE AUTHORITY

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537  
 (970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

**AGENDA ITEM:** 2  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Director  
 Mark Miller, Fire Chief  
 Ken Cooper, Facilities Manager  
**PRESENTER:** Mark Miller, Fire Chief

#### TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Design Of The Fire Training Grounds

#### RECOMMENDED CITY COUNCIL ACTION:

Adopt the Action as Recommended on Second Reading.

#### SUMMARY:

This is an administrative action to approval on second reading of \$321,442 supplemental appropriation to carryover funding appropriated in 2015 from Fire Capital Expansion Fees and meet actual project costs based on the Request for Proposal process for the design of the Fire Training Grounds. On February 16, 2016, City Council unanimously approved this ordinance on first reading.

#### BUDGET IMPACT:

- Positive  
 Negative  
 Neutral or negligible

\$295,000 was appropriated in 2015 for the training center design. \$15,000 of that was committed to the cost of the annexation process because the new property purchased is in Larimer County. There is \$5,761.78 remaining on purchase order number 15-1056 that is being requested for carryover to complete the work for annexation. The competitive request for proposal process yielded a cost of \$315,680 for the training center design. The project cost is greater than anticipated by \$26,442 because it was not anticipated that the property would need to be annexed costing \$15,000 and partly because of additional design requirement for the environmental compliance to manage run off from the burn building more effectively. Because the Fire Capital Expansion Fees collected for the year in 2015 exceeded the budgeted amount by just over \$272,000, the 2015 fund balance is greater than anticipated to cover the additional \$26,442.

#### BACKGROUND:

The property at 1040 South Railroad Avenue was purchased June 2014. This property located directly west of the existing training center making it particularly advantageous. The existing tenants occupying the buildings at the time of the purchase of the property were allowed to stay through the end of July and an extension was made for some through the end of 2015. All tenants have now moved out. The annexations process began with a pre-application meeting for

conceptual review August, 2015 and that process is expected to be complete the first quarter of 2016.

The City followed its typical RFP process for design and engineering on capital construction projects, and received four proposals from the design community in October, 2015. Three design teams were interviewed on November 10, and the selection team chose Belford Watkins Group to lead project design. A kick-off meeting with the BWG design team is scheduled for Q1 of 2016. Design is expected to be completed in 2016, with a competitive construction bid process to follow.

This process is critical to the effective use of the training center and planning for the financial feasibility of property improvements within the ten year capital improvements plan. Based the fire capital expansion fee collection projections the construction expected to begin in 2017 and be completed in 2018.

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

Link to First Reading [Ordinance](#) Item 6



## CITY OF LOVELAND

### LOVELAND FIRE RESCUE AUTHORITY

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537

(970) 962-2471 • FAX (970) 962-2922 • TDD (970) 962-2620

**AGENDA ITEM:** 3  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Mark Miller, Fire Chief  
**PRESENTER:** Mark Miller, Fire Chief

**TITLE:**

An Ordinance on Second Reading 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

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the action as recommended.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action. Denial of this item would prevent the sale of the property.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. A contract has been signed.

**SUMMARY:**

This is an administrative action on second reading regarding the sale of City property on Rossum Drive for \$145,000. 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 2015, a separate developer attempted to purchase the property along with an adjoining property to build a senior living facility. That proposed purchase agreement required that the developer rezone the two properties and the Loveland Planning Commission rejected the rezoning request in October, 2015. This new \$145,000 cash offer is from a neighbor who lives east of the property, and is \$10,000 more than the previous purchase offer. On February 16, 2016, City Council unanimously approved this ordinance on first reading.

**BUDGET IMPACT:**

Positive

Negative

Neutral or negligible

\$145,000 on the sale of the land would be deposited to the Fire Capital Expansion Fee Fund that originally purchased the property November 13, 2002.

**BACKGROUND:**

The Rossum property was originally purchased for a future fire station, but path of development in the City has made the property less desirable. The station location analysis completed after the last Insurance Service Office evaluation suggested that the Loveland community needed a

fire station to address the development that has occurred to the northwest of the community. The analysis identified the most appropriate service location as the area around West 29<sup>th</sup> street; and LFRA worked with the Mehaffey family to make the new Fire Station 2 location (3070 West 29<sup>th</sup> Street) a reality in 2014. In addition to the development trends, topography (ravine) of the property and highway access challenges make the Rossum Drive property less optimal for fire station development. Therefore, the decision was made three years ago to list the property for sale at \$150,000. Other offers on the property in that time have not been viable for a number of reasons relating to many similar challenges that LFRA would have in developing the site (access, topography, flood/drainage considerations, etc.).

While the \$145,000 price is less than the original purchase price, the development market has changed significantly since 2002. Market trends over the past 2-3 years are generally positive, but the information we received from our real estate professional indicated two major factors are having a significant influence on the market value for raw land: the cost of raw water and development costs. From a raw water standpoint, Colorado Big Thompson water shares have gone from approximately \$8,000 a unit in 2005 to \$26,500 a unit in 2015. During this same time the City has increased its cash in lieu water price in accordance with such increase in raw water pricing. Secondly, the land development costs for residential development have generally doubled (approximately \$25,000 to \$50,000) during that same time. At peak development in the community the comparable sales values for raw residential development land were \$30,000 - \$40,000 an acre. The current comparable sales values are at \$15,000 - \$20,000 an acre. While the market has shown significant improvement in terms of the absorption of existing developed lots, the value of the finished lots in the market are not adequate to offset the significant cost increases discussed above. As a result, the value of raw land has not appreciated in the same way that other types of properties have since the end of the recession as that is the one input to the development equation that the developer can still control. Instead; these increased costs are being absorbed in the transaction by reducing the value of the land. An initial offer was made on the property; the City rejected the offer and countered with a higher sales price than the offer. The counter offer was accepted for \$145,000.

The developer's offer considered by the City in 2015 included plans for a senior living facility, and had a rezoning requirement for this development. Neighbors to the east of the property did not support the proposed development, and other nearby neighbors also shared opposition with the Loveland Planning Commission in October of 2015, saying the development would create additional traffic problems on Rossum Drive. Planning Commission rejected the request to rezone the property. Soon afterward, a neighbor named Mark DeGregorio who lives just east of the property approached the City with a cash offer. The City rejected the offer and countered with a higher sales price than the offer. The counter offer was accepted for \$145,000.

Given the information we have available to us today, this sales price seems reasonable. The property is scheduled to close in March, 2016.

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**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

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**LIST OF ATTACHMENTS:**

Link to First Reading [Ordinance](#) Item 7



**CITY OF LOVELAND**  
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2318 • FAX (970) 962-2918 • TDD (970) 962-2620

**AGENDA ITEM:** 4  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** City Manager  
**PRESENTER:** Alan Krcmarik, Executive Fiscal Advisor

**TITLE:**

An Ordinance on Second Reading Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Special Improvement District No. 1 Budget For Bond Appropriations

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the Action as Recommended on Second Reading.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration.

**SUMMARY:**

This is an administrative action. The City of Loveland recently completed the refunding of its Special Improvement District No. 1 (Series 2007) revenue bonds. The proposed Ordinance appropriates the final payments on the old bond (Series 2007) and the revenue generated from the new refunding bond. On February 16, 2016, City Council unanimously approved this ordinance on first reading.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The current fund balance is \$381,957. \$110,125 of fund balance is requested for the final payment of the old bond debt. The remaining unassigned fund balance will be \$271,832.

**BACKGROUND:**

The City serves as the sponsoring agency for the Special Improvement District No. 1. The District was established to allow for the collection of assessments from property owners in the District to back bonded debt to construct infrastructure improvements in the District. The City does not have any legal obligation towards this debt.

The City of Loveland recently completed the refunding of its Special Improvement District No. 1 (Series 2007) revenue bonds. The \$5,410,125 is requested to pay off the old bond. The \$550,000 generated in revenue is from special assessments on the old bond that exceeded the revenue projections at the time the budget was adopted, due to advanced payments from certain property

owners. The \$4,750,000 in revenue is from the new refunding bond unanimously approved by City Council on January 19, 2016.

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**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

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**LIST OF ATTACHMENTS:**

Link to First Reading [Ordinance](#) Item 8



**CITY OF LOVELAND**  
**ECONOMIC DEVELOPMENT OFFICE**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 5  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Economic Development Department  
**PRESENTER:** Mike Scholl, Economic Development Manager

**TITLE:**

An Ordinance On First Reading Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Re-Appropriate Funding Approved In 2014 For The Purchase Of Property And Other Costs Associated With Downtown Land Purchases For The South Catalyst Project

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading.

**OPTIONS:**

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration

**SUMMARY:**

This is an administrative action. The ordinance re-appropriates \$1,734,414, which is the balance of the \$6.5 million that was originally approved in 2014 for the acquisition of Downtown property and other activities in support of the South Catalyst redevelopment project.

The proposed project, a partnership with the Brinkman Partners, is expected to result in a vertically dense mixed-use project that would include office, residential and retail. The total investment is expected to be \$50 to \$70 million. Since the initial appropriation in 2014, the City has purchased twelve properties and completed extensive pre-development activities.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The funding for the appropriation of \$1,734,414 is from Unassigned Fund Balance in the General Fund. The remaining available unassigned fund balance in the General Fund will be \$6,446,959 if the request is approved.

**BACKGROUND:**

In 2014, staff engaged commercial real estate brokers to assemble property in downtown in Downtown Loveland which resulted in the acquisition of the twelve properties. In April of 2014, Council approved an initial supplemental appropriation of \$250,000 for earnest money and other



costs associated with downtown land purchases. In July of 2014, an additional \$6.25 million was appropriated to fund the purchases and other activities.

Since 2014, the City has spent the funds on the following activities.

| Summary Spent/Obligated                |                  |
|--|------------------|
| Property Acquisition                   | 4,530,286        |
| <b>Pre-development Environmental</b>   |                  |
| Phase I Environmental Study            | 42,545           |
| Demolition & Site Readiness Consultant | 87,310           |
| Asbestos Testing                       | 18,113           |
| Partial Cleanup - 130 N. Cleveland     | 4,339            |
| Phase II Environmental Study (Pinyon)  | 1,370            |
| <b>Property Management</b>             |                  |
| <b>Pre-development Other</b>           |                  |
| ALTA Surveys                           | 29,495           |
| Civil Engineering                      | 13,254           |
| Migratory Bird Survey                  | 2,200            |
| Architectural Renderings               | 9,300            |
| <b>Total Spent</b>                     | <b>4,765,586</b> |
| Appropriation                          | <b>6,500,000</b> |
| <b>Rollover Request</b>                | <b>1,734,414</b> |

The \$1.7 million re-appropriation will be used to complete abatement and partial demolition of project site. Currently, the City has committed additional funding to complete the Phase II environmental study, for the gas line disconnects, civil engineering, tree removal, environmental liability insurance, traffic study and additional consulting. See below:

| Additional Spending                    |        |
|--|--------|
| <b>Pre-development Environmental</b>   |        |
| Demolition & Site Readiness Consultant | 17,872 |

|   |                |
|---|----------------|
| Environmental Liability Insurance premium | 66,641         |
| Phase II Environmental Study (Pinyon)     | 58,431         |
| Tree Removal                              | 17,000         |
| <b>Pre-development Other</b>              |                |
| Development Proposal Review Consultant    | 25,000         |
| Excel - Gas Disconnect                    | 31,220         |
| Preliminary Traffic Impact Study          | 16,000         |
| Civil Engineering                         | 33,747         |
| <b>Total Obligated</b>                    | <b>265,910</b> |

Staff, with the support of the private consultant, is estimating the cost of the abatement and demolition with contingency will be roughly \$1.3 million. However, the bid is intended to be conservative and the cost may be reduced with a competitive bidding process and additional environmental investigation.

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**REVIEWED BY CITY MANAGER:**




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**LIST OF ATTACHMENTS:**

Ordinance

FIRST READING February 29, 2016

SECOND READING \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR THE SOUTH CATALYST PROJECT**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for the South Catalyst Project; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the 2016 City budget for the South Catalyst, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That reserves in the amount of \$1,734,415 from fund balance in the General Fund are available for appropriation. Such revenues in the total amount of \$1,734,415 are hereby appropriated to the 2016 City budget for the South Catalyst Project. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
General Fund 100**

|   |                  |
|---|------------------|
| <b>Revenues</b>                                       |                  |
| Fund Balance  | 1,734,415        |
| <b>Total Revenue</b>                                  | <b>1,734,415</b> |
| <b>Appropriations</b>                                 |                  |
| 100-18-180-1500-49010 EDDTLAND Land                   | 1,695,784        |
| 100-18-180-1500-49358 EDDTLAND Environmental Services | 38,631           |
| <b>Total Appropriations</b>                           | <b>1,734,415</b> |

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_\_ day of March, 2016.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney



**CITY OF LOVELAND**  
PUBLIC WORKS DEPARTMENT

Administration Offices • 2525 W 1<sup>st</sup> Street • Loveland, Colorado 80537  
(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

**AGENDA ITEM:** 6  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Leah Browder, Public Works Director  
**PRESENTER:** Chris Carlson, Civil Engineer II

**TITLE:**

An Ordinance on First Reading Enacting a Supplemental Budget and Re-Appropriation (Rollover) to the 2016 City of Loveland Budget for Final Design of the Wilson to Taft Reach Flood Recovery Projects and for Completion of the Highway 287 Bridge Flood Mitigation Feasibility Study.

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action. The request would then be included in the annual City-wide re-appropriation rollover request in April. However, both projects will be delayed by approximately two months assuming that the re-appropriation is approved in April.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. The projects will be delayed accordingly.

**SUMMARY:**

This is an administrative action on first reading to re-appropriate funding approved in 2015 for engineering/final design of the Wilson to Taft Reach Flood Recovery Projects and for the Highway 287 Flood Mitigation Feasibility Study. Funding for both projects was previously approved in 2015, but work was delayed pending FEMA approval of a scope change request, signature of a Community Development Block Grant – Disaster Recovery (CDBG-DR) planning grant contract, and selection of an engineering consultant. Because time is of the essence affecting analysis, design, permitting, bidding, construction and deadlines outside City control (FEMA and State deadlines), Public Works needs to move forward quickly to complete each of the two projects on schedule. Therefore, re-appropriation of \$246,000 for the flood recovery project work (Wilson to Taft reach projects) and \$172,150 for the Highway 287 Bridge Flood Mitigation Feasibility Study is requested.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Both projects were funded in the 2015 budget as it was expected that these funds would be encumbered by the end of 2015. Since the funding was not encumbered by that time, it

became an available fund balance at the end of the year. Therefore, this re-appropriation does not negatively impact the 2016 budget.

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## **BACKGROUND:**

### ***Wilson – Taft Reach Flood Recovery Project:***

On March 2, 2014, City Council originally appropriated funding for the engineering costs of numerous flood recovery projects. That included funding for the multiple projects within the general Wilson to Taft Avenue reach of the Big Thompson River. Projects within this reach include replacement of the Wilson Avenue pedestrian bridge, trail realignment and repairs, storm sewer outfall and stormwater quality pond replacement, utility protection, bank protection, and flood hazard mitigation. Initial engineering analysis and conceptual design was completed for the projects, which led to a scope change request being submitted to FEMA for approval in July 2015. Final design and construction was then postponed pending FEMA approval. Unfortunately, FEMA is many months behind in their review process and has not yet reviewed the request.

Funding of \$246,000 was rolled over into the 2015 budget by approval of an ordinance on 2<sup>nd</sup> reading on December 1, 2015. Approximately \$112,000 was already encumbered for the alternative analysis and conceptual designs while \$134,000 remained unencumbered for final design. Public Works will now proceed with final design of these flood recovery projects. It is hoped that final design will be completed quickly, environmental permitting will proceed, and the overall construction project will be bid this coming summer. We anticipate construction to begin in fall 2016 after flood season. We anticipate FEMA review of the proposed project scope changes before construction. Once design is completed along with a detailed estimate of probably construction costs, Public Works will request a supplemental appropriation for construction funding. This is anticipated to likely occur by August 2016.

Because there are a number of critical path milestones that must be met in order for construction to begin in October 2016. These include: completing final design and construction documents, environmental permitting, construction bidding and contracting, appropriating funding for construction, and receiving FEMA approval of the requested scope changes. Therefore, final design must begin by no later than late-March 2016 or the construction would be postponed.

### ***Highway 287 Bridge Flood Mitigation Feasibility Study:***

On July 21, 2015, City Council approved funding by supplemental appropriation of \$172,150 for engineering costs to complete a Highway 287 Bridge Flood Mitigation Feasibility Study. Up to \$125,000 of those costs will be reimbursed by a Community Development Block Grant – Disaster Recovery (CDBG-DR) planning grant awarded to the City of Loveland by the State of Colorado. It was originally anticipated that the grant contract between the City and State would be executed promptly so that the project would begin by mid-fall 2015. However, the State did not sign the grant contract until November 20, 2015.

With the notice to proceed from the signed grant contract, the City selected an engineering consultant but the selection and scope of services were not finalized until after the end of the year. Since the grant includes a project deadline of December 31, 2016, and it's anticipated that the project could take 6-9 months to complete, Public Works desires to rollover the previously approved funding and begin the project as soon as possible so as not to risk the December 31 deadline. If the re-appropriation rollover occurred during the normal rollover approval process in April, the project could not begin until May. That late of a start date puts too

much pressure on the City's ability to affectively complete the project within the required project schedule. Therefore, the re-appropriation rollover request is included in this agenda item so the project can begin as quickly as possible.

**Supplemental Re-appropriation (Rollover):**

| Project   | Supplemental Request Amount: | Budget Account  |
|---|------------------------------|---|
| Wilson to Taft Reach Flood Recovery Projects          | \$246,000                    | 120-23-280-0000-49352   |
| Highway 287 Bridge Flood Mitigation Feasibility Study | \$172,150                    | Original funding came from:<br><br>\$125,000 – grant reimbursement; 345-23-283-0000-32000<br><br>\$31,434 – Public Works Project Engineering and Parks and Recreation (General Fund); 100-91-999-0000-47345<br><br>\$15,716 – Stormwater Utility Capital fund; 345-23-283-0000-43450<br><br>Funding moved into: 345-23-283-0000-43450 for the project |

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**REVIEWED BY CITY MANAGER:**




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**LIST OF ATTACHMENTS:**

Ordinance

**FIRST READING: February 29, 2016**

**SECOND READING: \_\_\_\_\_**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR FINAL DESIGN OF THE WILSON TO TAFT REACH FLOOD RECOVERY PROJECTS AND FOR COMPLETION OF THE HIGHWAY 287 BRIDGE FLOOD MITIGATION FEASIBILITY STUDY**

**WHEREAS**, the City’s 2015 budget included an appropriation for final design of the Wilson to Taft reach flood recovery projects and for completion for the highway 287 bridge flood mitigation feasibility study that were not completed or closed out by the end of 2015, when the 2015 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring re-appropriation in 2016 to permit expenditure of such funds to continue with respect to ongoing projects; and

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for final design of the Wilson to Taft reach flood recovery projects and for completion for the highway 287 bridge flood mitigation feasibility study; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the 2016 City budget for final design of the Wilson to Taft reach flood recovery projects and for completion for the highway 287 bridge flood mitigation feasibility study, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That reserves in the amount of \$246,000 from fund balance in the General Fund are available for appropriation. That reserves in the amount of \$172,150 from fund balance in the Stormwater Utility Fund are available for appropriation. Such revenues in the total amount of \$418,450 are hereby appropriated to the 2016 City budget for final design of the Wilson to Taft reach flood recovery projects and for completion for the highway 287 bridge flood mitigation feasibility study. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:



**Supplemental Budget  
General Fund 100**

|                             |                               |                |
|-----------------------------|-------------------------------|----------------|
| <b>Revenues</b>             |                               |                |
| Fund Balance                |                               | 246,000        |
| <b>Total Revenue</b>        |                               | <b>246,000</b> |
| <b>Appropriations</b>       |                               |                |
| 100-91-999-0000-47120       | Transfers to Capital Projects | 246,000        |
| <b>Total Appropriations</b> |                               | <b>246,000</b> |

**Supplemental Budget  
Capital Projects Fund 120**

|                             |                             |                |
|-----------------------------|-----------------------------|----------------|
| <b>Revenues</b>             |                             |                |
| 120-00-000-0000-37100       | Transfers from General Fund | 246,000        |
| <b>Total Revenue</b>        |                             | <b>246,000</b> |
| <b>Appropriations</b>       |                             |                |
| 120-23-280-0000-49352       | Engineering                 | 246,000        |
| <b>Total Appropriations</b> |                             | <b>246,000</b> |

**Supplemental Budget  
Stormwater Utility Fund 345**

|                             |                       |                |
|-----------------------------|-----------------------|----------------|
| <b>Revenues</b>             |                       |                |
| Fund Balance                |                       | 172,150        |
| <b>Total Revenue</b>        |                       | <b>172,150</b> |
| <b>Appropriations</b>       |                       |                |
| 345-23-283-0000-43450       | Professional Services | 172,150        |
| <b>Total Appropriations</b> |                       | <b>172,150</b> |

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption and shall be published in full after adoption, as provided in City Charter Section 4-10(b).

ADOPTED this \_\_\_\_\_ day of March, 2016.

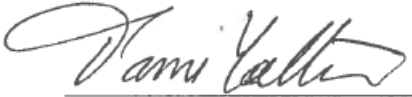
\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Tami Yalter". The signature is written in a cursive style with a large initial "T" and a long, sweeping underline.

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City Attorney



**CITY OF LOVELAND**  
**HUMAN RESOURCES DEPARTMENT**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2371 • FAX (970) 962-2919 • TDD (970) 962-2620

**AGENDA ITEM:** 7  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Brent Worthington, Finance Department  
**PRESENTER:** Karen Rees, Interim Human Resources Director

**TITLE:**

An Ordinance On First Reading Enacting A Supplemental Budget And Appropriation To The 2015 City Of Loveland Budget For A General Fund Contribution To The Employee Benefits Fund

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the action on First Reading.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action. The Employee Benefits Fund will be negative in 2015.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. Due to the timing of closing 2015, if this action is referred back to staff for further development and consideration it will not be able to be processed for 2015.

**SUMMARY:**

The Employee Benefits Fund ended 2015 negative due to higher claims than expected in the months of November & December. In order to correct the shortfall, an appropriation of \$610,000 is needed. The total \$5,342,782 General Fund contribution to the Employee Benefits Fund will not change, but the timing of the contribution will.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The requested appropriation will reduce the 2015 ending General Fund unassigned fund balance by \$610,000 and increase the projected ending 2016 General Fund unassigned fund balance by \$610,000.

**BACKGROUND:**

The initial analysis of the Employee Benefits Fund conducted in early 2015 identified a declining trend in fund balance that was anticipated to be drawn completely down in 2016. Due to higher claims than anticipated late in 2015 the fund drawdown occurred earlier than expected.

This appropriation requests that \$610,000 be transferred from the General Fund to the Employee Benefits Fund for FY 2015.

In 2016, \$5,342,782 is already appropriated to be transferred from the General Fund to the Employee Benefits Fund. This ordinance will enable the General Fund to pay \$610,000 in 2015 and reduce the 2016 contribution to \$4,732,782.

The State's Local Government Budget Law of Colorado authorizes the City Council to adopt this action. Section 29-1-112 "Payment for Contingencies" states, "In case of an emergency and the passage of an ordinance or resolution authorizing additional expenditures in excess of the appropriation as provided in section 29-1-111 and if there is money available for such excess expenditure in some other fund or spending agency which will not be needed for expenditures during the balance of the fiscal year, the governing body shall transfer the available money from such fund to the fund from which the excess expenditures are to be paid. If available money which can be so transferred is not sufficient to meet the authorized excess expenditure, then the governing body may obtain a temporary loan to provide for such excess expenditures. The total amount of the temporary loan shall not exceed the amount which can be raised by a two-mill levy on the total assessed valuation of the taxable property within the limits of the local government of such governing body."

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

Ordinance

**FIRST READING**      **February 29, 2016**

**SECOND READING**      \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2015 CITY OF LOVELAND BUDGET FOR A GENERAL FUND CONTRIBUTION TO THE EMPLOYEE BENEFITS FUND**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the 2015 City budget for a General Fund contribution to the Employee Benefits Fund; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the 2015 City budget for a General Fund contribution to the Employee Benefits Fund, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That reserves in the amount of \$610,000 from fund balance in the General Fund are available for appropriation. Such revenues in the total amount of \$610,000 are hereby appropriated to the 2015 City budget for a General Fund contribution to the Employee Benefits Fund. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
General Fund 100**

|                             |                                    |                |
|-----------------------------|------------------------------------|----------------|
| <b>Revenues</b>             |                                    |                |
| Fund Balance                |                                    | 610,000        |
| <b>Total Revenue</b>        |                                    | <b>610,000</b> |
| <br><b>Appropriations</b>   |                                    |                |
| 100-91-999-0000-47503       | Transfer to Employee Benefits Fund | 610,000        |
| <b>Total Appropriations</b> |                                    | <b>610,000</b> |

**Supplemental Budget  
Employee Benefits Fund 503**

|                             |                            |                |
|-----------------------------|----------------------------|----------------|
| <b>Revenues</b>             |                            |                |
| 503-00-000-0000-37100       | Transfer from General Fund | 610,000        |
| <b>Total Revenue</b>        |                            | <b>610,000</b> |
| <br><b>Appropriations</b>   |                            |                |
| <b>Total Appropriations</b> |                            | -              |

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_\_ day of March, 2016.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney



**CITY OF LOVELAND**  
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 8  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** City Manager's Office  
**PRESENTER:** Bill Cahill, City Manager

**TITLE:**

Appointment to the Broadband Task Force

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt a motion to appoint John Fogle as Council liaison to the Broadband Task Force for a term effective until June 1, 2017.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action.

**SUMMARY:**

This is an administrative item appointing a Council liaison to the recently formed Broadband Task Force to support the broadband initiative for the City of Loveland.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

At the City Council Study Session on February 9, 2016, city councilors heard a presentation on broadband next steps for the City of Loveland. One of the next steps that was proposed was the development of a Broadband Task Force to assist staff, city council and the consultant in studying options for municipal broadband. The Broadband Project Team received direction from Council to move forward with the proposed task force development and staff's recommendation to appoint a council member as a non-voting liaison to this task force. Councilman John Fogle volunteered as this liaison and councilors offered their support for his appointment to this task force.

**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

**LIST OF ATTACHMENTS:**

None



**CITY OF LOVELAND**  
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 9  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Brent Worthington, Finance  
**PRESENTER:** Brent Worthington

**TITLE:**  
January 2016 Financial Report

**RECOMMENDED CITY COUNCIL ACTION:**  
This is an information only item. No action is required.

**DESCRIPTION:**  
The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending January 31, 2016.

**BUDGET IMPACT:**  
 Positive  
 Negative  
 Neutral or negligible

**SUMMARY:**  
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 January 31, 2016. Citywide Revenue (excluding internal transfers) of \$21,996,052 is 89.4% of year to date (YTD) budget or \$2,605,933 under the budget. Sales Tax collections are 92.9% of the YTD budget or \$332,003 under budget. Building Material Use Tax is 139.6% of YTD budget, or \$58,842 over budget. Sales and Use Tax collections combined were 98.5% of YTD budget or \$76,334 under budget. When the combined sales and use tax for the current year are compared to 2015 for the same period last year, they are higher by 0.8% or \$41,504.

Citywide total expenditures of \$18,483,317 (excluding internal transfers) are 72.9% of the YTD budget or \$6,883,519 under the budget.

**REVIEWED BY CITY MANAGER:**

**LIST OF ATTACHMENTS:**  
1. January Snapshot Presentation  
2. Snapshot report for January 2016





Citywide Revenues & Expenditures 2-3

General Fund Revenues & Expenditures 4-5

Capital Projects 5

Tax Totals & Comparison 6-7

Flood Update 8-9

Geo Codes & Sales Tax SIC 10-12

Health Care Claims 13

Activity Measures 14

*“Loveland: a vibrant community...surrounded by natural beauty... where you belong.”*



## Monthly Financial Report



- ◆ Citywide Revenue, excluding transfers between funds, \$22 million (10.6 below budget projections)
- ◆ Sales & Use Tax Collection, \$5.0 million (1.5% below budget projections)
- ◆ Citywide Expenditures, excluding transfers between funds, \$18.5 million (27.1% below budget projections)
- ◆ Citywide Year-To-Date Revenues exceed Year-To-Date Expenditures by \$3.5 million
- ◆ General Fund Revenue, excluding transfers between funds, \$7.3 million (0.1% below budget projections)
- ◆ General Fund Expenditures, excluding transfers between funds, \$7.6 million, (3.7% above budget projections)
- ◆ General Fund Expenditures exceed Revenue by \$0.8 million



## Sales / Use Tax Basics

| January 2016         | Sales Tax    | Motor Vehicle Use Tax | Building Materials Use Tax | Combined     |
|----------------------|--------------|-----------------------|----------------------------|--------------|
| Budget 2016          | \$ 4,697,419 | \$ 180,248            | \$ 148,689                 | \$ 5,026,356 |
| Actual 2016          | 4,365,416    | 377,075               | 207,531                    | 4,950,022    |
| % of Budget          | 92.9%        | 209.2%                | 139.6%                     | 98.5%        |
| Actual 2015          | \$ 4,535,554 | \$ 258,519            | \$ 114,444                 | \$ 4,908,517 |
| Change from prior yr | -3.8%        | 45.9%                 | 81.3%                      | 0.8%         |

# Citywide Revenues & Expenditures

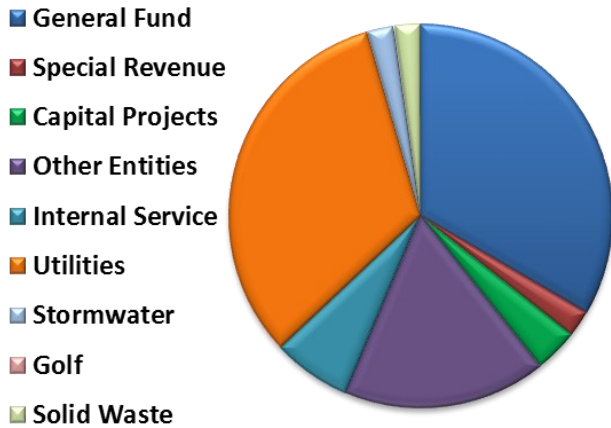
| Combined Statement of Revenues and Expenditures<br>January 2016 |                      |   |                       |                |
|---|----------------------|---|-----------------------|----------------|
| REVENUE   | Current Month        | YTD Actual                                  | YTD Revised<br>Budget | % of<br>Budget |
| <b>General Governmental</b>                                     |                      |   |                       |                |
| 1 General Fund  | \$ 7,346,553         | \$ 7,346,553                                | \$ 7,353,904          | 99.9%          |
| 2 Special Revenue   | 493,851              | 493,851                                     | 556,192               | 89%            |
| 3 Other Entities  | 3,761,357            | 3,761,357                                   | 1,669,546             | 225.3%         |
| 4 Internal Service  | 1,454,097            | 1,454,097                                   | 1,596,394             | 91.1%          |
| 5 <i>Subtotal General Govt Operations</i>                       | <i>13,055,704</i>    | <i>13,055,704</i>                           | <i>11,176,036</i>     | <i>116.8%</i>  |
| 6 Capital Projects  | 803,129              | 803,129                                     | 702,200               | 114.4%         |
| <b>Enterprise Fund</b>  |                      |   |                       |                |
| 7 Water & Power   | 7,142,387            | 7,142,387                                   | 11,642,096            | 61.3%          |
| 8 Stormwater  | 488,436              | 488,436                                     | 484,679               | 100.8%         |
| 9 Golf  | 27,665               | 27,665                                      | 50,008                | 55.3%          |
| 10 Solid Waste  | 478,731              | 478,731                                     | 546,966               | 87.5%          |
| 11 <i>Subtotal Enterprise</i>                                   | <i>8,137,219</i>     | <i>8,137,219</i>                            | <i>12,723,749</i>     | <i>64.0%</i>   |
| <b>12 Total Revenue</b>   | <b>\$ 21,996,052</b> | <b>\$ 21,996,052</b>                        | <b>\$ 24,601,984</b>  | <b>89.4%</b>   |
|   |                      | <i>Prior Year External Revenue</i>          |                       |                |
|   |                      | <i>20,391,384</i>                           |                       |                |
|   |                      | <i>Increase From Prior Year</i>             |                       |                |
|   |                      | <i>7.9%</i>                                 |                       |                |
| 13 Internal Transfers   | 1,885,416            | 1,885,416                                   | 4,332,632             | 43.5%          |
| <b>14 Grand Total Revenues</b>                                  | <b>\$ 23,881,467</b> | <b>\$ 23,881,467</b>                        | <b>\$ 28,934,616</b>  | <b>82.5%</b>   |
| <b>EXPENDITURES</b>   |                      |   |                       |                |
| <b>General Governmental</b>                                     |                      |   |                       |                |
| 15 General Fund   | 7,491,420            | 7,491,420                                   | 7,109,133             | 105.4%         |
| 16 Special Revenue  | 632,973              | 632,973                                     | 745,393               | 84.9%          |
| 17 Other Entities   | 1,199,618            | 1,199,618                                   | 985,023               | 121.8%         |
| 18 Internal Services  | 723,679              | 723,679                                     | 1,883,310             | 38.4%          |
| 19 <i>Subtotal General Gov't Operations</i>                     | <i>10,047,690</i>    | <i>10,047,690</i>                           | <i>10,722,859</i>     | <i>93.7%</i>   |
| 20 Capital  | 2,989,683            | 2,989,683                                   | 8,139,651             | 36.7%          |
| <b>Enterprise Fund</b>  |                      |   |                       |                |
| 21 Water & Power  | 4,808,135            | 4,808,135                                   | 5,820,192             | 82.6%          |
| 22 Stormwater   | 183,790              | 183,790                                     | 153,668               | 119.6%         |
| 23 Golf   | 138,456              | 138,456                                     | 160,375               | 86.3%          |
| 24 Solid Waste  | 315,564              | 315,564                                     | 370,091               | 85.3%          |
| 25 <i>Subtotal Enterprise</i>                                   | <i>5,445,945</i>     | <i>5,445,945</i>                            | <i>6,504,326</i>      | <i>83.7%</i>   |
| <b>26 Total Expenditures</b>                                    | <b>\$ 18,483,317</b> | <b>\$ 18,483,317</b>                        | <b>\$ 25,366,836</b>  | <b>72.9%</b>   |
|   |                      | <i>Prior Year External Expenditures</i>     |                       |                |
|   |                      | <i>13,694,348</i>                           |                       |                |
|   |                      | <i>Increase (-Decrease) From Prior Year</i> |                       |                |
|   |                      | <i>35.0%</i>                                |                       |                |
| 27 Internal Transfers   | 1,908,336            | 1,908,336                                   | 4,138,272             | 46.1%          |
| <b>28 Grand Total Expenditures</b>                              | <b>\$ 20,391,653</b> | <b>\$ 20,391,653</b>                        | <b>\$ 29,505,108</b>  | <b>69.1%</b>   |

**Special Revenue Funds:** Community Development Block Grant, Cemetery, Local Improvement District, Lodging Tax, Affordable Housing, Seizure & Forfeitures, Transit, Transportation.

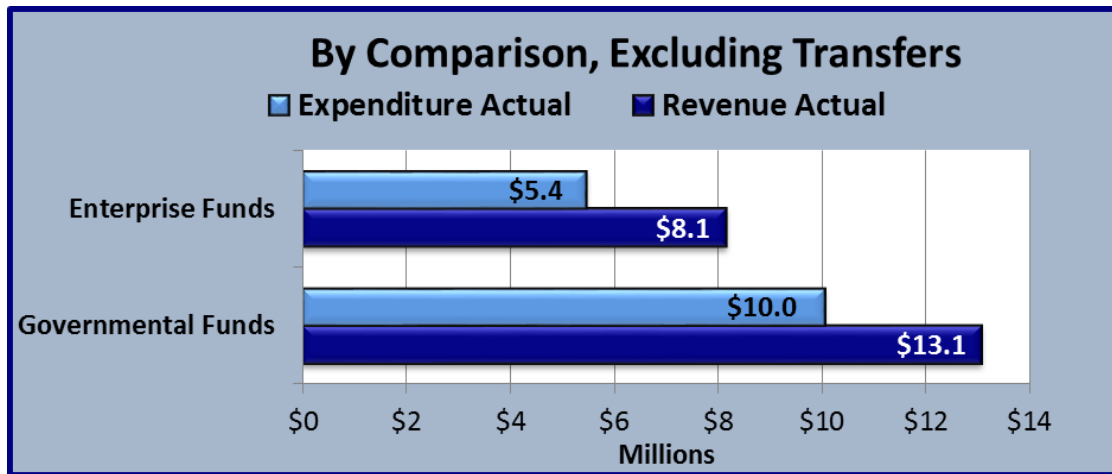
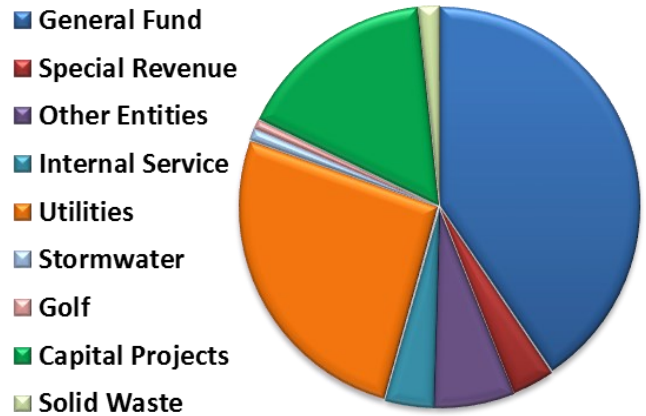
**Other Entities Fund:** Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority, Loveland Fire and Rescue Authority.

**Internal Service Funds:** Risk/Insurance, Fleet, Employee Benefits.

**YTD Operating Revenues of \$22 Million**



**YTD Operating Expenditures of \$18.5 Million**



- ◆ General Fund Revenue, excluding capital and transfers between funds, \$7.3 million (0.1% below budget projections)
  - \* 2.9% above 2015 YTD
- ◆ General Fund Expenditures, excluding capital and transfers between funds, \$7.5 million (5.4% above budget projections)
  - \* 30.1% above 2015 YTD
- ◆ Water & Power Revenue, excluding transfers between funds, \$7.1 million (38.7% below budget projections)
  - \* 5.8% below 2015 YTD
- ◆ Water & Power Expenditures, excluding transfers between funds, \$4.8 million (17.4% below budget projections)
  - \* 6.7% above 2015 YTD
- ◆ Other Entities Fund Revenue, excluding transfers between funds, \$3.8 million (125.3% above budget projections)
  - \* 81.5% above 2015 YTD
- ◆ Other Entities Expenditures, excluding capital and transfers between funds, \$1.2 million (21.8% above budget projections)
  - \* 21.0% above 2015 YTD

# General Fund Revenues & Expenditures

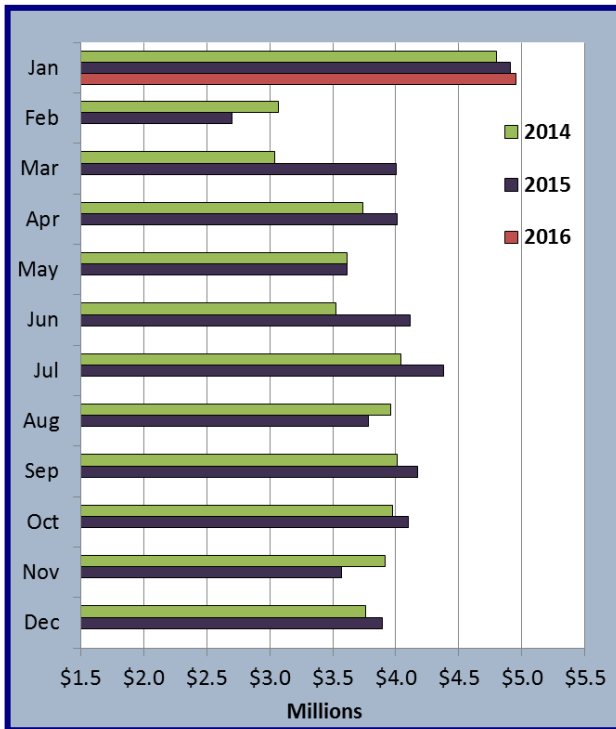
| General Fund Revenue & Expenditures<br>January 2016 |                     |                     |                     |                      |
|---|---------------------|---------------------|---------------------|----------------------|
| REVENUES  | Current Month       | YTD Actual          | YTD Revised Budget  | % of Budget          |
| 1 Taxes   |                     |                     |                     |                      |
| 2 Property tax                                      | \$ (1,823)          | \$ (1,823)          | \$ 1,702            | -107.1% <sup>1</sup> |
| 3 Sales tax   | 4,365,416           | 4,365,416           | 4,697,419           | 92.9%                |
| 4 Building use tax                                  | 207,531             | 207,531             | 148,689             | 139.6%               |
| 5 Auto use tax                                      | 377,075             | 377,075             | 180,248             | 209.2%               |
| 6 Other taxes                                       | 147,848             | 147,848             | 119,709             | 123.5%               |
| 7 Intergovernmental                                 | 5,125               | 5,125               | 40,112              | 12.8%                |
| 8 License & Permits                                 |                     |                     |                     |                      |
| 9 Building Permits                                  | 178,883             | 178,883             | 245,600             | 72.8%                |
| 10 Other Permits                                    | 21,368              | 21,368              | 14,210              | 150.4%               |
| 11 Charges for Services                             | 1,357,535           | 1,357,535           | 1,263,455           | 107.4%               |
| 12 Fines & Forfeitures                              | 89,839              | 89,839              | 74,210              | 121.1%               |
| 13 Interest Income                                  | 28,506              | 28,506              | 27,370              | 104.2%               |
| 14 Miscellaneous                                    | 569,250             | 569,250             | 541,180             | 105.2%               |
| 15 <i>Subtotal</i>                                  | 7,346,553           | 7,346,553           | 7,353,904           | 99.9%                |
| 16 Interfund Transfers                              | 8,930               | 8,930               | 8,930               | 100.0%               |
| <b>17 Total Revenue</b>                             | <b>\$ 7,355,483</b> | <b>\$ 7,355,483</b> | <b>\$ 7,362,834</b> | <b>99.9%</b>         |
| <b>EXPENDITURES</b>                                 |                     |                     |                     |                      |
| Operating Expenditures                              |                     |                     |                     |                      |
| 18 Legislative                                      | 14,148              | 14,148              | 14,410              | 98.2%                |
| 19 Executive & Legal                                | 184,669             | 184,669             | 151,864             | 121.6%               |
| 20 City Clerk & Court Admin                         | 41,087              | 41,087              | 31,830              | 129.1%               |
| 21 Economic Development                             | 272,281             | 272,281             | 515,008             | 52.9%                |
| 22 Cultural Services                                | 134,639             | 134,639             | 119,453             | 112.7%               |
| 23 Development Services                             | 284,689             | 284,689             | 216,388             | 131.6%               |
| 24 Finance  | 370,587             | 370,587             | 278,761             | 132.9%               |
| 25 Fire & Rescue                                    | -                   | -                   | -                   | 0.0%                 |
| 26 Human Resources                                  | 94,451              | 94,451              | 73,822              | 127.9%               |
| 27 Information Technology                           | 462,931             | 462,931             | 459,732             | 100.7%               |
| 28 Library  | 278,131             | 278,131             | 233,558             | 119.1%               |
| 29 Parks & Recreation                               | 656,369             | 656,369             | 593,551             | 110.6%               |
| 30 Police   | 1,708,165           | 1,708,165           | 1,365,953           | 125.1%               |
| 31 Public Works                                     | 340,959             | 340,959             | 422,614             | 80.7%                |
| 32 Water/ Waste Operations                          | -                   | -                   | -                   | 0.0%                 |
| 33 Non-Departmental                                 | 2,792,538           | 2,792,538           | 2,883,240           | 96.9%                |
| 34 <i>Subtotal Operating</i>                        | 7,635,644           | 7,635,644           | 7,360,185           | 103.7%               |
| 35 Internal Transfers                               | 536,068             | 536,068             | 1,506,782           | 35.6%                |
| <b>36 Total Expenditures</b>                        | <b>\$ 8,171,712</b> | <b>\$ 8,171,712</b> | <b>\$ 8,866,967</b> | <b>92.2%</b>         |

<sup>1</sup> Revenues were negative due to the County's property tax adjustment.

| Project Title   | 2016         | 2016   | Remaining<br>2016 | % of 2016<br>Budget |
|---|--------------|--------|-------------------|---------------------|
| <b>Water Capital</b>                                    |              |        |                   |                     |
| WTP Phase II Expansion (38 MGD)                         | \$ 535,417   | \$ -   | \$ 535,417        | 0.00%               |
| 29th St Water Pump Station Emergency Generator          | 481,870      | -      | 481,870           | 0.00%               |
| 2016 Water Line Replacement                             | 722,800      | -      | 722,800           | 0.00%               |
| <b>Raw Water Capital</b>                                |              |        |                   |                     |
| Windy Gap Firming Project                               | 2,406,660    | -      | 2,406,660         | 0.00%               |
| <b>Wastewater Utility Capital</b>                       |              |        |                   |                     |
| WWTP Digester System Improvements                       | 9,276,822    | -      | 9,276,822         | 0.00%               |
| WWTP Digester #3  | 15,661,370   | -      | 15,661,370        | 0.00%               |
| Bio Nutrient Removal Facilities                         | 2,080,600    | -      | 2,080,600         | 0.00%               |
| Southside Lift Station                                  | 1,284,980    | 8,925  | 1,276,055         | 0.69%               |
| <b>Power Capital</b>                                    |              |        |                   |                     |
| Phase 2 of Canyon Voltage Conversion - Glade Rd to WTP  | 754,250      | -      | 754,250           | 0.00%               |
| OH to UG conversion Circuit 411                         | 555,660      | -      | 555,660           | 0.00%               |
| OH to UG conversion 29th St - Madison to Hwy 287        | 750,000      | -      | 750,000           | 0.00%               |
| OH to UG conversion - RR tracks N of 10th               | 1,400,000    | -      | 1,400,000         | 0.00%               |
| OH to UG conversion - Downtown Catalyst                 | 1,400,000    | -      | 1,400,000         | 0.00%               |
| Land purchase for new substation                        | 1,700,000    | -      | 1,700,000         | 0.00%               |
| Transfer load from 1012-621 - Crossroads to Fairgrounds | 950,000      | -      | 950,000           | 0.00%               |
| Instal 750 AL - Crossroads Sub N. to CR30, E. to I-25   | 1,000,000    | -      | 1,000,000         | 0.00%               |
| Extend feeders - Crossroads C2 into system              | 700,000      | -      | 700,000           | 0.00%               |
| <b>Stormwater Capital</b>                               |              |        |                   |                     |
| Benson Park Culvert Improvements                        | 1,000,000    | -      | 1,000,000         | 0.00%               |
| Airport Basin North Outfall                             | 1,576,444    | 53,094 | 1,523,350         | 3.37%               |
| <b>All Other</b>  |              |        |                   |                     |
| Replace General Spartan Engine                          | 652,300      | -      | 652,300           | 0.00%               |
| Viestenz-Smith Mountain Park Redevelopment              | 2,865,610    | -      | 2,865,610         | 0.00%               |
| Museum Collections Storage Building                     | 2,400,000    | -      | 2,400,000         | 0.00%               |
| Open Lands Acquisition & Restoration                    | 4,156,000    | -      | 4,156,000         | 0.00%               |
| Neighborhood Park East                                  | \$ 1,900,000 | -      | \$ 1,900,000      | 0.00%               |

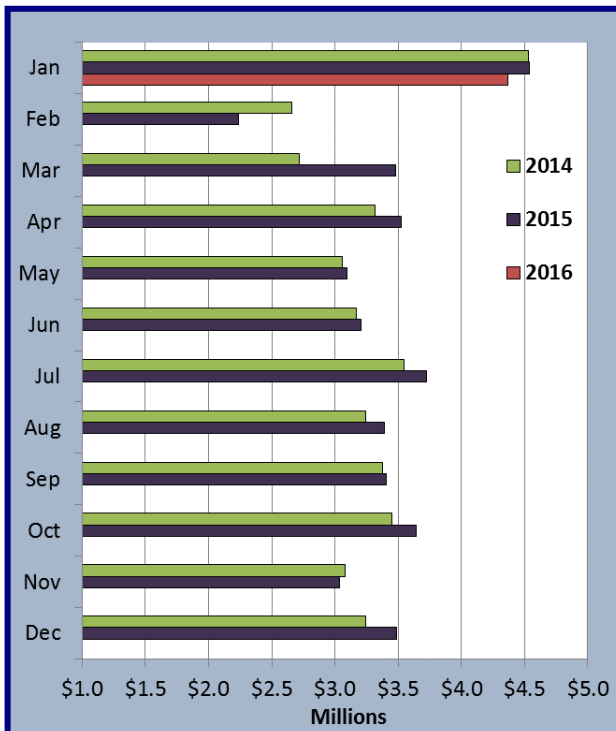


## Sales & Use Tax



|            | 2014                 | 2015                 | 2016                | 2016                 | + / -        |
|------------|----------------------|----------------------|---------------------|----------------------|--------------|
| <b>Jan</b> | \$ 4,801,433         | \$ 4,908,517         | \$ 4,950,022        | \$ 5,026,356         | -1.5%        |
| <b>Feb</b> | 3,066,965            | 2,700,204            |                     | 3,115,503            |              |
| <b>Mar</b> | 3,037,688            | 4,007,386            |                     | 3,410,801            |              |
| <b>Apr</b> | 3,737,255            | 4,011,633            |                     | 3,950,876            |              |
| <b>May</b> | 3,614,459            | 3,611,468            |                     | 3,686,850            |              |
| <b>Jun</b> | 3,525,536            | 4,116,214            |                     | 3,636,050            |              |
| <b>Jul</b> | 4,038,555            | 4,375,627            |                     | 4,286,198            |              |
| <b>Aug</b> | 3,962,915            | 3,783,694            |                     | 4,104,437            |              |
| <b>Sep</b> | 4,014,321            | 4,170,066            |                     | 4,103,238            |              |
| <b>Oct</b> | 3,974,590            | 4,102,720            |                     | 4,138,714            |              |
| <b>Nov</b> | 3,919,205            | 3,572,713            |                     | 3,898,651            |              |
| <b>Dec</b> | 3,763,933            | 3,894,616            |                     | 3,933,615            |              |
|            | <b>\$ 45,456,855</b> | <b>\$ 47,254,859</b> | <b>\$ 4,950,022</b> | <b>\$ 47,291,289</b> |              |
| <b>YTD</b> | <b>\$ 4,801,433</b>  | <b>\$ 4,908,517</b>  | <b>\$ 4,950,022</b> | <b>\$ 5,026,356</b>  | <b>-1.5%</b> |

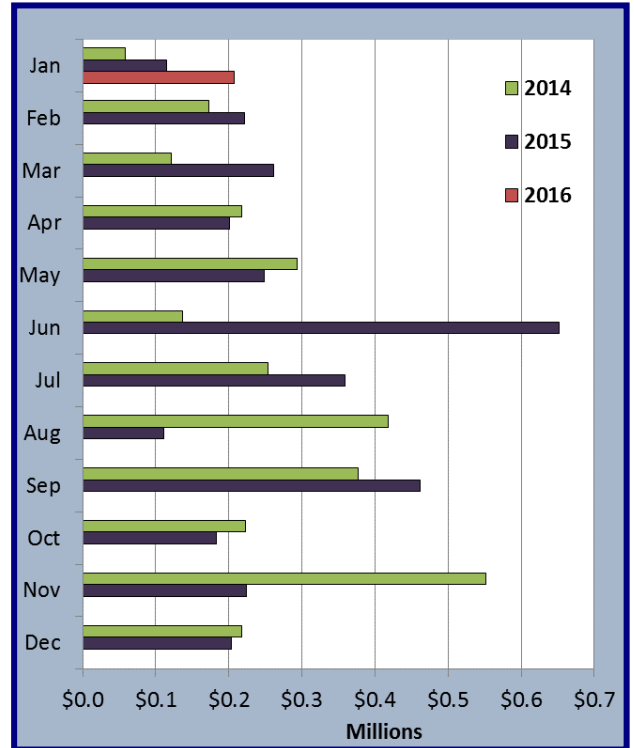
## Retail Sales Tax



|            | 2014                 | 2015                 | 2016                | 2016 Budget          | + / - Budget |
|------------|----------------------|----------------------|---------------------|----------------------|--------------|
| <b>Jan</b> | \$ 4,531,650         | \$ 4,535,554         | \$ 4,365,416        | 4,697,419            | -7.1%        |
| <b>Feb</b> | 2,658,798            | 2,235,775            |                     | 2,770,381            |              |
| <b>Mar</b> | 2,719,254            | 3,480,164            |                     | 3,141,451            |              |
| <b>Apr</b> | 3,317,905            | 3,521,350            |                     | 3,596,856            |              |
| <b>May</b> | 3,059,076            | 3,092,253            |                     | 3,217,352            |              |
| <b>Jun</b> | 3,170,467            | 3,208,195            |                     | 3,335,420            |              |
| <b>Jul</b> | 3,546,945            | 3,727,389            |                     | 3,870,943            |              |
| <b>Aug</b> | 3,241,521            | 3,389,010            |                     | 3,495,655            |              |
| <b>Sep</b> | 3,374,248            | 3,408,259            |                     | 3,563,123            |              |
| <b>Oct</b> | 3,448,473            | 3,642,285            |                     | 3,693,841            |              |
| <b>Nov</b> | 3,077,404            | 3,034,997            |                     | 3,289,036            |              |
| <b>Dec</b> | 3,246,097            | 3,486,297            |                     | 3,495,655            |              |
|            | <b>\$ 39,391,838</b> | <b>\$ 40,761,528</b> | <b>\$ 4,365,416</b> | <b>\$ 42,167,132</b> |              |
| <b>YTD</b> | <b>\$ 4,531,650</b>  | <b>\$ 4,535,554</b>  | <b>\$ 4,365,416</b> | <b>\$ 4,697,419</b>  | <b>-7.1%</b> |

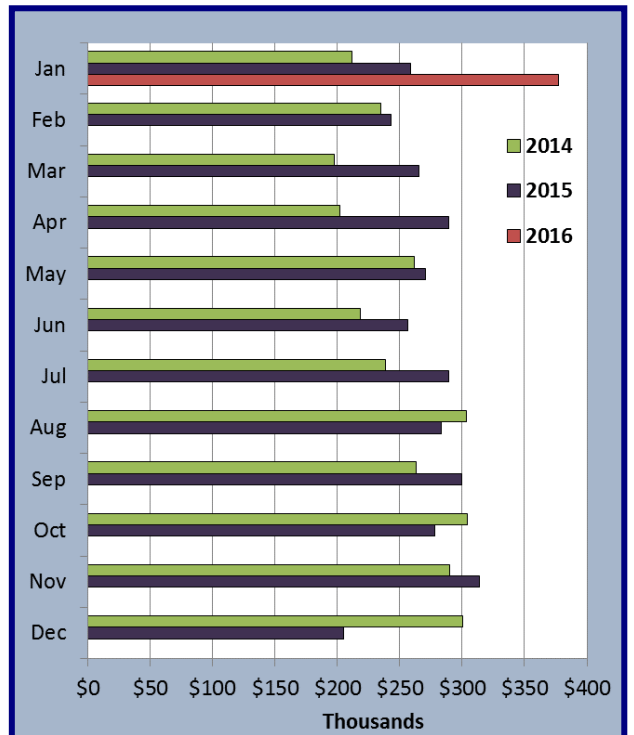
## Building Materials Use Tax

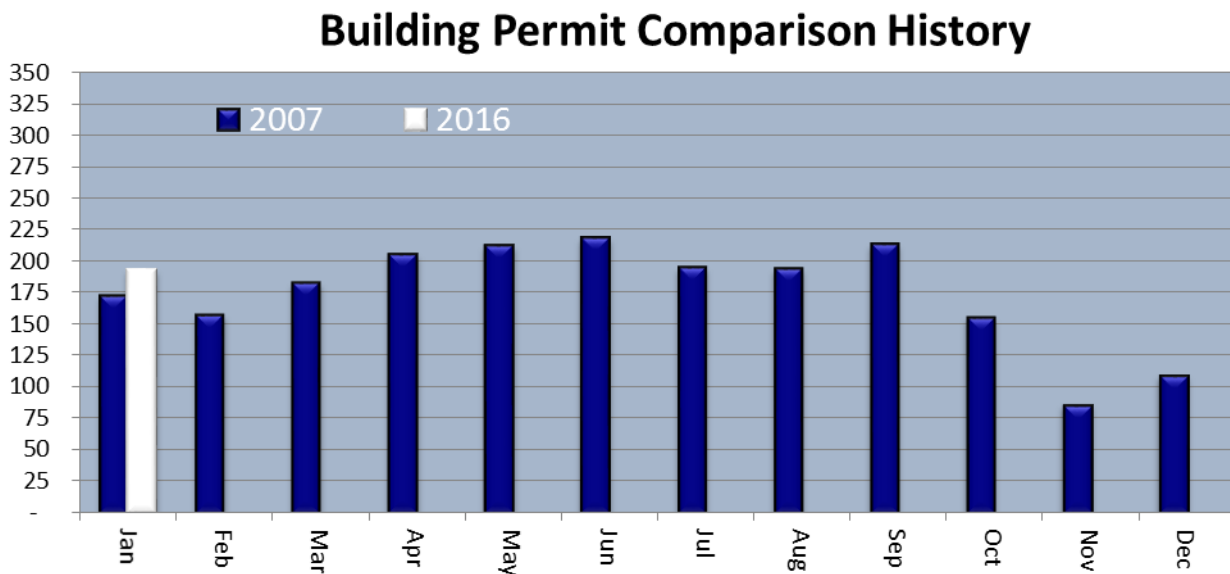
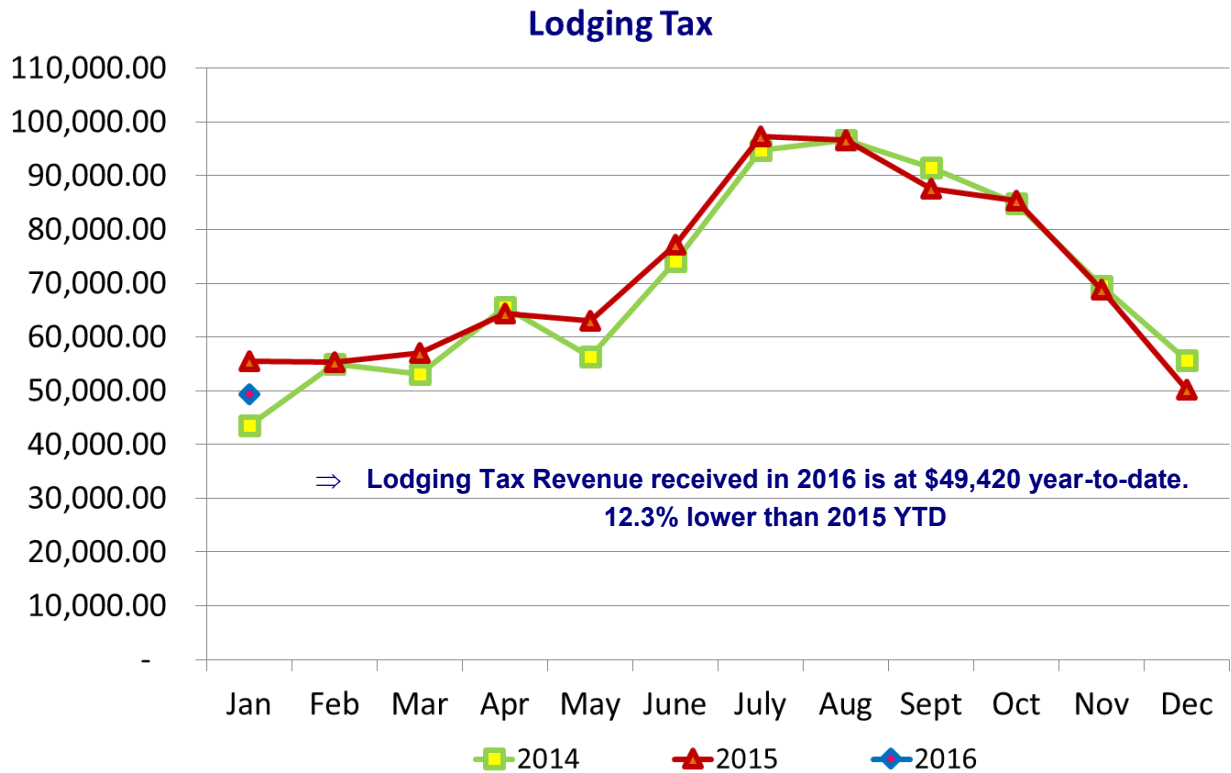
|            | 2014             | 2015              | 2016              | 2016 Budget       | + / - Budget |
|------------|------------------|-------------------|-------------------|-------------------|--------------|
| Jan        | \$ 57,942        | \$ 114,444        | \$ 207,531        | 148,689           | 39.6%        |
| Feb        | 173,295          | 221,517           |                   | 145,302           |              |
| Mar        | 120,768          | 261,500           |                   | 101,202           |              |
| Apr        | 217,134          | 200,708           |                   | 182,010           |              |
| May        | 293,543          | 248,738           |                   | 246,503           |              |
| Jun        | 136,432          | 651,849           |                   | 114,457           |              |
| Jul        | 253,077          | 358,806           |                   | 212,345           |              |
| Aug        | 417,801          | 111,575           |                   | 350,509           |              |
| Sep        | 377,319          | 462,146           |                   | 316,605           |              |
| Oct        | 222,297          | 182,690           |                   | 186,343           |              |
| Nov        | 551,682          | 223,788           |                   | 362,672           |              |
| Dec        | 217,712          | 203,069           |                   | 182,520           |              |
|            | \$3,039,002      | \$3,240,831       | \$ 207,531        | \$2,549,157       |              |
| <b>YTD</b> | <b>\$ 57,942</b> | <b>\$ 114,444</b> | <b>\$ 207,531</b> | <b>\$ 148,689</b> | <b>39.6%</b> |



## Motor Vehicle Use Tax

|            | 2014              | 2015              | 2016              | 2016 Budget       | + / - Budget  |
|------------|-------------------|-------------------|-------------------|-------------------|---------------|
| Jan        | \$ 211,841        | \$ 258,519        | \$ 377,075        | 180,248           | 109.2%        |
| Feb        | 234,872           | 242,911           |                   | 199,820           |               |
| Mar        | 197,666           | 265,721           |                   | 168,148           |               |
| Apr        | 202,216           | 289,575           |                   | 172,010           |               |
| May        | 261,840           | 270,477           |                   | 222,995           |               |
| Jun        | 218,637           | 256,170           |                   | 186,173           |               |
| Jul        | 238,533           | 289,432           |                   | 202,910           |               |
| Aug        | 303,593           | 283,109           |                   | 258,273           |               |
| Sep        | 262,754           | 299,661           |                   | 223,510           |               |
| Oct        | 303,820           | 277,746           |                   | 258,530           |               |
| Nov        | 290,119           | 313,928           |                   | 246,943           |               |
| Dec        | 300,124           | 205,249           |                   | 255,440           |               |
|            | \$ 3,026,015      | \$3,252,500       | \$ 377,075        | \$2,575,000       |               |
| <b>YTD</b> | <b>\$ 211,841</b> | <b>\$ 258,519</b> | <b>\$ 377,075</b> | <b>\$ 180,248</b> | <b>109.2%</b> |







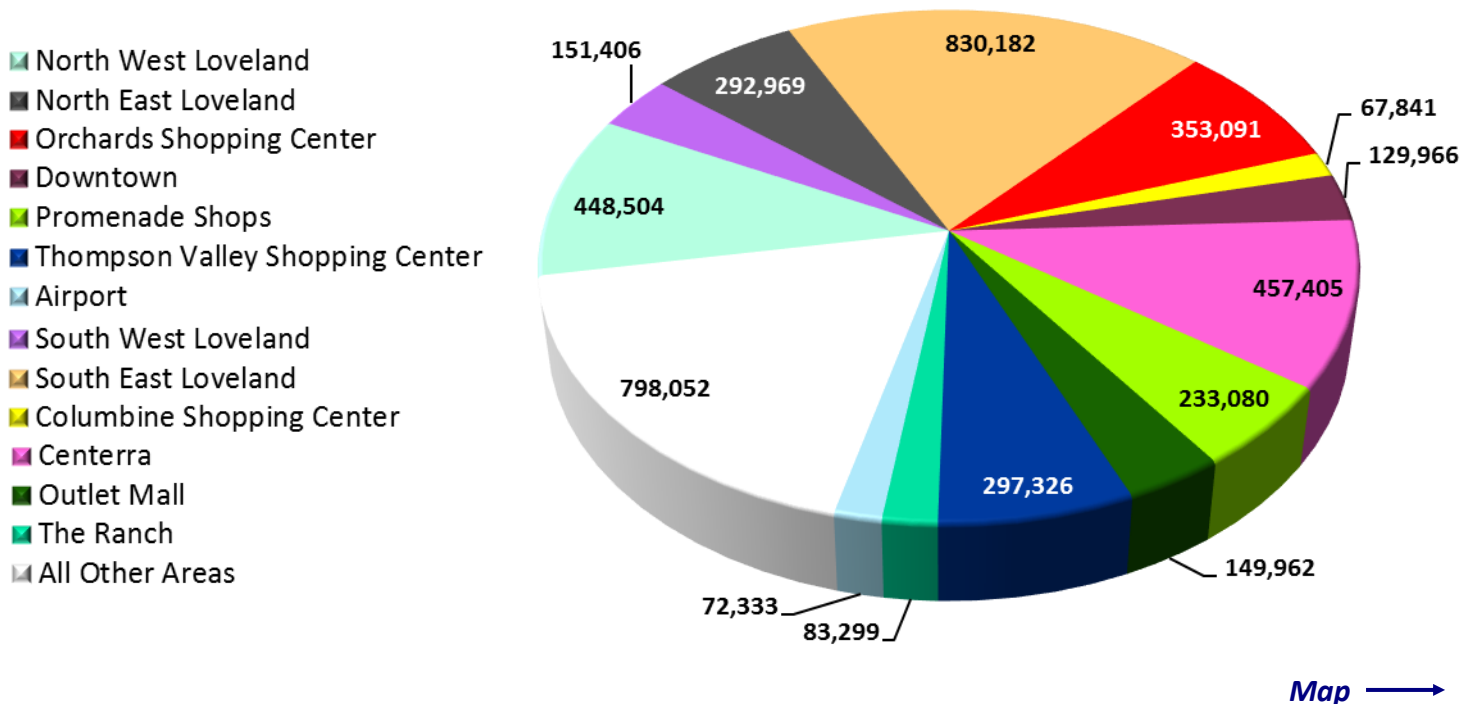
| Cost Estimates             |    |                      |                      |
|----------------------------|----|----------------------|----------------------|
| Emergency Response         |    | \$ 2,000,000         |                      |
| Business Assistance        |    | 600,000              |                      |
| Capital                    |    | 27,906,129           |                      |
| <b>Total</b>               |    | <b>\$ 30,506,129</b> |                      |
| Actual Expenditures        |    |                      |                      |
|                            |    | January              | To Date              |
| <b>Total</b>               | \$ | 32,605               | \$ 22,244,588        |
| Reimbursements Applied For |    |                      |                      |
|                            |    | January              | To Date              |
| FEMA                       | \$ | 375,920              | \$ 10,268,396        |
| CIRSA                      |    | -                    | 7,050,329            |
| Other                      |    | -                    | 705,090              |
| <b>Total</b>               | \$ | <b>375,920</b>       | <b>\$ 18,023,814</b> |
| Reimbursements Received    |    |                      |                      |
|                            |    | January              | To Date              |
| FEMA                       | \$ | -                    | \$ 6,599,063         |
| CIRSA                      |    | -                    | 7,050,329            |
| Other                      |    | -                    | 705,090              |
| <b>Total</b>               | \$ | <b>-</b>             | <b>\$ 14,354,481</b> |



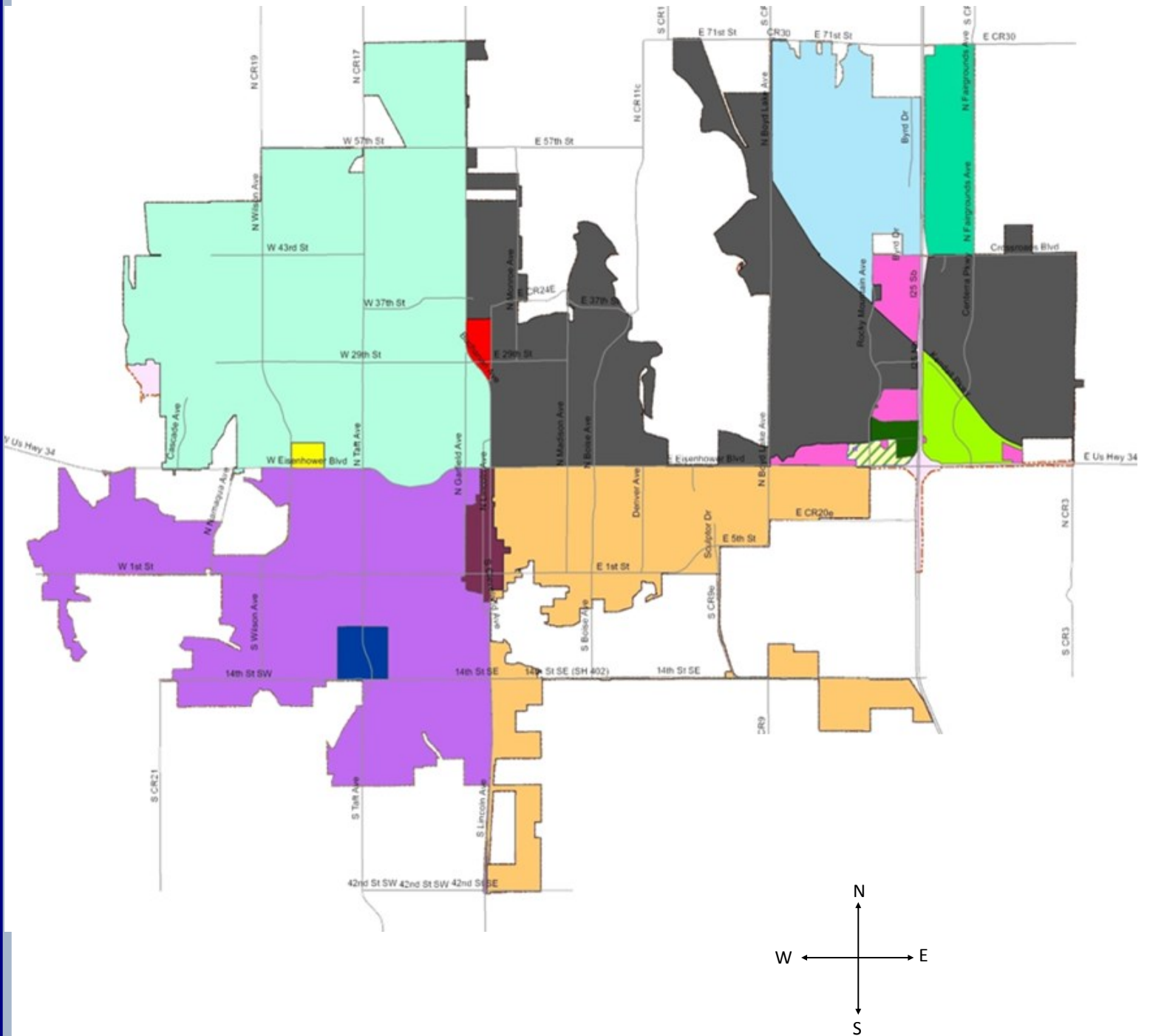
# Geographical Codes

| Geographical Area               | YTD 2016            | YTD 2015            | Change       |
|---------------------------------|---------------------|---------------------|--------------|
| South East Loveland             | \$ 830,182          | \$ 893,564          | -7.1%        |
| Centerra                        | 457,405             | 470,830             | -2.9%        |
| North West Loveland             | 448,504             | 441,002             | 1.7%         |
| Orchards Shopping Center        | 353,091             | 322,398             | 9.5%         |
| Thompson Valley Shopping Center | 297,326             | 288,168             | 3.2%         |
| North East Loveland             | 292,969             | 303,830             | -3.6%        |
| Promenade Shops                 | 233,080             | 413,403             | -43.6%       |
| South West Loveland             | 151,406             | 129,608             | 16.8%        |
| Outlet Mall                     | 149,962             | 173,504             | -13.6%       |
| Downtown                        | 129,966             | 131,084             | -0.9%        |
| The Ranch                       | 83,299              | 87,268              | -4.5%        |
| Airport                         | 72,333              | 39,553              | 82.9%        |
| Columbine Shopping Center       | 67,841              | 70,954              | -4.4%        |
| All Other Areas                 | 798,052             | 770,388             | 3.6%         |
| <b>Total</b>                    | <b>\$ 4,365,416</b> | <b>\$ 4,535,554</b> | <b>-3.8%</b> |

(1) Refers to sales tax remitted by vendors who are located outside of the City but make sales to customers within Loveland.



# Geographical Codes



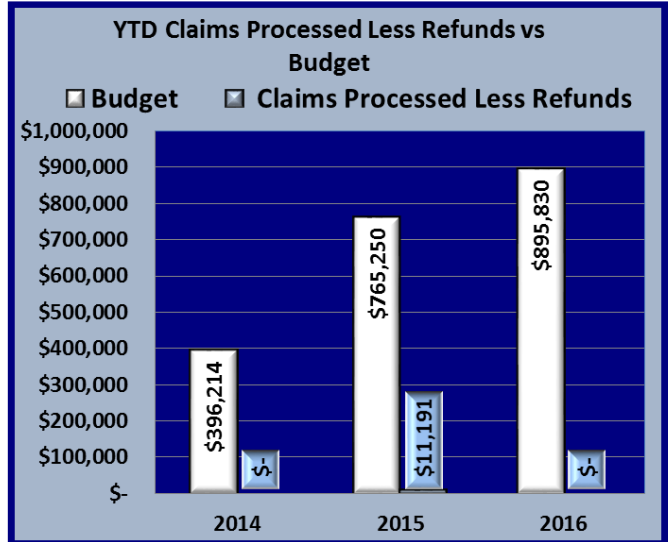
# Sales Tax Collections

| Description                                  | YTD<br>2016         | YTD<br>2015         | \$<br>Change       | %<br>Change  | % of<br>Total | Total<br>% |
|--|---------------------|---------------------|--------------------|--------------|---------------|------------|
| Department Stores & General Merchandise      | \$ 843,851          | \$ 920,388          | \$ (76,537)        | -8.3%        | 19.3%         | 19.3%      |
| Grocery Stores & Specialty Foods             | 621,866             | 596,139             | 25,727             | 4.3%         | 14.2%         | 33.6%      |
| Restaurants & Bars                           | 453,173             | 460,845             | (7,672)            | -1.7%        | 10.4%         | 44.0%      |
| Clothing & Clothing Accessories Stores       | 340,647             | 382,865             | (42,218)           | -11.0%       | 7.8%          | 51.8%      |
| Motor Vehicle Dealers, Auto Parts & Leasing  | 298,227             | 282,855             | 15,372             | 5.4%         | 6.8%          | 58.6%      |
| Sporting Goods, Hobby, Book & Music Stores   | 243,890             | 250,269             | (6,379)            | -2.5%        | 5.6%          | 64.2%      |
| Used Merchandise Stores                      | 189,847             | 178,574             | 11,273             | 6.3%         | 4.3%          | 68.5%      |
| Utilities                                    | 182,101             | 190,244             | (8,143)            | -4.3%        | 4.2%          | 72.7%      |
| Building Material & Lawn & Garden Supplies   | 172,685             | 228,144             | (55,459)           | -24.3%       | 4.0%          | 76.7%      |
| Consumer Goods & Commercial Equipment Rental | 114,394             | 108,459             | 5,935              | 5.5%         | 2.6%          | 79.3%      |
| Broadcasting & Telecommunications            | 111,606             | 133,835             | (22,229)           | -16.6%       | 2.6%          | 81.8%      |
| Beer, Wine & Liquor Stores                   | 104,596             | 99,785              | 4,811              | 4.8%         | 2.4%          | 84.2%      |
| Health & Personal Care Stores                | 90,872              | 90,201              | 671                | 0.7%         | 2.1%          | 86.3%      |
| Electronic Shopping & Mail-Order Houses      | 84,143              | 87,022              | (2,879)            | -3.3%        | 1.9%          | 88.2%      |
| Electronics & Appliance Stores               | 82,444              | 109,544             | (27,100)           | -24.7%       | 1.9%          | 90.1%      |
| Hotels, Motels & Other Accommodations        | 72,162              | 82,259              | (10,097)           | -12.3%       | 1.7%          | 91.8%      |
| Furniture & Home Furnishing Stores           | 66,818              | 57,945              | 8,873              | 15.3%        | 1.5%          | 93.3%      |
| Gasoline Stations with Convenience Stores    | 34,628              | 39,978              | (5,350)            | -13.4%       | 0.8%          | 94.1%      |
| Office Supplies, Stationery & Gift Stores    | 22,246              | 36,764              | (14,518)           | -39.5%       | 0.5%          | 94.6%      |
| All Other Categories                         | 235,220             | 199,439             | 35,781             | 17.9%        | 5.4%          | 100.0%     |
| <b>Total</b>                                 | <b>\$ 4,365,416</b> | <b>\$ 4,535,554</b> | <b>\$(170,138)</b> | <b>-3.8%</b> | <b>100.0%</b> |            |

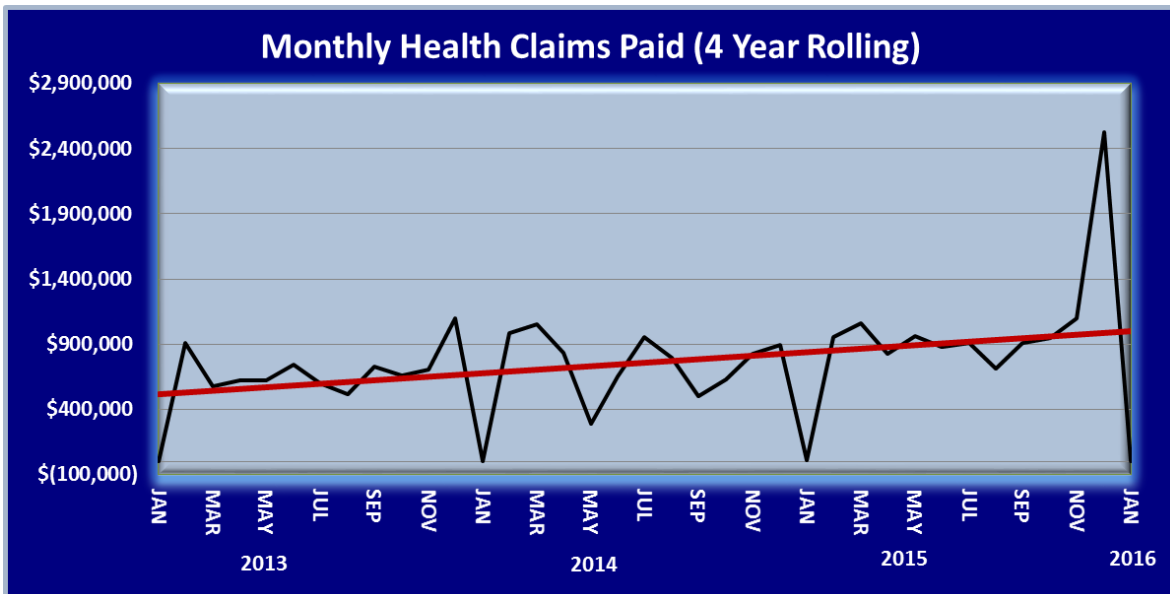
## Claims Incurred

|               |       | OAP         | HRA         | Total        |
|---------------|-------|-------------|-------------|--------------|
| <b>2016</b>   | Jan   | \$ 723,253  | \$ 133,600  | \$ 856,853   |
|               | YTD   | 723,253     | 133,600     | 856,853      |
| <b>2015</b>   | Jan   | 807,045     | 179,604     | 986,649      |
|               | YTD   | 807,045     | 179,604     | 986,649      |
| <b>Change</b> | Jan   | (83,792)    | (46,004)    | (129,796)    |
|               | Jan   | -10.4%      | -25.6%      | -13.2%       |
|               | YTD   | \$ (83,792) | \$ (46,004) | \$ (129,796) |
|               | % YTD | -10.4%      | -25.6%      | -13.2%       |

- ⇒ HRA—Health Reimbursement Arrangement
- ⇒ OAP—Open Access Plan



Incurred claims are total expenses the City is obligated to pay for claims, including claims paid and unpaid. Paid claims are those claims that have been paid and reconciled through the bank to-date, which may not reflect Stop Loss reimbursements or other refunds.



| January                 | 2013      | 2014      | 2015      | 2016      |
|-------------------------|-----------|-----------|-----------|-----------|
| # of claims             | 4         | 6         | 8         | 6         |
| YTD Cost of high claims | \$158,231 | \$525,954 | \$389,903 | \$351,401 |

- ⇒ 2016 # of StopLoss claims: 0
- ⇒ Projected YTD Reimbursements: \$0  
(claims over \$175k paid by StopLoss Carrier)

# Activity Measures

| Measures                             | Jan 2014    | Jan 2015     | Jan 2016     | 2014 YTD              | 2015 YTD    | 2016 YTD    |
|--------------------------------------|-------------|--------------|--------------|-----------------------|-------------|-------------|
| # of Building Permits                | 137         | 200          | 192          | 137                   | 200         | 192         |
| Building Permit Valuations           | \$5,860,158 | \$14,848,857 | \$17,316,862 | 5,860,158             | 14,848,857  | 17,316,862  |
| # of Certified Occupancies           | 11          | 41           | 34           | 11                    | 41          | 34          |
| Net # of Sales Tax Licenses          | 19          | (42)         | 4            | 19                    | (42)        | 4           |
| New Residential Electric Meter Sets  | 82          | 113          | 36           | 82                    | 113         | 36          |
| # of Utility Bills Sent              | 36,690      | 37,270       | 38,221       | 36,690                | 37,270      | 38,221      |
| Rounds of Golf                       | 340         | 2,962        | -            | 340                   | 2,962       | -           |
| \$ Average Health Claim Costs/Emp.   | \$1,571     | \$1,651      | \$1,155      | \$ 30                 | \$ 1,571    | \$ 1,457    |
| KWH Demand (kH)                      | 99,852      | 95,951       | 95,471       | 99,852                | 95,951      | 95,471      |
| KWH Purchased (kwh)                  | 63,250,615  | 58,165,978   | 61,600,154   | 63,250,615            | 58,165,978  | 61,600,154  |
| Gallons of Water Sold                | 168,099,995 | 150,695,376  | 152,535,391  | 168,099,995           | 150,695,376 | 152,535,391 |
| # of Workers' Comp Claims 2015       | 5           | 9            | 9            | 5                     | 9           | 9           |
| \$ of Workers' Comp Claims Paid 2015 | \$38,842    | \$73,554     | \$19,514     | 38,842                | 73,554      | 19,514      |
| # of Total Open Claims               | 21          | 17           | 20           | <i>Not Cumulative</i> |             |             |
| \$ of Total Open Claims              | 474,269     | 286,228      | 357,199      | <i>Not Cumulative</i> |             |             |
| \$ of Lodging Tax Collected          | \$43,493    | \$55,385     | \$49,420     | 43,493                | 55,385      | 49,420      |



**Financial Sustainability  
Strategies Can Be  
Found At:  
[CityofLoveland.org](http://CityofLoveland.org)**

- ⇒ **Departments**
- ⇒ **Finance**
- ⇒ **Administration**
- ⇒ **Financial Reports**
- ⇒ **Financial  
Sustainability  
Strategies**

*The City of Loveland is committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation or gender. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act. For more information, please contact the City's ADA Coordinator at [bettie.greenberg@cityofloveland.org](mailto:bettie.greenberg@cityofloveland.org) or 970-962-3319*

# SnapShot

January 2016



**For more information regarding this report contact:**

**Brent Worthington**

**Finance Director**

**970.962.2300 or**

**[brent.worthington@cityofloveland.org](mailto:brent.worthington@cityofloveland.org)**





# Snapshot

P. 57



## January 2016

**Brent Worthington**  
Finance Director

**Presented**  
February 29 , 2016

# January 2016 Snapshot

- Citywide Revenue
  - \$22 million, excluding transfers
  - 10.6% below budget projections
  
- Citywide Expenditures
  - \$18.5 million, excluding transfers
  - 27.1% below budget projections
  
- Citywide revenues exceed expenditures by \$3.5 million.

# January 2016 Snapshot

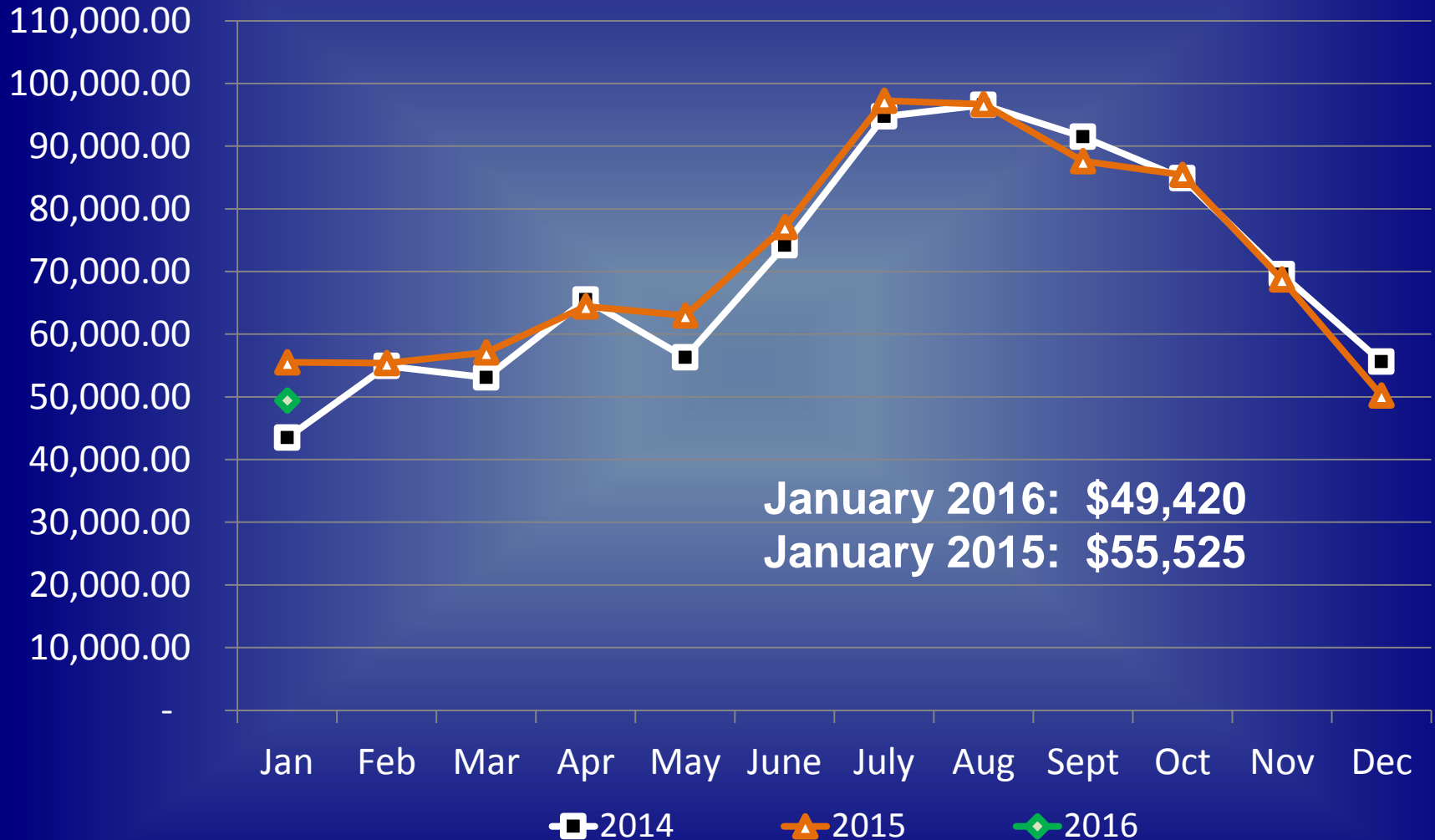
- General Fund Revenue
  - \$7.3 million YTD, excluding transfers
  - 0.1% below YTD Budget
  - 2.9% above same period last year
  
- Sales and Use Tax Revenue
  - \$5.0 million YTD
  - 1.5% below budget projections
  - 0.8% above same period as last year
  
- Sales Tax only
  - \$4.4 million YTD
  - 7.1% below budget projections
  - 3.8% below same period last year

# January 2016 Snapshot

- General Fund Expenditures
  - \$7.6 million YTD, excluding transfers
  - 3.7% above budget projections
  
- General Fund Expenditures Exceed Revenues by \$0.8 million
  
- Health Claims
  - January Claims \$857 thousand
  - 2016 YTD decreased from \$987 thousand to \$857 thousand from same time as last year (13.2%)

# January 2016 Snapshot

## Lodging Tax



➤ Lodging tax YTD is \$49,420 (12.3% lower than 2015 YTD).

# Flood Report

| <b>Cost Estimates</b>             |           |                     |                      |
|-----------------------------------|-----------|---------------------|----------------------|
| Emergency Response                |           | \$ 2,000,000        |                      |
| Business Assistance               |           | 600,000             |                      |
| Capital                           |           | 27,906,129          |                      |
| <b>Total</b>                      |           | <b>\$30,506,129</b> |                      |
| <b>Actual Expenditures</b>        |           |                     |                      |
|                                   |           | <u>January</u>      | <u>To Date</u>       |
| <b>Total</b>                      | <b>\$</b> | <b>32,605</b>       | <b>\$ 22,244,588</b> |
| <b>Reimbursements Applied For</b> |           |                     |                      |
|                                   |           | <u>January</u>      | <u>To Date</u>       |
| FEMA                              | \$        | 375,920             | \$ 10,268,396        |
| CIRSA                             |           | -                   | 7,050,329            |
| Other                             |           | -                   | 705,090              |
| <b>Total</b>                      | <b>\$</b> | <b>375,920</b>      | <b>\$ 18,023,814</b> |
| <b>Reimbursements Received</b>    |           |                     |                      |
|                                   |           | <u>January</u>      | <u>To Date</u>       |
| FEMA                              | \$        | -                   | \$ 6,599,063         |
| CIRSA                             |           | -                   | 7,050,329            |
| Other                             |           | -                   | 705,090              |
| <b>Total</b>                      | <b>\$</b> | <b>-</b>            | <b>\$ 14,354,481</b> |



# January 2016 Snapshot

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## Questions?

**Brent Worthington**  
Finance Director

**Presented**  
February 29 , 2016



**CITY OF LOVELAND**  
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 10  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Alan Krcmarik, Executive Fiscal Advisor  
**PRESENTER:** Alan Krcmarik

**TITLE:**

Investment Report for January 2016

**RECOMMENDED CITY COUNCIL ACTION:**

This is an information only item. No Council action is required.

**DESCRIPTION:**

The budget projection for investment earnings for 2016 is \$2,229,818. On the portfolio's 2016 beginning balance this equates to an annual interest rate of 1.02%. Based on the January monthly statement, the estimated yield on the fixed income securities held by USBank was at 1.32%, for total assets the yield was 1.16%. For January, total earnings of \$129,599 were posted to City funds; the year-to date target was \$196,461. U.S. short-term Treasury interest rates fell in January; the portfolio's change in unrealized gain was \$1.5 million. The end of January portfolio market value is estimated to be \$212.5 million. The total amount of the portfolio is lower than the end of 2015 by \$4.8 million. The peak amount for the portfolio was reached before the 2013 flood when it had estimated market value of \$226.3 million.

**SUMMARY:**

At the end of January, the City's portfolio had an estimated market value of \$212.5 million, about \$4.8 million less than a month ago. Of this amount, USBank held \$191.3 million (including accrued interest) in trust accounts; other funds are held in local government investment pools, in operating accounts at First National Bank, and a few other miscellaneous accounts. Interest rates trended to all-time record lows in 2012-2013 before rising in the second half of 2014. Through 2015 interest rates cycled down, up, down, and back up through December. In January 2016, they were down sharply. Short-term rates are projected to rise later in 2016 and are dependent upon the actions of the Federal Open Market Committee. City investments are in U.S. Treasury Notes, high-rated U.S. Agency Bonds, highly-rated corporate bonds, money market accounts, insured certificates of deposit and local government investment pools. The City's investment strategy emphasizes safety of principal, then sufficient liquidity to meet cash needs, and finally, return on investment. Each percent of earnings on the portfolio equates to about \$2.1 million annually.

**REVIEWED BY CITY MANAGER:**

*William A. Cavill*

**LIST OF ATTACHMENTS:**

Investment Focus January 2015





# Investment Focus

Monthly Investment Report

January 2016

**What's in here?**

- Focal Points** 1
- Gain / Loss**
- Consumer Power**
- Rate Trends** 2
- Cash Statement** 3
- Portfolio Size /** 4
- Investment Types**
- Transactions /** 5
- Maturity**
- Labor Data** 6-7
- Future Scan** 8

**Focal Points**

- \* **The 2016 targets for the City's portfolio:**  
 1) interest rate = **1.02%**; 2) earnings = **\$2,229,818.**
- \* **City investments are in high-quality, low-risk securities to comply with Colorado law and the City's adopted investment policy.**
- \* **Interest earnings posted for the month totaled **\$129,599.****
- \* **Each 1% of market value amounts to nearly \$2.1 million.**
- \* **The month-end market value shows the unrealized gain is estimated to be **\$749,841** at the end of January.**

**Consumers Power Past Headwinds**

Stock, oil markets rally as strong retail sales offer hope U.S. can avoid global slowdown

"U.S. consumers showed signs of strength in January, taking advantage of low oil prices to increase their spending and offering a welcome counterpoint to the gloom that has gripped investors and roiled markets since the start of the year.

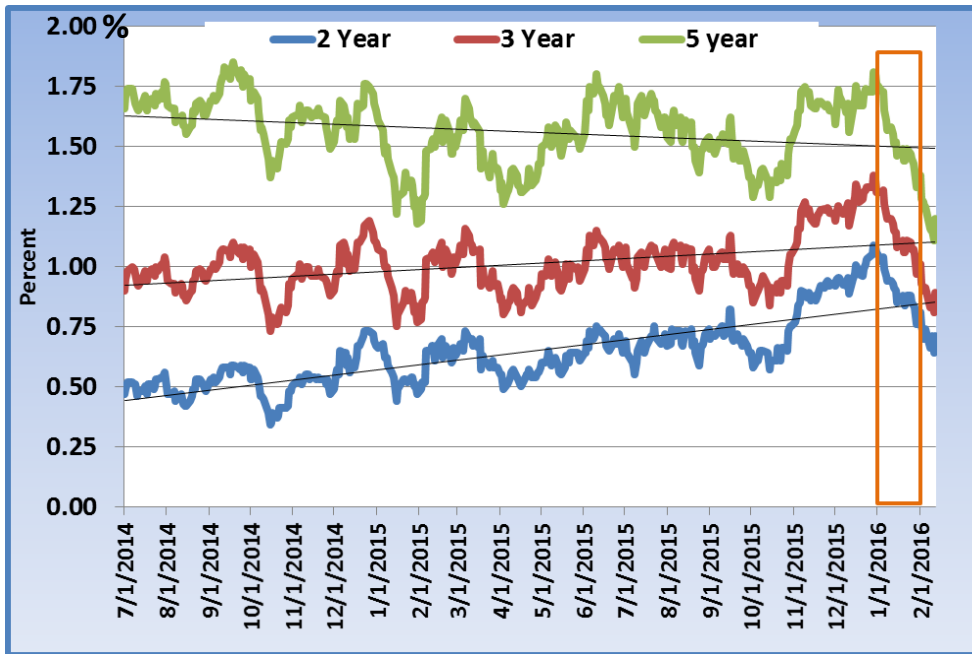
Sales at retail stores and restaurants rose 0.2% in January from the prior month . . . and December's retail sales were revised to a 0.2% gain instead of a drop."

*continued on page 2*

| Type of Investment     | Purchase Price        | Market Price          | Unrealized Gain / Loss |
|------------------------|-----------------------|-----------------------|------------------------|
| Checking Accounts      | \$ 14,614,767         | \$ 14,614,767         | -                      |
| Investment Pools       | \$ 5,033,354          | \$ 5,033,354          | -                      |
| Money Markets          | \$ 20,909,056         | \$ 20,909,056         | -                      |
| <b>Subtotal</b>        | <b>\$ 40,557,177</b>  | <b>\$ 40,557,177</b>  | -                      |
| Notes, Bonds, and CDs  | \$ 171,215,416        | \$ 171,965,257        | <b>\$ 749,841</b>      |
| <b>Total Portfolio</b> | <b>\$ 211,772,593</b> | <b>\$ 212,522,434</b> | <b>\$ 749,841</b>      |
| <b>Data sources</b>    | (Morgan Stanley)      | (US Bank)             | 1/31/2016              |

Due to rounding, column and row totals may not add exactly.

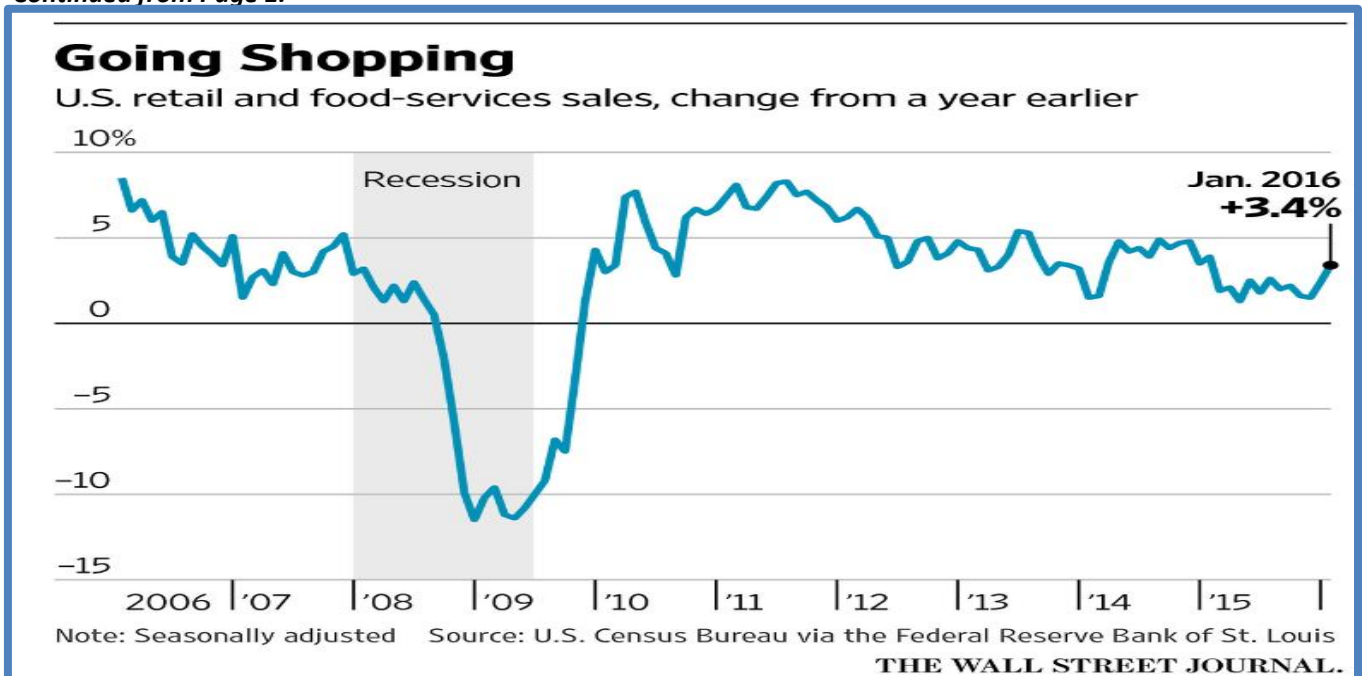
## Treasury Rate Trends / Consumer Boost



Interest rates on U.S. Treasuries fell sharply in January. The 2-year Treasury note was down 30 basis points, the 3-year note down 34 basis points and the 5-year Treasury was down 43 basis points.

When rates moved lower, the price of securities held in the portfolio increased, resulting in a large unrealized gain at month end.

Continued from Page 1.



“The retail sales gains bolster a case that many analysts and economists have been making in recent weeks: While many financial gauges are raising concern about the health of the economy, direct measures of economic health such as home sales, employment and wages have been sending largely up-beat signals, suggesting that a U.S. expansion may not be as vulnerable as some fear.”

(Source: “Consumers Power Past Headwinds” by Harriet Torry, Mike Cherney, and Min Zeng in **THE WALL STREET JOURNAL**, February 13-14, 2016.)

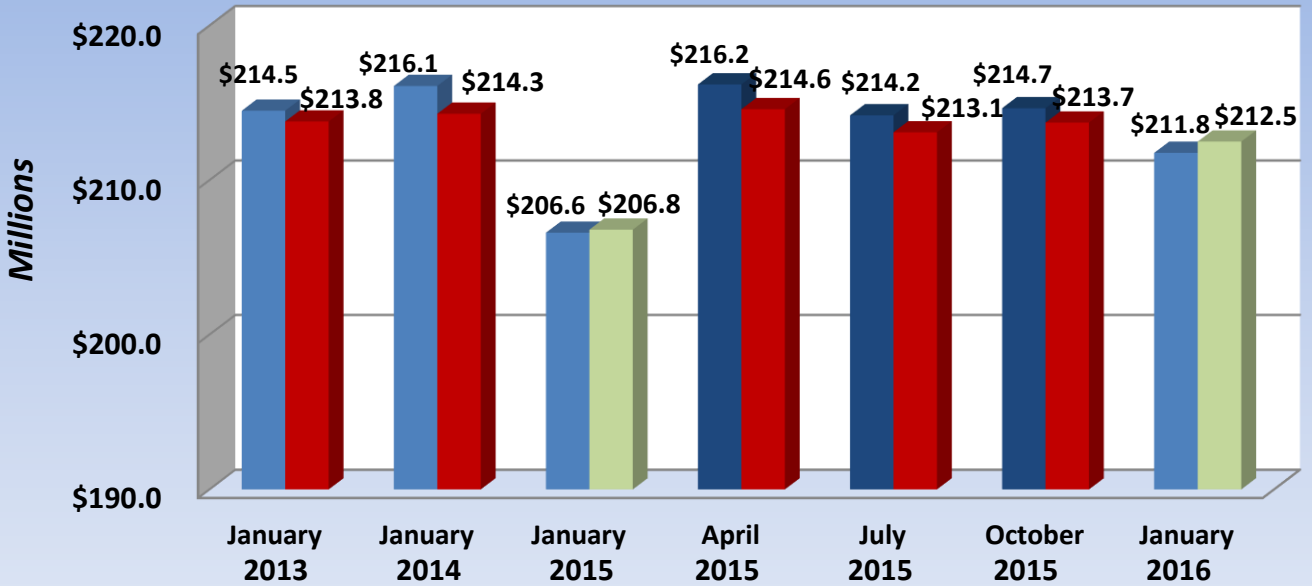
## Bottom Line: minus 2.3% to Beginning Balance

|                             |  | 2016 Beginning        | YTD Activity          | Month End Total       |
|-----------------------------|--|-----------------------|-----------------------|-----------------------|
| <b>Restricted Reserves</b>  |  |                       |                       |                       |
| 1                           | Capital Expansion Fees                     | \$ 31,610,589         | \$ 568,546            | \$ 32,179,135         |
| 2                           | Water System Improvement Fees              | 3,130,047             | (568,221)             | 2,561,826             |
| 3                           | Raw Water Revenue - Windy Gap              | 21,258,069            | 97,913                | 21,355,982            |
| 4                           | Wastewater System Imp. Fees                | 8,275,646             | (11,974)              | 8,263,671             |
| 5                           | Storm Drainage System Imp. Fees            | 2,029,191             | 13,297                | 2,042,488             |
| 6                           | Power Plant Investment Fees                | 3,062,746             | (78,587)              | 2,984,159             |
| 7                           | Cemetery Perpetual Care                    | 2,765,890             | 3,160                 | 2,769,050             |
| 8                           | Other Restricted                           | 29,971,530            | (2,732,195)           | 27,239,335            |
| 9                           | <b>Total Restricted</b>                    | <b>\$ 102,103,708</b> | <b>\$ (2,708,060)</b> | <b>\$ 99,395,648</b>  |
| <b>Committed / Assigned</b> |  |                       |                       |                       |
| 10                          | General Fund                               | \$ 11,224,908         | \$ 193                | \$ 11,225,101         |
| 11                          | Enterprise Funds                           | 6,712,878             | (165,508)             | 6,547,370             |
| 12                          | Internal Service Funds                     | 12,186,613            | 185,999               | 12,372,612            |
| 13                          | <b>Total Committed / Assigned</b>          | <b>\$ 30,124,399</b>  | <b>\$ 20,684</b>      | <b>\$ 30,145,083</b>  |
| 14                          | <b>Total Restricted/Committed/Assigned</b> | <b>\$ 132,228,107</b> | <b>\$ (2,687,376)</b> | <b>\$ 129,540,731</b> |
| <b>Unassigned Balance</b>   |  |                       |                       |                       |
| 15                          | General Fund                               | \$ 35,540,685         | \$ (1,352,548)        | \$ 34,188,136         |
| 16                          | Airport                                    | 1,830,962             | 76,039                | 1,907,001             |
| 17                          | Internal Service - Vehicle Maint.          | 5,794                 | 10,970                | 16,764                |
| 18                          | Enterprise Funds                           | 46,297,843            | (1,068,404)           | 45,229,439            |
| 19                          | <b>Total Unassigned</b>                    | <b>\$ 83,675,284</b>  | <b>\$ (2,333,944)</b> | <b>\$ 81,341,340</b>  |
| 20                          | <b>TOTAL FUND BALANCE</b>                  | <b>\$ 215,903,390</b> | <b>\$ (5,021,319)</b> | <b>\$ 210,882,071</b> |

Source: City of Loveland Budget Office  
 Due to rounding, column and row totals may not add exactly.

## Portfolio Growth Trend / Types of Investments

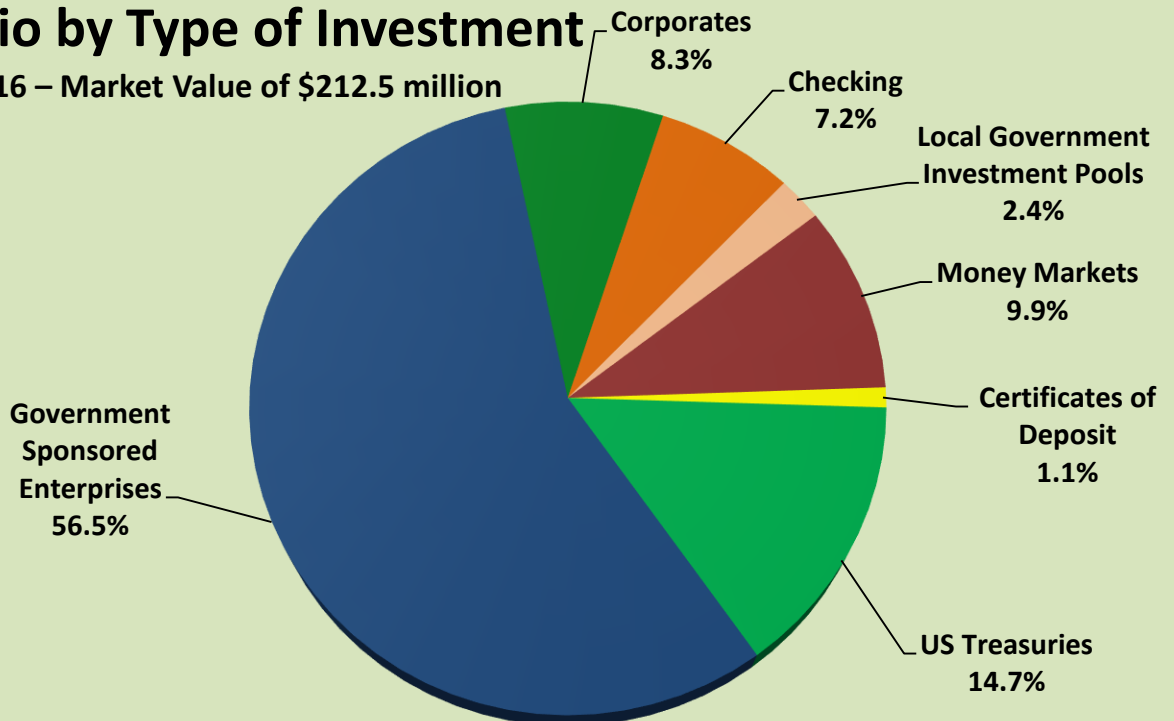
### Portfolio Size Since January 2013



Blue bars show Purchase value; red or green bars show Market value (red = loss and green = gain).

### Portfolio by Type of Investment

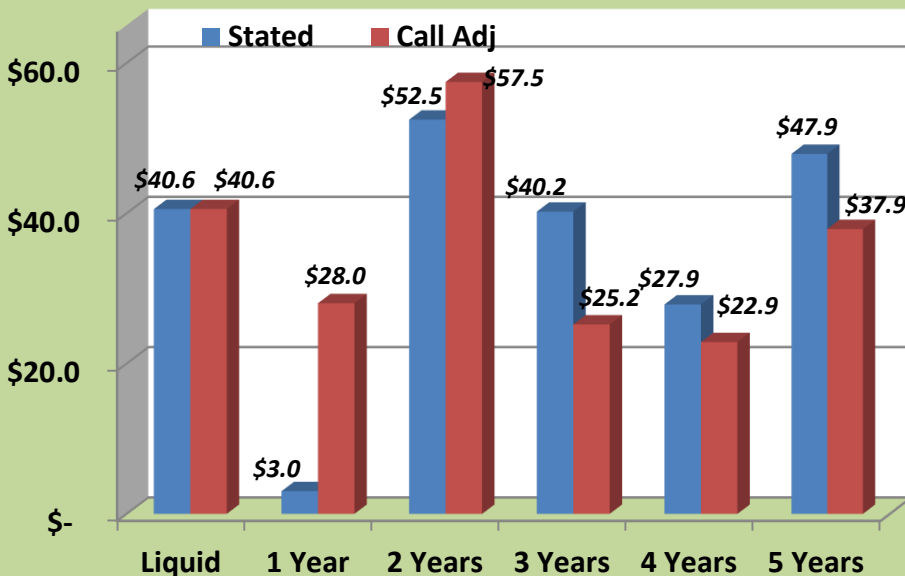
January 2016 – Market Value of \$212.5 million



# Transactions / Portfolio by Maturity

|                    | Maturity Date | Face Value \$  | Purchase \$           | Rate   |
|--------------------|---------------|----------------|-----------------------|--------|
| <b>Purchases</b>   |               |                |                       |        |
| None this month    |               |                |                       |        |
| <b>Matured</b>     |               |                |                       |        |
| None this month    |               |                |                       |        |
| <b>Called</b>      |               |                | <b>Call Value \$</b>  |        |
| None this month    |               |                |                       |        |
| <b>Sales</b>       |               |                | <b>Gain/(Loss) \$</b> |        |
| U.S. Treasury Note | 05/31/2020    | \$5,000,000.00 | \$ 54,758.36          | 1.500% |

**Portfolio by Estimated Maturity Term**  
(in millions - Total = \$212.5 at the end of the month)



The target interest earnings rate for 2016 is 1.02%. Rates have been volatile over recent months and reached all-time lows for the 10-year treasury.

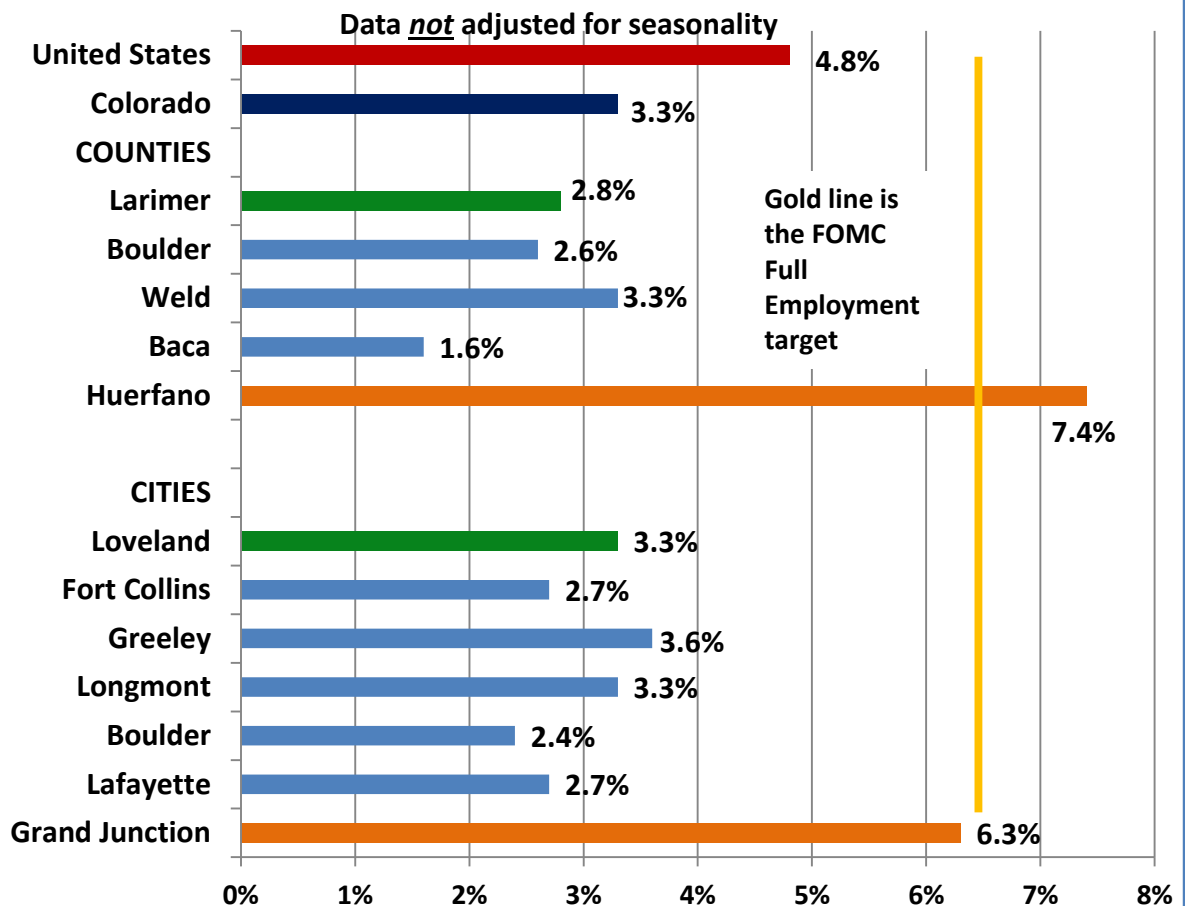
To support earnings, or to reposition the portfolio, bonds may be sold. Sales have netted \$54,758.36 this year.

Blue bars show the stated term; red bars show possible calls.

- ❑ Loveland's employed workforce expanded in December, **up 88 jobs** from November.
- ❑ Compared to December of 2014, there are **788 more** jobs reported by Loveland residents

*Important note: It is a routine practice at the beginning of each year for the Bureau of Labor Statistics to revise estimates for prior years based on new information available and updated methodologies. Revisions to the unemployment rate and all related household survey based series as a result of the benchmark process this year were particularly significant due to a change to American Community Survey based inputs. All series were revised back to 1976.*

## Unemployment Rates



## Current “missing worker” estimates at a glance

Updated February 5, 2016, based on most current data available.

Total missing workers,  
January 2016:  
**2,850,000**

Unemployment rate if  
missing workers were  
looking for work:  
**6.6%**

Official  
unemployment rate:  
**4.9%**

In today’s labor market, the unemployment rate drastically understates the weakness of job opportunities. This is due to the existence of a large pool of “missing workers”—potential workers who, because of weak job opportunities, are neither employed nor actively seeking a job. In other words, these are people who would be either working or looking for work if job opportunities were significantly stronger. Because jobless workers are only counted as unemployed if they are actively seeking work, these “missing workers” are not reflected in the unemployment rate. When persons marginally attached to the labor force plus those employed part time for economic reasons are added to the official unemployment rate (the 4.9% number above right), the rate rises to **9.9%** (the seasonally adjusted U-6 number; the unadjusted number is **10.5%**).

Website: <http://www.epi.org/publication/missing-workers/>





## Future Scan: Housing Data, Rates, Colorado Employment, Recession Outlook

### ❖ **Negative rates possible in U.S. – Janet Yellen, Chair, Federal Reserve Board of Governors**

- “‘We’re taking a look at them ... I wouldn’t take those off the table,’ Federal Reserve chair Janet Yellen said Thursday at a Congressional hearing. Yellen and other experts stress that the U.S. economy would have to get much worse before the Fed would contemplate such a move. But if the U.S. does go negative, it wouldn’t be alone. Five central banks -- Denmark, the Eurozone, Sweden, Switzerland and Japan -- now have negative interest rates.
- **“But what exactly are negative interest rates and how do they work?”** Central banks have one key goal in mind when they cut rates: encourage people and businesses to spend their money. That’s why the Fed slashed interest rates to a historic low – almost 0% -- in the midst of the financial crisis in 2008. When people are not earning any interest in the bank, they look around for other ways to make money. Implementing a negative rate is an even bigger shock to jumpstart spending. In a technical sense, it means someone is actually being charged a penalty fee to hold money in a bank.”
- **“Do they work?”** There remains a great deal of mystery over whether negative rates work and how they impact complex global markets.”  
(Source: *“Negative Rates Possible”* by Heather Long, on Bloomberg, February 11, 2016.)

### ❖ **Housing Disappoints; Producer Prices Higher-than Expected**

- “Housing starts in January were quite disappointing, falling another 3.8% MoM to 1.099 million. This comes on the heels of a 2.8% drop in December and brings the overall level of starts back below the 2013-high of 1.104 million units. The December drop came as multi-family starts fell 3.7% and single-family starts fell 3.9%. It also comes despite a 20 bps drop in mortgage rates between measurement periods. Housing starts were expected to rise to 1.173 million units.”
- “Producer prices for the month of January were slightly stronger than expected, rising 0.1% MoM at the headline level and +0.4% at the core level. The headline figure was affected by a surprising 1% increase in food prices which only partially offset a 5% drop in energy prices.”  
(Source: *“Housing Disappoints,”* by Craig Dismuke & Dudley Carter in Vining Sparks *MarketWatch* Weekly News, February 17, 2016.)

### ❖ **The December 2015 Colorado Employment Situation** was released January 26th. Total nonfarm payroll jobs grew by 10,700 from November to December. Over the year, nonfarm payroll jobs increased 46,600. The latest household survey data show Loveland’s unemployment rate to be 3.3%, the same as November. Other cities and counties showed slight decreases in their rates. The chart is on page 6. (Next Update March 14, 2016.) (Source: Colorado Department of Labor and Employment *December 2015 Colorado Employment Situation*, January 26, 2016.)

### ❖ **Recession Indicators:** Four indicators (Industrial Production, Nonfarm Employment, Real Personal Income, and Real Retail Sales) are the basis for determining a recession. Based on January data, Employment was **up 0.11%** and Industrial Production **was up 0.92%**; December’s Real Sales **were up 0.28%** and Real Income **was up 0.29%**. “The US economy has been slow in recovering from the Great Recession, and the overall picture for 2015 has been a mixed bag. Employment and Income have been relatively strong. Real Retail Sales have been weak, and Industrial Production has essentially been in a recession. The seemingly strong January bounce was in large part driven by a downward revision to December and a strong Utilities number triggered by demand for heat. It will be particularly interesting to see if the February data shows a continuation of the headline improvement.”

(Source: *Advisor Perspectives*, Doug Short, February 17, 2016.)

[For more information regarding this report, please contact:](#)

**Alan Krmarik, Executive Fiscal Advisor** 970.962.2625 or [Alan.Krmarik@cityofloveland.org](mailto:Alan.Krmarik@cityofloveland.org)

Monthly Investment Report

January 2016



City of Loveland  
500 East 3<sup>rd</sup> Street  
Loveland, CO 80537





**CITY OF LOVELAND**  
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 11  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** City Manager's Office  
**PRESENTER:** Bill Cahill, City Manager  
 Tim Hand, Director of Larimer County Corrections

**TITLE:**

Council position on Mandatory Parole Recommendations

**RECOMMENDED CITY COUNCIL ACTION:**

Motion to direct staff to prepare a City of Loveland letter of opposition to the recommendations of the Colorado Commission on Criminal and Juvenile Justice Subcommittee.

**OPTIONS:**

1. Adopt the action as recommended, which will communicate Loveland's opposition to the mandatory parole recommendations of the Colorado Commission on Criminal and Juvenile Justice Subcommittee.
2. Modify the proposed letter of opposition (please specify in motion).
3. Deny the action, which will result in no position from the City of Loveland being sent.

**SUMMARY:**

This is an administrative action directing staff to prepare and submit a letter of opposition to the mandatory parole recommendations of the Colorado Commission on Criminal and Juvenile Justice Subcommittee. The Subcommittee has developed recommendations which may become a legislative proposal. Larimer County has registered their opposition to the recommendations and request that Loveland also send a letter of opposition, due to potential negative effects on community safety.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

Larimer County has requested that the City consider a position on pending mandatory parole recommendations of the Colorado Commission on Criminal and Juvenile Justice Subcommittee. Tim Hand, Director of Larimer County Community Corrections will be at the Council meeting. These recommendations have not yet become a legislative proposal, but may if they continue.

The Colorado Commission on Criminal and Juvenile Justice ("CCCJJ") created a Mandatory Parole Subcommittee in early 2015 to consider the issue of whether the mandatory parole system should be eliminated and converted to a system of purely discretionary parole. The subcommittee met nine times in 2015, and presented two recommendations regarding mandatory parole to the CCCJJ at its December 2015 meeting. Ultimately, a motion to table the recommendations for 90

days was passed, and the recommendations will come before the CCCJJ at its March 11, 2016 meeting.

Larimer County has issued a letter to the Executive Director of the Colorado Department of Public Safety opposing the recommendations, and seeking further study and inclusion of more stakeholders from community corrections in evaluating the recommendations.

The overall effect of these two recommendations were would be to reduce time on parole for inmates.

Loveland's Police Department (LPD) concurs in the County concern about the proposed recommendations. LPD's concern is that inmates released need, on average, 270 days in the Community Corrections system to save enough money to even rent an apartment or share rent to live in our communities. Under the revised recommendations, inmates would be released from Community Corrections in approximately 180 days or less, leaving them without adequate resources to successfully re-integrate into the community and lacking the supervision and support that many may need. This may increase the probability of former inmates re-offending, and decrease public safety in the community.

---

**REVIEWED BY CITY MANAGER:**



---

**LIST OF ATTACHMENTS:**

1. Memo Concerning Mandatory Parole Legislation
2. Draft Letter from City of Loveland

**MEMORANDUM**

**TO:** Tami Yellico  
**FROM:** Laurie Stirman  
**DATE:** February 12, 2016  
**RE:** Proposed Mandatory Parole Legislation

---

**Background:**

The Colorado Commission on Criminal and Juvenile Justice (“CCCJ”) created a Mandatory Parole Subcommittee in early 2015 to consider the issue of whether the mandatory parole system should be eliminated and converted to a system of purely discretionary parole. The issue was raised due to complaints about lack of clarity on the length of sentences and parole release. The subcommittee is comprised of 12 members currently, including individuals representing the criminal defense bar, prosecutors, members of the Colorado General Assembly, the Parole Board, victim advocacy, and other political advocacy groups. The subcommittee met nine times in 2015, and presented two recommendations regarding mandatory parole to the CCCJ at its December 2015 meeting.

The first proposal (FY16-MP#2) addresses the issue of prison release dates for inmates based on Crime of Violence (COV) vs. non-Crime of Violence offenses (non-COV). For an inmate serving a sentence for a COV offense, the inmate would start with serving 100% of his/her sentence and could earn parole release down to no less than 75% of the sentence. An inmate serving a sentence for a non-COV offense could earn parole release down to no less than 50% of the sentence. Individuals could be placed into community corrections 12 months prior to release, and could earn early release during this time as well. The parole board would set conditions of supervision and make revocation decisions.

The second proposal (FY16-MP#3) addresses the issue of the mandatory period of parole for inmates based upon their risk score. Risk would be determined by the Colorado Actuarial Risk Assessment Scale (CARAS) and would permit earned time to complete parole early. Very low/low risk offenders would serve one year of mandatory parole, medium risk offenders would serve 18 months of parole, and high/very high risk offenders would serve 2 years, less any earned time.

When these two proposals were presented at the December meeting of the CCCJ, the minutes reflect that a vigorous discussion ensued. Ultimately, a motion to table the recommendations for 90 days was passed, and the recommendations will come before the CCCJ at its March 11, 2016 meeting. At present, the recommendations have not passed CCCJ and there is no pending legislation before the General Assembly.

Larimer County has issued a letter to the Executive Director of the Colorado Department of Public Safety opposing the recommendations, and seeking further study and inclusion of more stakeholders from community corrections in evaluating the recommendations.

**Discussion**

Larimer County has requested that the City also send a letter to CDPS expressing concerns regarding the mandatory parole recommendations.

The overall effect if these two recommendations were passed would be to reduce time on parole for inmates. Under current law, inmates may be on parole for up to five years, and parole decisions are made by the Parole Board based on certain guidelines. Under the recommendations, the longest parole period even for high-risk inmates would be no more than two years. The recommendations take a substantial amount of discretion out of parole decisions.

This change in length of parole could impact the City of Loveland as inmates would have less time under supervision prior to completion of their prison sentence and full release into the community. One of the goals of parole is to assist in transitioning inmates from prison back into society, including finding work, housing, and preventing recidivism. If shorter parole times resulted in less transition time, the potential exists that inmates who were not fully transitioned ultimately could place a burden on municipal resources, such as police, the court system, and assistance for those in need. The potential also exists that recidivism will occur, resulting in more crime in the community.

Concerns have also been raised regarding the distinction between COV and non-COV crimes. In using this distinction without other factors in determining the time for prison release, potentially an inmate serving a sentence for a non-COV crime could have a history of prior violent crimes and be released to parole earlier than under the current law. In addition, certain violent crimes, such as domestic violence, vehicle homicide, and manslaughter - fall outside of the statutory COV crimes.

**Attachments**

FY16-MP#2

FY16-MP#3

## **FY16-MP #02 Prison Release Date Determined by COV/Non-COV**

### **Recommendation FY16-MP #02**

To increase clarity regarding the time individuals will serve in prison and create a mechanism whereby an offender's date of release from the Department of Corrections is determined by the severity of the offense. Persons convicted of a Crime of Violence (COV, C.R.S. 18-1.3-406) would be released to mandatory parole after serving a minimum of 75% of his/her sentence. Individuals serving a sentence for a non-COV crime would be released to mandatory parole after serving a minimum 50% of his/her sentence. Time served will take into consideration earned time. Earned time will vest monthly. For example, individuals sentenced for a COV would serve between 100% and 75% of the sentence, depending on earned time awarded. This proposal does not apply to those serving sentences for indeterminate life sentences for sex offenses, or other life sentences.

Setting conditions of supervision and making revocation decisions would continue to be the responsibility of the Parole Board.

Individuals may be placed in community corrections 12 months prior to completion of his/her prison sentence, and can obtain earned time during this period.

Any cost savings are to be split equally between community—based services for victims and offenders.

### **Discussion**

*Prison sentence modification.* The Commission has heard from stakeholders that the current sentencing scheme is difficult to understand, lacks clarity and consistency, and both victims and offenders cannot estimate when an individual will be released from prison. Additionally, this lack of predictability significantly negatively impacts parole planning.

An analysis of the *percentage of sentence served* found that those sentenced to the Department of Corrections for a COV serve, on average, 66% of the sentence compared to 68% for those serving a non-COV sentence.<sup>1</sup> This proposal increases the required time served to at least 75% for those convicted of a COV, and requires non-COV offenders to serve a minimum of 50% of the sentence. Currently, approximately 2% of those released from prison are serving sentences for a COV.

<sup>1</sup> Note that those convicted of COV offenses have much longer sentences: Among those released from DOC between FY12 and FY14, the average governing sentence for COV offenders was 180 months compared to 56 months for non-COV offenders. For this group, COVs served an average of 115 months compared to 37 months for non-COVs.

*Victim services funding.* 50% of prison savings will be deposited in a separate fund to be administered by the Division of Criminal Justice, Office for Victims Programs, in the same manner as State VALE grant funds. Funds will be disseminated by DCJ to local judicial district Victim & Witness Assistance and Law Enforcement Boards (VALE) to make grant awards for community based non-profit agencies providing direct services which address ongoing needs of survivors of crimes defined C.R.S. 24-4.1-302 (1). Survivors of crime may be defined as any person against whom any crime has been perpetrated or attempted, regardless of whether the crime was reported or prosecuted and regardless when the crime occurred. Direct services for ongoing victim needs may include, but are not limited to, stabilization support such as short- or long-term safe housing, employment assistance, benefit acquisition, identification, safety planning, clinical services and referrals to other services that may assist a crime survivor to establish functional daily living.

Local VALE Boards shall maintain and award these funds separate from moneys paid as surcharges pursuant to C.R.S. 24-4.2-103. Local VALE Boards may have the discretion to identify ongoing victim needs in their community for use of these designated funds. Each VALE Board shall submit an annual report to DCJ detailing the amount of designated funds granted to agencies that describes the projects and services for which grants were made. DCJ will advise and make recommendations to local VALE Boards concerning grant awards pursuant to C.R.S. xxx and will report annually to the appropriate governing body in a cumulative report detailing grant awards of all local VALE Boards. At the end of any fiscal year, all unexpended and unencumbered monies that have been disseminated to local VALE Boards shall remain therein and shall not be credited or transferred to the general fund or any other fund.

*Offender services funding.* 50% of prison savings will be deposited in a separate community grant program fund to be administered by the Division of Criminal Justice. The population to be served with these funds is anyone who is currently under supervision in the criminal justice system or anyone who has a criminal record. The scope of services that applicant agencies provide include crisis support (emergency shelter/housing, relocation, crisis counseling), stabilization support (assistance in obtaining employment, long-term safe housing, identification, family support services), benefit acquisition (Medicaid, SSI, SSDI), clinical services (trauma-specific therapy, support groups, behavioral health counseling), and system navigation (education, advocate support). Eligible grant applicants include nonprofit organizations or coalitions of non-profit agencies.

**Proposed statutory language**

TBD

## **FY16-MP #03 Mandatory Parole Period Based Upon Risk Score**

### **Recommendation FY16-MP #03**

Mandatory parole periods should be based on risk-level, not crime level, which aligns with evidence-based practice and applies the risk principle (as defined as the probability of reoffending). This recommendation also aims to effectively target resources to meet the varying needs of offenders based on their level of risk. Mandatory parole periods would be determined by the Colorado Actuarial Risk Assessment Scale (CARAS), and would include earned time awards not to exceed five days per month, and would be set as follows:

Mandatory parole periods:

- Very Low / Low Risk 1 year
- Medium Risk 18 months
- High / Very High Risk 2 years

Ensure a mechanism for victim notification and for victim input by amending the definition of “critical stages” to include:

- Setting of terms and conditions of parole,
- Early terminations of parole, and
- Revocations of parole.

Any cost savings are to be split equally between community—based services for victims and offenders.

### **Discussion**

*Parole period modification.* Research on evidence-based correctional practices has found that offenders at low risk of recidivism benefit from minimal criminal justice system intervention and, in fact, too much intervention can lead to poor outcomes for this population. Conversely, research has found that resources are best directed toward medium and high risk offenders. Given that offenders are currently serving only a proportion of their parole periods due to earned time, this proposal clarifies the parole period and relies on the Colorado Actuarial Risk Assessment Scale to determine parole periods based on risk to reoffend.<sup>1</sup> Because individuals who fail parole generally do so in the first months following release, this proposal captures more than 87% of technical violations despite reducing the periods of parole.

<sup>1</sup> Since 1989, the Colorado Division of Criminal Justice has been mandated to develop and validate an actuarial risk scale for use by the parole board in making release decisions. The CARAS, updated every five years, is a static nine-item risk instrument that places individuals in five risk categories (very low, low, medium, high, and very high), each with differing probabilities of recidivism. The CARAS predicts new felony/misdemeanor filing within three years of release.

Currently parolees receive earned time while on parole, reducing the actual amount of time individuals serve on parole. In FY14, the average amount of time served on parole by those who completed their parole periods (including revocation time) was 26 months (see table below). Overall, parolees serve 68% of their statutory period of parole.

| <b>Felony class</b> | <b>Statutory parole period<br/>(months)</b> | <b>Average time served on parole<br/>(months)</b> |
|---------------------|---|---|
| <b>2</b>            | 60  | 37  |
| <b>3</b>            | 60  | 36  |
| <b>4</b>            | 36  | 27  |
| <b>5</b>            | 24  | 15  |
| <b>6</b>            | 12  | 9   |
| <b>TOTAL</b>        | n/a   | 26  |

Source: Analysis by Anne Carter, Colorado Department of Corrections, 2015.

*Victim services funding.* 50% of parole savings will be deposited in a separate fund to be administered by the Division of Criminal Justice, Office for Victims Programs, in the same manner as State VALE grant funds. Funds will be disseminated by DCJ to local judicial district Victim & Witness Assistance and Law Enforcement Boards (VALE) to make grant awards for community based non-profit agencies providing direct services which address ongoing needs of survivors of crimes defined C.R.S. 24-4.1-302 (1). Survivors of crime may be defined as any person against whom any crime has been perpetrated or attempted, regardless of whether the crime was reported or prosecuted and regardless when the crime occurred. Direct services for ongoing victim needs may include, but are not limited to, stabilization support such as short- or long-term safe housing, employment assistance, benefit acquisition, identification, safety planning, clinical services and referrals to other services that may assist a crime survivor to establish functional daily living.

Local VALE Boards shall maintain and award these funds separate from moneys paid as surcharges pursuant to C.R.S. 24-4.2-103. Local VALE Boards may have the discretion to identify ongoing victim needs in their community for use of these designated funds. Each VALE Board shall submit an annual report to DCJ detailing the amount of designated funds granted to agencies that describes the projects and services for which grants were made. DCJ will advise and make recommendations to local VALE Boards concerning grant awards pursuant to C.R.S. xxx and will report annually to the appropriate governing body in a cumulative report detailing grant awards of all local VALE Boards. At the end of any fiscal year, all unexpended and unencumbered monies that have been disseminated to local VALE Boards shall remain therein and shall not be credited or transferred to the general fund or any other fund.

*Offender services funding.* 50% of parole savings will be deposited in a separate community grant program fund to be administered by the Division of Criminal Justice. The population to be served with these funds is anyone who is currently under supervision in the criminal justice



system or anyone who has a criminal record. The scope of services that applicant agencies provide include crisis support (emergency shelter/housing, relocation, crisis counseling), stabilization support (assistance in obtaining employment, long-term safe housing, identification, family support services), benefit acquisition (Medicaid, SSI, SSDI), clinical services (trauma-specific therapy, support groups, behavioral health counseling), and system navigation (education, advocate support). Eligible grant applicants include nonprofit organizations or coalitions of non-profit agencies.

**Proposed statutory language**

TBD



**CITY OF LOVELAND**  
CITY MANAGER'S OFFICE

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February 29, 2016

Stan Hilkey  
Executive Director  
Colorado Department of Public Safety  
700 Kipling Street #1000  
Denver, CO 80215

**Re: Mandatory Parole Recommendations, Seventieth Colorado General Assembly, Second Session**

Dear Mr. Hilkey:

On behalf of the City Council of the City of Loveland, I wish to express concern regarding the currently proposed Mandatory Parole recommendations being considered at the state level. These recommendations have not yet become a legislative bill and we urge that they not be.

We applaud actions on the part of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) that intend to clarify sentence length and enhance the use of evidence-based practices in parole planning. However, we share the apprehension expressed by other cities and stakeholders throughout Colorado. We feel that further examination is required to determine whether the proposal carries risk of causing detriment to Colorado's public safety assets, including law enforcement, prosecution, detention, alternative sentencing, and community corrections. While the intended outcomes of the proposal are beneficial to some, adjustments to a critical aspect of community safety should not be done with unnecessary expediency.

The City of Loveland maintains a strong relationship and working partnership with Larimer County, particularly in the area of community safety. We agree with Larimer County that a prevailing tenet of effective correctional practices is the utilization of evidence-based practices for successful offender reintegration. Loveland certainly values research-supported program adaptations and innovative means of achieving mutually-desired ends. Yet, while we also recognize the expert input that produced the Subcommittee's recommendations, we fear that the mandatory parole recommendations therein disproportionately empower risk assessment as a method of determining offender re-entry, perhaps erroneously. It has come to our attention that many local entities share our concerns that the recommendations specifically preclude the provision of sufficient supervised release time for offenders. We do not support any criminal justice instruments or process changes to Community Corrections which may reduce the successful reintegration of such offenders into Colorado communities. We recognize the extensive work performed by Larimer County to ensure an efficient and highly effective continuum of

programs which, with a high degree of certainty, produce internally motivated and lasting change for offenders. We share concerns that, by possibly limiting the duration of engagement with these programs, offenders may be ill-equipped to re-enter society – constituting a counter-intuitive measure, as such offenders are likely to fall back into local or Department of Corrections (DOC) custody.

That this proposal has overlooked these risks in favor of risk-based assessment is a testament to the lack of stakeholder input garnered during the proposal process, namely from those involved in Community Corrections. Yet Community Corrections will undoubtedly be faced with necessitated changes if a Mandatory Parole Bill becomes law. The City of Loveland wishes to prevent any bill from passing in haste, and hence calls for further collaboration with Community Corrections stakeholders to better consider their critical interests regarding a Mandatory Parole bill. Only with proper inspection and research can direct and indirect impacts on existing programs and processes, as well as ramifications to communities as a result of such legislation, be accurately assessed. Furthermore, the City of Loveland concurs with Larimer County in desiring a state-wide initiative to encourage thorough discourse in efforts to weigh possible parole adjustments with balanced input from a multitude of relevant entities.

The City of Loveland has an obligation to provide an enhanced level of safety to, and improve the quality of life for, each citizen. To achieve these goals while balancing diverse interests and maintaining strong partnerships, we urge that a Mandatory Parole bill be considered with greater scrutiny and the involvement of more key stakeholders. The City of Loveland would be honored to provide CCJJ support from our law enforcement professionals in studying Parole reform with greater rigor.

Thank you.

Sincerely,

William D. Cahill  
City Manager  
City of Loveland, Colorado



**CITY OF LOVELAND**  
CITY ATTORNEY'S OFFICE

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**AGENDA ITEM:** 12  
**MEETING DATE:** 2/29/2016  
**TO:** Mayor and City Council  
**FROM:** Tami Yellico, City Attorney  
**PRESENTERS:** Tami Yellico, City Attorney

**TITLE:**

A Motion to Approve an Ordinance Adding a New Chapter 15.58 to the Loveland Municipal Code to Encourage Construction of Condominiums

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a hearing and approve the ordinance on first reading.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration.

**SUMMARY:**

This ordinance is a legislative action to consider the adoption of an ordinance that addresses the issues of builder and developer liability as it relates to construction defects.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

**BACKGROUND:**

Draft Loveland Ordinance

Attached to this memo are two draft ordinances addressing construction defects. Staff has concluded that neither version of the attached ordinances will add to staff time, in either administrative or enforcement duties. A representative of a local condominium builder indicated that while the builder he represents supports a local construction defects ordinance, they believe that insurance coverage is a significant impediment to building condominiums and, ultimately, insurance coverage has more to do with individual claims history and the builder's relationship with its insurance provider.

The City Attorney's Office has attempted to follow ordinances that balance the homeowner's and builder's similar objectives of repairing defects in a timely and cost efficient manner, that is consistent with the City's current building code and that minimizes the likelihood of challenges by the State. While the local Board of Realtors has indicated a preference for the Denver ordinance,

some of Denver's unique provisions appear to conflict with provisions of the City's building code and may increase the likelihood of a state challenge based on pre-emption issues.

For those reasons, the recommendation is that if Council wants to adopt a construction defects ordinance, it could be modeled after ordinances of the majority of jurisdictions that adopted such ordinances. Option A Ordinance attached is modeled after those jurisdictions and is summarized as follows:

- Requires notice by homeowner/claimant to party alleged to have caused or contributed to the construction defect and builder who receives the notice to acknowledge receipt of notice within 30 days after receipt;
- Upon receipt of notice, builders have a right, within 60 days after acknowledging receipt, to inspect and conduct tests regarding the property alleged to have defects, at a mutually agreeable date and time, and the builder has to complete the inspection and testing within 60 days;
- A right of builders to repair defects, only if the homeowner concurs;
- Builder may offer to settle a claim by payment of a sum certain to the claimant;
- A requirement that homeowners association boards obtain the informed consent of a majority of the owners in the association before asserting any claims against builders or developers; and
- Authorization of a builder to include a mediation or arbitration provision in the initial covenants of a community, which provision could be amended by a vote of the homeowners, but any amendment would not be effective as to construction defect claim based on any act or omission that predates the amendment.

The Option A ordinance is intended to balance builder/developer concerns of having more notice and an opportunity to cure defects with the homeowner's right to have defects repaired quickly, and to ensure individual homeowners have a say in potential litigation by the HOA board. One distinctive provision of the Option A ordinance is the right of the builder, after notice, to enter a home to inspect and repair the construction defect regardless of the homeowner's desire. This right to enter for the purposes of inspection and repair of a construction defect may be difficult to enforce, if a homeowner denies the builder who caused the problem access the home. In such an event, enforcement of the City Code provision would likely involve the builder bringing an action through the court system to obtain an order for injunctive relief, meaning ordering the homeowner to allow a builder to enter the home to inspect and/or repair the defect. This may create a situation where there is a conflict with criminal trespass laws and subject the ordinance to challenge. While that outcome may be unlikely, an Option B ordinance is attached that only includes the following provisions and may be the least likely to create a legal challenge:

- Builder may offer to settle a claim by payment of a sum certain to the claimant;
- A requirement that homeowners association boards obtain the informed consent of a majority of the owners in the association before asserting any claims against builders or developers; and
- Authorization of a builder to include a mediation or arbitration provision in the initial covenants of a community, which provision could be amended by a vote of the homeowners, but any amendment would not be effective as to construction defect claim based on any act or omission that predates the amendment.

## The Future of Local Ordinances

While there is no pending litigation facially challenging any of the local government ordinances yet, it is important to note that a construction defect ordinance, if adopted, may be challenged as pre-empting state law. The Option B ordinance recommended is intended to be the least likely to be subject to challenge. There are legal theories on which both ordinance can be defended, including public health, safety, and welfare authority, authority to promote affordable housing, sound construction of housing as a matter of local concern, and that construction defects liability law is a matter of mixed state and local concern.

Any ordinance adopted would apply prospectively to condominium projects. Because these ordinances apply to condominium projects not yet built, the efficacy and legality of any of these ordinances is likely to play out over 5 to 7 years. Some have said the result of all the local government ordinances may be for the legislature to adopt new legislation to address the same issues as addressed in the local ordinance and the legislature could indicate that construction defects liability law is a matter purely of statewide concern and that there is a need for state-wide uniformity in this area of the law. In that case, the state law may pre-empt all the local legislation in this area.

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

1. Attachment A – Staff Report and Chart Summarizing Provisions of Local Government Ordinances
2. Option A - Draft Construction Defect Ordinance – Builder Right to Re-Enter and Repair
3. Option B - Draft Construction Defect Ordinance

## Attachment A – Construction Defect Ordinance Staff Report

### State Law

In 2001, State legislation was adopted regulating construction defect litigation. This law, the Construction Defect Action Reform Act (CDARA I) was amended in 2003 by CDARA II, and again in 2007 by the Homeowner Protection Act (HPA). Other state laws that may be applicable in these types of claims and in analyzing local construction defects ordinances include the Colorado Common Interest Ownership Act (CCIOA) and the Colorado Arbitration Act (CAA). Colorado's laws represent compromises between builder and homeowner interests, which were formerly only addressed in case law. The general purpose of the State laws is "streamlining construction defect litigation" by requiring pre-lawsuit notice, exchanges of information, meetings between the parties to attempt to resolve disputes before a lawsuit can be filed, deadlines for identifying defects after filing a lawsuit, and requiring actual damage for a building code violation.

### Local Ordinances

Eleven local governments have waded into the construction defects law landscape by adopting ordinances that attempt to address perceived gaps in the state legislation relating to builder and developer liability associated with construction defects. A chart summarizing the provisions of each of those ordinances is Attachment A to this memo. The local governments that have adopted these ordinances have generally relied upon their public health, safety, and welfare authority, authority to promote more affordable housing, and sound housing construction as a local concern. To avoid arguments that these local ordinances pre-empt state law it is important the ordinance does not conflict with existing State laws that govern the legal relationships between homebuilders and homebuyers.

Most of the local ordinances require that homeowners be advised of an HOA proposed construction defect claim and that a majority of the homeowners vote in favor of pursuing such claim, thereby giving homeowners more of a say in bringing claims.

Some of the ordinances include a presumptive right to reenter a home and repair the claimed defect regardless of the homeowner's desire. Arguably this provision is pre-empted by State statute that currently provides an opportunity to repair may be seen as denying a homeowner his or her right to go to court and to choose a contractor to repair such defect.

Denver's construction defects ordinance is more favorable to homeowners than other municipal ordinances in that it does not require the claimant homeowner to provide written notification at the time a defect is discovered in a manner that expands homeowner obligation. However, again, this is arguably in conflict with State statutes, like CDARA, that include of a notice of claim process.

The first two provisions from Denver's ordinance are new and different from the other local ordinances in that they address whether a technical violation of the building code may be used for litigation, and the ordinance provisions can be used by private civil litigant in a construction defects claim. These two provisions may be subject to challenge as conflicting with State law, which establishes the criteria for civil claims. These types of provisions would also conflict with the Loveland building code, which is considered a minimal specification standard and may be less rigorous than specifications necessary for safe construction.

### Potential Challenges

Attorneys experienced in construction litigation have argued that challenges can be brought to most of these ordinances, including Denver's, for many reasons, including:

- Exceeding a City's home-rule authority;
- Pre-emption by State statute; and
- Due process concerns regarding a builder's right of entry into a home to make repairs.

For example, the local ordinances put in place notice, document sharing, and statute of limitation requirements different from State statute and, consequently, may be pre-empted. Further, arbitration requirements set in local ordinances are different from those set forth in the CAA and may be pre-empted. Finally, another major concern is allowing a contractor the opportunity to repair a defect, over a homeowner's objection who may not want the same contractor back in the home because of shoddy work.



| Item  | Arvada | Aurora | Centennial | Colorado Springs | Commerce City | Denver | Lakewood | Littleton | Lone Tree | Parker | Wheat Ridge |
|---|--------|--------|------------|------------------|---------------|--------|----------|-----------|-----------|--------|-------------|
| Proof of local building code violation can be used in a private civil action <i>only</i> if linked to actual property damage/injury or the risk thereof; city code not be used to support a claim for damages under "strict liability" theory   |        |        |            | X                |               | X      |          |           |           |        |             |
| Building codes represent standard for safe and sound construction (thus, if built in compliance with codes, improvements cannot be said to be "defective" in civil claim)   |        |        |            | X                |               | X      |          |           |           |        |             |
| Developer can structure declaration of covenants in a way that permanently governs the procedures for any future construction defect claims and prevents HOAs from amending or repealing the covenant without consent of original declarant (i.e. binding arbitration for any construction defect claims) | X      |        |            |                  |               | X      |          |           |           |        |             |
| Declaration of covenants clearly advises homebuyers of requirement for binding arbitration of construction defect claims  | X      |        |            |                  |               | X      |          |           |           |        |             |
| Informed consent: (1) notification to owners before HOA board could bring a construction defect claim, and (2) Majority vote requirement for the owners of all affected condos before HOA board could bring construction defect claim   |        | X      | X          | X                | X             | X      | X        | X         | X         |        | X           |
| Claimant's Notice: Written notification of construction defect to builder/developer upon discovery of defect  |        | X      | X          | X                | X             |        | X        | X         | X         |        | X           |



**FIRST READING**      February 29, 2016

**SECOND READING**      \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ADDING A NEW CHAPTER 15.58 TO THE LOVELAND MUNICIPAL CODE TO ENCOURAGE CONSTRUCTION OF CONDOMINIUMS**

**WHEREAS**, the City of Loveland, Colorado (the "City"), is a home rule municipality organized pursuant to Article XX of the Colorado Constitution; and

**WHEREAS**, by virtue of Article XX of the Colorado Constitution, and as further authorized by state law, including but not limited to, Sections 31-15-401 and 31-23-301, C.R.S., home rule cities have broad authority to exercise police powers to promote and protect health, safety and welfare of the citizenry; and

**WHEREAS**, adoption, implementation, and enforcement of land use, zoning and building regulations are well-established as matters of purely local concern, subject to regulation by home rule municipalities; and

**WHEREAS**, the City's Code and comprehensive plan contemplate a diverse housing stock, consisting of a mix of single-family and multi-family developments, and both owned and rented units, designed to attract and serve the needs of all City residents; and

**WHEREAS**, the need for owner-occupied multi-family housing units (condominiums) has intensified; and

**WHEREAS**, the City Council ("Council") is aware of the general consensus that the scarcity of condominium projects in Colorado is highly attributable to a climate of increased and uncertain litigation risk due to risk of substantial judgments disproportionate to what is required to redress defects, if any, for alleged construction defects; and

**WHEREAS**, this uncertainty and inability to plan and allocate for risk has led insurance companies who would otherwise insure condominium projects to stop writing policies for such projects or to price such policies at levels that substantially increase the cost of condominium projects; and

**WHEREAS**, the Council finds that while the scarcity of new condominium projects is not unique to the City, the City nevertheless experiences some unique impacts because of growth and anticipated growth in the City's population, and the aging of its population, and

**WHEREAS**, the Council further finds that the lack of housing options negatively impacts the health, safety and welfare of the City and its residents; and

**WHEREAS**, plaintiffs in construction defect lawsuits have alleged that such defects are

violations of applicable building codes and, if such violations do exist, they are frequently not remedied for many months or years; and

**WHEREAS**, the Council finds that allegations of violations of the City's building codes and the likelihood that such violations may continue unremedied for many months or years present a material risk to the health and safety of City residents, including the risk that unsafe conditions as a result of construction defects may be exacerbated by long delays in remedying such conditions; and

**WHEREAS**, the Council further finds that lawsuits brought on account of alleged construction defects in condominium projects may often be brought at the direction of the board of directors of the homeowners' association, without the informed consent of the unit owners, thereby depriving the unit owners of the opportunity to become educated about the advantages and disadvantages of pursuing litigation, to have meaningful input regarding the consideration of such decision, and to vote on such decision; and

**WHEREAS**, the Council further finds that the use of alternative dispute resolution as a means to resolve construction defect claims, whether by arbitration or mediation, should be encouraged as a standard practice within the City; and

**WHEREAS**, the Council therefore desires to take reasonable steps within its power as the governing body of a home rule municipality to encourage the development of condominium projects in the City through the adoption of regulations designed to reduce the risk and exposure to builders and developers of such projects, while still protecting the rights of homeowners to pursue legitimate construction defect claims;

**WHEREAS**, the Council further desires to take reasonable steps within its power as the governing body of a home rule municipality to encourage the prompt and voluntary correction of any construction defects that may constitute violations of the City's building code in order to enhance the health and safety of City residents; and

**WHEREAS**, the Council further desires to assure that all consumers who purchase condominiums within the City located within a community managed by a homeowners' association have the opportunity to become educated about the advantages and disadvantages of pursuing litigation concerning alleged construction defects, to have meaningful input concerning the decision, and to be able to vote on such decision.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, ORDAINS:**

**Section 1.** Title 15 of the Loveland Municipal Code, entitled "Buildings & Construction", is hereby amended by adding a new Chapter 15.58, which chapter shall read as follows:

### **Chapter 15.58**

#### **REPAIR OF CONSTRUCTION DEFECTS**

**Sections:**

- 15.58.010. Purposes and Applicability.**
- 15.58.020. Definitions.**
- 15.58.030. Potential Claimants**
- 15.58.040. Potential Respondents**
- 15.58.050. Claimant's Notice to Builder of Construction Defects; Builder's Acknowledgement; Inspection**
- 15.58.060. Builder's Right to Repair**
- 15.58.070. Warranty of Repairs**
- 15.58.080. Subsequently Discovered Defects**
- 15.58.090. Settlement by Payment of a Sum Certain**
- 15.58.100. Effect of Amendment of Alternative Dispute Resolution Provisions.**
- 15.58.110. Informed Consent of Homeowners.**

**15.58.010. Purposes and applicability.**

A. *Purposes.* The purposes of this Chapter are as follows: encourage the construction of owner-occupied, multi-family developments in the city; reassure homeowners that construction defects will be promptly investigated and addressed by builders; encourage prompt and voluntary correction of construction defects that may constitute violations of the city's building code in order to enhance the health and safety of residents of the city; motivate all parties to resolve disputes involving construction defects quickly to avoid the need for expensive and time consuming litigation; and provide homeowners in communities with homeowners' associations with an enhanced opportunity to participate in the governance of their community by empowering individual owners to give or withhold their informed consent with respect to actions the board of the homeowners' association may desire to pursue regarding construction defects.

B. *Applicability.* The provisions of this Chapter shall apply only to new construction commenced after the effective date hereof.

**15.58.020. Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Builder* means any entity or individual, including, but not limited to, a builder, developer, general contractor, contractor, subcontractor, architect, engineer or original seller who performs or furnishes the design, supervision, inspection, construction or observation of any improvement to real property that is intended to be occupied as a dwelling or to provide access or amenities to such an improvement.

*Building code* means the several technical codes adopted in this Title 15 that govern the design, construction, alteration, addition, maintenance, repair, removal, demolition, location, use, and occupancy of buildings and structures in the city, as the same may be amended or modified.

*City* means City of Loveland, Colorado.

*Common interest community* means real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvements of other real estate described in a declaration.

*Condominium* means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Construction defect* means any alleged defect in the design or construction of an improvement to real property which causes any damages to, or the loss of use of, real or personal property, or personal injury.

*Homeowner* means any person who owns a unit in a condominium or in a multi-family building in a common interest community, but shall not include any declarant or any person having an interest in a unit solely as security for an obligation.

*Homeowners' association* means a unit owners' association formed to represent the interest of homeowners owning units in a condominium or in a multi-family building in a common interest community.

#### **15.58.030. Potential claimants.**

An original homeowner or a subsequent homeowner or a homeowners' association representing the interests of homeowners may be a claimant by providing notice of a claim of a construction defect, provided the notice requirements of this Chapter are satisfied.

#### **15.58.040. Potential respondents.**

Any person or entity within the definition of a "builder" as defined in Section 15.58.010 of this Code is subject to the requirements of this Chapter.

#### **15.58.050. Claimant's notice to builder of construction defects; builder's acknowledgement; inspection.**

A. *Claimant's notice.* Upon the discovery of any alleged construction defect, a claimant must provide written notice to the party alleged to have caused or contributed to the construction defect, in the manner prescribed in this Section, indicating that one or more construction defects exist in claimant's residence or, with respect to any homeowners' association, that one or more construction defects exist in any residence or in any common area or facility. The notice must:

1. Provide the claimant's name, address and preferred method of contact;
2. State that the claimant alleges a construction defect pursuant to this Chapter against the builder;

3. Describe the claim in reasonable detail sufficient to determine the nature and location of the alleged construction defect; and
  4. Allow the builder the right to inspect and conduct tests regarding the claimed construction defect within 60 days after the builder acknowledged receipt of the notice, at a mutually agreeable date and time.
  5. Notice by a claimant shall be valid if sent by certified mail to the party's business address, post office box or registered agent, or if the party has personally received the claimant's notice.
- B. *Builder's responsibilities.* After receiving notice of a potential construction defects claim, a builder must do each of the following:
1. *Acknowledge the claim in writing.*
    - a. A builder who receives a notice under this Chapter shall acknowledge receipt of the notice, in writing, within 30 days after notice has been mailed in accordance with Section 15.58.050 A.5. The acknowledgement shall be sent to the claimant and to any attorney the builder knows to be representing the claimant in connection with the notice. If the builder has retained legal counsel, said counsel shall thereafter communicate with the claimant's legal representative, if any.
    - b. If the builder fails to acknowledge receipt of a notice within the time specified, this Chapter shall not apply and the claimant shall be released from the requirements of this Chapter and may proceed with the filing of an action against the builder, unless notice and consent are required by Section 15.58.110 of this Code.
  2. *Maintain an agent for notice.* Maintain an agent for notice with the secretary of state; and
  3. *Provide information to the claimant.* If specifically asked to do so by the claimant and within 30 days of such a request, provide the claimant or claimant's legal representative with:
    - a. Copies of all relevant plans, specifications, grading plans, soils reports and available engineering calculations pertaining to the claimant's residence, common areas and facilities that are the subject of the claim;
    - b. All maintenance and preventative maintenance recommendations pertaining to the claimant's residence, common areas and facilities that are the subject of the claim; and
    - c. Contractual warranty information.
- A. *Charge of copying costs.* A builder responding to a claimant's request for documents may charge reasonable copying costs and may require the copies of the documents to be made on site.

- B. *Builder's election to inspect property.* In addition to the requirements set forth in this Section, if the builder elects to inspect and conduct tests regarding the claimed construction defect, the builder shall complete the initial inspection and testing, if any, within 60 days after the builder acknowledged receipt of the notice, and at a mutually agreeable date and time. The builder shall bear all costs of inspection and testing, including the cost to repair any damage caused by the inspection and testing. Before entering onto the premises for the inspection, the builder shall supply the claimant with proof of liability insurance coverage. The builder shall, upon request, allow the inspection to be observed and recorded or photographed.
- C. *Builders who fail to comply.* A builder who fails to comply with any of the requirements of this Section within the time specified shall not be entitled to the protection of this Chapter, and the claimant shall be released from the requirements of this Chapter and may proceed with the filing of an action, unless notice and consent are required by Section 15.58.110 of this Code.
- D. *Statute of limitations and repose.* If a notice is sent to the builder in accordance with this Section within the time prescribed for the filing of an action under any applicable statute of limitations or repose, then the statute of limitations or repose is tolled until 60 days after the completion of the notice process described in this Section. If the builder elects to repair pursuant to Section 15.58.060 of this Code, then the statute of limitations or repose is tolled until 60 days after the completion of repairs.

**15.58.060. Builder's right to repair.**

- A. *Elect to repair.* Within 30 days of the initial inspection or testing, or within 14 days of builder's acknowledgment of the notice of claim, whichever is later, the builder may elect to repair the construction defect and shall provide a notice to repair to the claimant. If the builder elects to repair the construction defect, it has the right to do so and the claimant may not, directly or indirectly, impair, impede or prohibit the builder from making repairs. Any notice to repair shall offer to compensate the claimant for all applicable expenses, if any, incurred by the claimant within the time frame set for repair, such as, without limitation, expenses for lodging if the repair requires the claimant to vacate his/her residence. Any notice of repair shall be accompanied by a detailed, step by step explanation of the particular construction defect being repaired and setting forth a reasonable completion date for the repair work. The notice shall also include the contact information for any contractors the builder intends to employ for the repairs.
- B. *Schedule of repair work.* Claimant shall promptly cooperate with builder to schedule repair work by builder. Builder shall make a good faith effort to develop a mutually agreeable schedule with claimant for the repair work.
- C. *Written objection to repair.* Within 10 business days after receipt of the builder's notice to repair, a claimant may deliver to the builder a written objection to the proposed repair if the claimant believes in good faith that the proposed repairs will not remedy the alleged construction defect. The builder may elect to modify the proposal, in whole or in part, in accordance with the claimant's objection, and proceed with the modified scope of work, or may proceed with the scope of work set forth in the original proposal.



- D. *Builder's failure to comply.* If the builder fails to send a notice to repair or otherwise strictly comply with this Chapter within the specified time frames, or if the builder does not complete the repairs within the time set forth in the notice to repair, the claimant shall be released from the requirements of this Chapter and may proceed with the filing of an action against the builder, unless notice and consent are required by Section 15.58.110 of this Code. Notwithstanding the foregoing, if the builder notifies the claimant in writing at least five days before the stated completion date that the repair work will not be completed by the completion date, the builder shall be entitled to one reasonable extension of the completion date, not to exceed 60 days.
- E. *Completion of repairs.* The builder shall notify the claimant when repairs have been completed. The claimant shall have 10 business days following the completion date to have the premises inspected to verify that the repairs are complete and satisfactorily resolved the alleged construction defects. A claimant who believes in good faith that the repairs made do not resolve the construction defects may proceed with the filing of an action, unless notice and consent are required by Section 15.58.110 of this Code.
- F. *Claimant's failure to comply.* If the Builder elects to repair the construction defects, it has the right to do so and the Claimant may not, directly or indirectly, impair, impede or prohibit the Builder from making repairs. If the claimant, directly or indirectly, impairs, impedes, or prohibits the builder from making repairs, the builder may enforce the claimant's obligations under this Chapter by seeking relief through the court system.

**15.58.070. Warranty of repairs.**

The repair work performed by the builder shall be warranted against material defects in design or construction for a period of two years, which warranty shall be in addition to any express warranties on the original work.

**15.58.080. Subsequently discovered defects.**

Any alleged construction defect discovered after repairs have been completed shall be subject to the same requirements of this Chapter if the builder did not have notice or an opportunity to repair the particular construction defect.

**15.58.090. Settlement by payment of a sum certain.**

Whether or not a builder elects to repair the alleged construction defect, a builder may offer to settle the claim by payment of a sum certain to the claimant. Whether or not a builder offers to settle a claim by payment of a sum certain, the claimant may make an offer to the builder to settle the claim by payment of a sum certain. An offer to settle by payment of a sum certain may also cover alleged construction defects that may be discovered after completion of the settlement. Neither a builder, nor a claimant is obligated to make or accept settlement by payment of a sum certain. If an offer of settlement by payment of a sum certain is made, it shall be accepted by written notice of acceptance given to the party making the offer no later than 15 days after receipt of the offer or such longer period, if any, stated in the offer as the time for acceptance. If the offer is not accepted within the 15-day period (or such longer period, if any, stated in the offer as the time for acceptance), it shall be deemed to have been rejected. If an offer to settle is accepted, the monetary settlement shall be paid in accordance with the offer and

such payment shall be in full settlement and release of all claims with respect to or arising out of the alleged construction defect. Execution of such offer and acceptance shall be acknowledged before a notary public if required by the terms of the offer. Upon such settlement, either party may record in the public records maintained by the clerk and recorder of the county in which the property is located a copy of the settlement offer and acceptance or a notice of the alleged construction defect and the settlement thereof, which shall provide notice to persons that thereafter acquire any interest in the property that all claims with respect to or arising out of the alleged construction defect have been settled. If the builder fails to make the payment in accordance with the offer, the claimant may proceed with the filing of an action against the builder for the claim arising out of the alleged construction defect, unless notice and consent are required by Section 15.58.110 of this Code.

**15.58.100. Effect of amendment of alternative dispute resolution provisions.**

If a provision found in the declaration, bylaws or rules and regulations of a common interest community requires that construction defect claims be submitted to mediation or arbitration, that requirement constitutes a commitment on the part of the unit owners and the association upon which a developer, contractor, architect, builder or other person involved in the construction of the community is entitled to rely. Consequently, a subsequent amendment to the declaration, bylaws or rules and regulations that removes or amends the mediation or arbitration requirement shall not be effective with regard to any construction defect claim that is based on an alleged act or omission that predates that amendment.

**15.58.110. Informed consent of homeowners.**

- A. Homeowners are entitled to be kept informed by boards of homeowners' associations of the board's consideration of actions regarding construction defects and to have meaningful input and a right to make a considered judgment and give or withhold informed consent. Accordingly, if a board of a homeowners' association considers or intends to institute an action asserting one or more construction defects, the board must do each of the following:
1. At least 60 days before filing any action under Section 13-20-803.5, C.R.S., the claimant must mail or deliver written notice to each homeowner at the homeowner's last known address.
  2. The notice must be signed by a person other than, and not employed or otherwise affiliated with, the attorney or law firm that represents or will represent the association in the construction defects claim.
  3. The notice required by this Section must contain the following information:
    - a. The nature of the action and the relief sought.
    - b. The amount of expenses and fees the board anticipates will be incurred, directly or indirectly, in prosecuting the action, including attorney fees, consultant fees, expert witness fees and court costs, whether incurred by the association directly or for which it may be liable if it is not the prevailing party or if it does not proceed with the action.

- c. The estimated cost of repairing the construction defect, or if the construction defect is not repaired, the estimated reduction in value of the unit.
  - d. The estimated impact on the marketability of units that are not the subject of the action, including any impact on the ability of the owners to refinance their property during and after the action.
  - e. The manner in which the association proposes to fund the cost of the action, including any proposed special assessments or the use of any revenues.
  - f. The anticipated duration of the action and the likelihood of success.
  - g. Whether the builder has offered to make any repairs and, if so, whether the builder has made repairs.
  - h. The steps taken by the builder in accordance with this Chapter to address the alleged construction defect, including any acknowledgement, inspection, election to repair or repairs.
- B. The homeowners' association may not commence the action unless the board obtains the written consent of homeowners holding at least a majority of the total voting rights in the association after giving the notice required by this Section. Homeowners may vote either directly or through a written ballot signed by the homeowner. Such consent must be obtained within 60 days after such notice is provided, otherwise the homeowners shall be deemed to have declined to provide their informed consent to such action.

**Section 2. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "*provision*" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "*application*" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

**Section 3. Codification Amendments.** The codifier of the City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 1 of this Ordinance within the Loveland Municipal Code.

**Section 4. Effective Date.** Except as otherwise expressly provided herein, the provisions of this Ordinance shall become effective thirty (30) days after publication following final passage.

**Section 5. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Loveland, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience

and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 6.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_ day of March, 2016.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

**FIRST READING**      February 29, 2016

**SECOND READING**      \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ADDING A NEW CHAPTER 15.58 TO THE LOVELAND MUNICIPAL CODE TO ENCOURAGE CONSTRUCTION OF CONDOMINIUMS**

**WHEREAS**, the City of Loveland, Colorado (the "City"), is a home rule municipality organized pursuant to Article XX of the Colorado Constitution; and

**WHEREAS**, by virtue of Article XX of the Colorado Constitution, and as further authorized by state law, including but not limited to, Sections 31-15-401 and 31-23-301, C.R.S., home rule cities have broad authority to exercise police powers to promote and protect health, safety and welfare of the citizenry; and

**WHEREAS**, adoption, implementation, and enforcement of land use, zoning and building regulations are well-established as matters of purely local concern, subject to regulation by home rule municipalities; and

**WHEREAS**, the City's Code and comprehensive plan contemplate a diverse housing stock, consisting of a mix of single-family and multi-family developments, and both owned and rented units, designed to attract and serve the needs of all City residents; and

**WHEREAS**, the need for owner-occupied multi-family housing units (condominiums) has intensified; and

**WHEREAS**, the City Council ("Council") is aware of the general consensus that the scarcity of condominium projects in Colorado is highly attributable to a climate of increased and uncertain litigation risk due to risk of substantial judgments disproportionate to what is required to redress defects, if any, for alleged construction defects; and

**WHEREAS**, this uncertainty and inability to plan and allocate for risk has led insurance companies who would otherwise insure condominium projects to stop writing policies for such projects or to price such policies at levels that substantially increase the cost of condominium projects; and

**WHEREAS**, the Council finds that while the scarcity of new condominium projects is not unique to the City, the City nevertheless experiences some unique impacts because of growth and anticipated growth in the City's population, and the aging of its population, and

**WHEREAS**, the Council further finds that the lack of housing options negatively impacts the health, safety and welfare of the City and its residents; and

**WHEREAS**, plaintiffs in construction defect lawsuits have alleged that such defects are

violations of applicable building codes and, if such violations do exist, they are frequently not remedied for many months or years; and

**WHEREAS**, the Council finds that allegations of violations of the City's building codes and the likelihood that such violations may continue unremedied for many months or years present a material risk to the health and safety of City residents, including the risk that unsafe conditions as a result of construction defects may be exacerbated by long delays in remedying such conditions; and

**WHEREAS**, the Council further finds that lawsuits brought on account of alleged construction defects in condominium projects may often be brought at the direction of the board of directors of the homeowners' association, without the informed consent of the unit owners, thereby depriving the unit owners of the opportunity to become educated about the advantages and disadvantages of pursuing litigation, to have meaningful input regarding the consideration of such decision, and to vote on such decision; and

**WHEREAS**, the Council further finds that the use of alternative dispute resolution as a means to resolve construction defect claims, whether by arbitration or mediation, should be encouraged as a standard practice within the City; and

**WHEREAS**, the Council therefore desires to take reasonable steps within its power as the governing body of a home rule municipality to encourage the development of condominium projects in the City through the adoption of regulations designed to reduce the risk and exposure to builders and developers of such projects, while still protecting the rights of homeowners to pursue legitimate construction defect claims;

**WHEREAS**, the Council further desires to take reasonable steps within its power as the governing body of a home rule municipality to encourage the prompt and voluntary correction of any construction defects that may constitute violations of the City's building code in order to enhance the health and safety of City residents; and

**WHEREAS**, the Council further desires to assure that all consumers who purchase condominiums within the City located within a community managed by a homeowners' association have the opportunity to become educated about the advantages and disadvantages of pursuing litigation concerning alleged construction defects, to have meaningful input concerning the decision, and to be able to vote on such decision.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, ORDAINS:**

**Section 1.** Title 15 of the Loveland Municipal Code, entitled "Buildings & Construction", is hereby amended by adding a new Chapter 15.58, which chapter shall read as follows:

**Chapter 15.58**

**REPAIR OF CONSTRUCTION DEFECTS**

**Sections:**

- 15.58.010. Definitions.**
- 15.58.020. Effect of Amendment of Alternative Dispute Resolution Provisions.**
- 15.58.030. Informed Consent of Homeowners.**
- 15.58.040 Enforcement**

**15.58.010. Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Builder* means any entity or individual, including, but not limited to, a builder, developer, general contractor, contractor, subcontractor, architect, engineer or original seller who performs or furnishes the design, supervision, inspection, construction or observation of any improvement to real property that is intended to be occupied as a dwelling or to provide access or amenities to such an improvement.

*Building code* means the several technical codes adopted in this Title 15 that govern the design, construction, alteration, addition, maintenance, repair, removal, demolition, location, use, and occupancy of buildings and structures in the city, as the same may be amended or modified.

*City* means City of Loveland, Colorado.

*Common interest community* means real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvements of other real estate described in a declaration.

*Condominium* means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Construction defect* means any alleged defect in the design or construction of an improvement to real property which causes any damages to, or the loss of use of, real or personal property, or personal injury.

*Homeowner* means any person who owns a unit in a condominium or in a multi-family building in a common interest community, but shall not include any declarant or any person having an interest in a unit solely as security for an obligation.

*Homeowners' association* means a unit owners' association formed to represent the interest of homeowners owning units in a condominium or in a multi-family building in a common interest community.

**15.58.020. Effect of amendment of alternative dispute resolution provisions.**

If a provision found in the declaration, bylaws or rules and regulations of a common interest community requires that construction defect claims be submitted to mediation or arbitration, that requirement constitutes a commitment on the part of the unit owners and the association upon which a developer, contractor, architect, builder or other person involved in the construction of the community is entitled to rely. Consequently, a subsequent amendment to the declaration, bylaws or rules and regulations that removes or amends the mediation or arbitration requirement shall not be effective with regard to any construction defect claim that is based on an alleged act or omission that predates that amendment.

**15.58.030. Informed consent of homeowners.**

A. Homeowners are entitled to be kept informed by boards of homeowners' associations of the board's consideration of actions regarding construction defects and to have meaningful input and a right to make a considered judgment and give or withhold informed consent. Accordingly, if a board of a homeowners' association considers or intends to institute an action asserting one or more construction defects, the board must do each of the following:

1. At least 60 days before filing any action under Section 13-20-803.5, C.R.S., the claimant must mail or deliver written notice to each homeowner at the homeowner's last known address.
2. The notice must be signed by a person other than, and not employed or otherwise affiliated with, the attorney or law firm that represents or will represent the association in the construction defects claim.
3. The notice required by this Section must contain the following information:
  - a. The nature of the action and the relief sought.
  - b. The amount of expenses and fees the board anticipates will be incurred, directly or indirectly, in prosecuting the action, including attorney fees, consultant fees, expert witness fees and court costs, whether incurred by the association directly or for which it may be liable if it is not the prevailing party or if it does not proceed with the action.
  - c. The estimated cost of repairing the construction defect, or if the construction defect is not repaired, the estimated reduction in value of the unit.
  - d. The estimated impact on the marketability of units that are not the subject of the action, including any impact on the ability of the owners to refinance their property during and after the action.
  - e. The manner in which the association proposes to fund the cost of the action, including any proposed special assessments or the use of any revenues.
  - f. The anticipated duration of the action and the likelihood of success.
  - g. Whether the builder has offered to make any repairs and, if so, whether the



builder has made repairs.

- h. The steps taken by the builder in accordance with this Chapter to address the alleged construction defect, including any acknowledgement, inspection, election to repair or repairs.

B. The homeowners' association may not commence the action unless the board obtains the written consent of homeowners holding at least a majority of the total voting rights in the association after giving the notice required by this Section. Homeowners may vote either directly or through a written ballot signed by the homeowner. Such consent must be obtained within 60 days after such notice is provided, otherwise the homeowners shall be deemed to have declined to provide their informed consent to such action.

#### **15.58.040. Enforcement.**

A builder or homeowner subject to the provisions of this Chapter may enforce the provisions of this Chapter by seeking relief through the court system.

**Section 2. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "*provision*" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "*application*" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

**Section 3. Codification Amendments.** The codifier of the City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 1 of this Ordinance within the Loveland Municipal Code.

**Section 4. Effective Date.** Except as otherwise expressly provided herein, the provisions of this Ordinance shall become effective thirty (30) days after publication following final passage.

**Section 5. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Loveland, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 6.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_ day of March, 2016.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney



**CITY OF LOVELAND**  
POLICE DEPARTMENT

810 East 10<sup>th</sup> Street • Loveland, Colorado 80537  
(970) 667-2151 • FAX (970) 962-2917 • TDD (970) 962-2620

**AGENDA ITEM:** 13  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Tim Brown, Police  
**PRESENTER:** Tim Brown, Interim Chief of Police

**TITLE:**

An Ordinance on First Reading Enacting a Supplemental Budget and Appropriation to the 2016 City of Loveland Budget for three (3) police officers and four (4) police vehicles.

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and approve the ordinance on first reading.

**OPTIONS:**

1. Adopt the action as recommended.
2. Deny the action. Officers currently hired or in the hiring process would not have compensation appropriated or vehicles for their assigned use for patrol responsibilities upon completion of their field training.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. Vehicles must be ordered prior to April of 2016 in order to be built and delivered by December, 2016. Delay of this action would result in us failing to meet the state-bid order deadline and police salaries may exceed their current appropriations.

**SUMMARY:**

City Council approved the addition of three (3) officers funded by existing appropriations. Three (3) vehicles are needed to support the additional officers. One (1) vehicle is requested for a School Resource Officer approved in 2016.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

The remaining unassigned fund balance in the Police Capital Expansion Fee Fund will be \$5,289,723 if the ordinance is approved. The cost of the additional officers is offset by reductions in other expenses, so there is no impact to fund balance in the General Fund.

**BACKGROUND:**

**Three Additional Officers**

In October 2015 during the adoption of the 2016 Budget, City Council approved an additional three officers. Council directed staff to return with an appropriation action to fund the additional officers through existing 2016 appropriations, showing how the officers could be paid for and

making up the recurring operating costs of the officers through reductions in other areas as necessary

The cost of the officers in 2016 is approximately \$235,000 (partial year), and approximately \$300,000 annually thereafter. The Police Department and other departments have submitted General Fund reductions to offset these costs. A detailed breakdown of the reductions by department is attached in Exhibit A. A total of \$255,100 in 2016 reductions are included, which is more than needed in 2016, allowing some carryforward of savings to the future. Of the 2016 reductions, \$140,600 (55%) is from Police and the remainder (\$114,500) is from other departments.

The future on-going expenditures associated with the additional officers will be funded by the \$130,100 in permanent reductions and \$169,900 of anticipated General Fund revenue growth. Projected General Fund revenue growth (and the Police Department's expected share of that revenue growth) significantly exceeds the amount needed.

#### **Four Additional Police Vehicles**

The police department issues patrol vehicles to officers on a one-to-one car plan that enhances our visibility in the community and allows for the rapid response of our sworn personnel to large-scale events or specific emergencies (i.e., SWAT call-outs or investigative needs).

The State bid process for police vehicles requires that we order these vehicles prior to April 7, 2016. This will permit the vehicles to be built during the summer and delivered likely in December, 2016.

In July, 2015, the City accepted a COPS grant in partnership with Thompson School District R2J to employ an additional School Resource Officer. A currently employed officer was immediately assigned to the position but a vehicle for the new position had not been ordered and is therefore included for a total of 4 vehicles requested at a cost of \$50,000 each including specific equipment installed in the vehicles. The total request for \$200,000 is requested to be funded by fund balance in the Police Capital Expansion Fee Fund.

Approval of a supplemental request to fund the vehicles using fund balance in the Capital Expansion Fee Fund will permit us to equip all officers with consistent equipment in a timely manner upon the completion of their full field training experience.

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#### **REVIEWED BY CITY MANAGER:**

*William A. Cahill*

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#### **LIST OF ATTACHMENTS:**

1. Ordinance
2. Reductions

**FIRST READING**      **February 29, 2016**

**SECOND READING**      \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR THREE POLICE OFFICERS AND FOUR POLICE VEHICLES**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for three police officers and four police vehicles; and

**WHEREAS**, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the 2016 City budget for three police officers and four police vehicles, as authorized by Section 11-6(a) of the Loveland City Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That revenues in the amount of \$255,100 from expenditure reductions in the General Fund are available for appropriation. That reserves in the amount of \$200,000 from fund balance in the Police Capital Expansion Fee Fund are available for appropriation. Such revenues in the total amount of \$455,100 are hereby appropriated to the 2016 City budget for three police officers and four police vehicles. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
General Fund 100**

**Revenues****Total Revenue**

-  
-

**Appropriations**

|                             |                                   |          |
|-----------------------------|-----------------------------------|----------|
| 100-14-116-0000-43021       | Printing                          | (2,000)  |
| 100-53-753-0000-43833       | Subscriptions                     | (1,600)  |
| 100-53-750-0000-42014       | Books & Periodicals               | (1,400)  |
| 100-19-191-0000-43450       | Professional Services             | (500)    |
| 100-19-192-0000-43575       | Weed Control                      | (1,500)  |
| 100-19-193-0000-43450       | Professional Services             | (500)    |
| 100-19-195-0000-42011       | Office Supplies                   | (100)    |
| 100-19-195-0000-43021       | Printing                          | (300)    |
| 100-19-195-0000-43270       | Travel/Meetings/Schooling         | (250)    |
| 100-19-195-0000-43711       | Postage                           | (250)    |
| 100-19-195-0000-43450       | Professional Services             | (600)    |
| 100-52-720-0000-43021       | Printing                          | (4,000)  |
| 100-52-720-0000-43711       | Postage                           | (1,000)  |
| 100-52-720-0000-43737       | Advertising                       | (2,000)  |
| 100-52-720-0000-43738       | Marketing                         | (2,000)  |
| 100-52-730-0000-42033       | Tools & Equipment                 | (3,700)  |
| 100-52-730-0000-43021       | Printing                          | (2,000)  |
| 100-52-730-8100-42422       | Food                              | (300)    |
| 100-52-730-8100-42899       | Other Supplies                    | (500)    |
| 100-52-730-8100-43450       | Professional Services             | (500)    |
| 100-15-120-0000-42012       | Office Furniture & Equipment      | (1,000)  |
| 100-15-120-0000-43450       | Professional Services             | (5,000)  |
| 100-23-231-0000-43450       | Professional Services             | (10,000) |
| 100-23-231-0000-42097       | Safety Supplies                   | (15,000) |
| 100-13-105-0000-42012       | Office Furniture & Equipment      | (1,000)  |
| 100-13-105-0000-43645       | Telephone                         | (500)    |
| 100-91-902-0000-43450       | Professional Services             | (10,000) |
| 100-16-161-0000-42011       | Office Supplies                   | (15,250) |
| 100-16-161-0000-43569       | Repair & Maintenance              | (2,750)  |
| 100-16-163-0000-43569       | Repair & Maintenance              | (7,000)  |
| 100-21-203-2115-42078       | Supplies for Program or Resale    | (30,000) |
| 100-21-201-2101-42078       | Supplies for Program or Resale    | (5,000)  |
| 100-21-204-2109-42078       | Supplies for Program or Resale    | (14,000) |
| 100-18-180-1500-42015       | Computer Supplies & Equipment     | (2,500)  |
| 100-18-180-1500-43270       | Travel/Meetings/Schooling         | (2,500)  |
| 100-17-170-0000-42012       | Office Furniture & Equipment      | (300)    |
| 100-17-170-0000-43449       | Employment Screening              | (500)    |
| 100-17-170-0000-43768       | Driver Qualification/Drug Testing | (500)    |
| 100-17-170-0000-43899       | Other Services                    | (300)    |
| 100-17-173-0000-42015       | Computer Supplies & Equipment     | (300)    |
| 100-17-171-0000-43274       | Tuition Reimbursement             | (3,000)  |
| 100-17-173-0000-43737       | Advertising                       | (2,100)  |
| 100-51-501-0000-43899       | Other Services                    | (10,000) |
| 100-21-201-2101-41011       | Salaries - Benefitted Employee    | (86,000) |
| 100-21-204-2114-41011       | Salaries - Benefitted Employee    | (5,600)  |
| 100-21-202-2102-41011       | Salaries - Benefitted Employee    | 204,945  |
| 100-21-204-2104-41543       | Insurance Benefits                | 25,013   |
| 100-21-204-2104-41544       | F.I.C.A. Taxes                    | 5,646    |
| 100-21-204-2104-41546       | Police Pension                    | 19,496   |
| <b>Total Appropriations</b> |                                   | -        |

**Supplemental Budget  
Police Capital Expansion Fee Fund 265**

|                             |               |                |
|-----------------------------|---------------|----------------|
| <b>Revenues</b>             |               |                |
| Fund Balance                |               | 200,000        |
| <b>Total Revenue</b>        |               | <b>200,000</b> |
| <br><b>Appropriations</b>   |               |                |
| 265-21-201-2102-48244       | Motor Vehicle | 200,000        |
| <b>Total Appropriations</b> |               | <b>200,000</b> |

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 3.** That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_\_ day of March, 2016.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

## Reductions

| Total<br>Amount  | Department             | Reduction   | Amount            |
|------------------|------------------------|---|-------------------|
| 2,000            | City Clerk             | Printing  | 2,000             |
| 3,000            | Library                | Database Subscription   | 1,600             |
|                  |                        | Library Book Purchases  | 1,400             |
| 4,000            | Development Services   | Current Planning - Professional Services  | 500               |
|                  |                        | Building Services - Weed Control  | 1,500             |
|                  |                        | Community & Strategic Planning - Professional Services  | 500               |
|                  |                        | <u>Community Partnership</u>  |                   |
|                  |                        | Printing, Travel, Postage, Office Supplies  | 900               |
|                  |                        | Reduce Loveland Connect budget from \$7,000 to \$6,400<br>(United Way contributes \$3,000 annually) | 600               |
| 16,000           | Cultural Services      | Museum - Printing, Postage, Advertising and Marketing   | 9,000             |
|                  |                        | Rialto - Tools & Equipment, Printing, Food, Other Supplies<br>and Professional Services             | 7,000             |
| 6,000            | Finance                | Office Furniture & Equipment and Professional Services  | 6,000             |
| 25,000           | Public Works           | Consulting Services   | 10,000            |
|                  |                        | Safety Supplies   | 15,000            |
| 1,500            | City Manager           | Office Furniture & Equipment & Telephone  | 1,500             |
| 25,000           | Information Technology | Office Supplies   | 4,800             |
|                  |                        | Decrease in Tough Book Replacement Funding  | 10,450            |
|                  |                        | Blackberry Maintenance - (City no longer uses Blackberry)   | 2,750             |
|                  |                        | Decrease in Harris Maintenance  | 7,000             |
| 10,000           | Non-Departmental       | Special Projects  | 10,000            |
| 5,000            | Economic Development   | Computer Supplies & Equipment   | 2,500             |
|                  |                        | Travel/Meetings/Schooling   | 2,500             |
| 7,000            | Human Resources        | Office Furniture & Equipment  | 300               |
|                  |                        | Employment Screening  | 500               |
|                  |                        | Driver Qualification/Drug Testing   | 500               |
|                  |                        | Other Services  | 300               |
|                  |                        | Computer Supplies & Equipment   | 300               |
|                  |                        | Tuition Reimbursement   | 3,000             |
|                  |                        | Advertising   | 2,100             |
| 10,000           | Parks & Recreation     | Marketing & Community Outreach  | 10,000            |
| 140,600          | Police                 | Reduce Replacement Cycle  | 35,000            |
|                  |                        | Video Enhancement Equipment   | 14,000            |
|                  |                        | Accreditation Manager Savings (1/2 Year Salary)   | 38,000            |
|                  |                        | Chief's Salary Savings  | 48,000            |
|                  |                        | Delayed reclassification of Sergeant to Lieutenant  | 5,600             |
| <b>\$255,100</b> | <b>Total</b>           |   | <b>\$ 255,100</b> |





**CITY OF LOVELAND**  
CITY ATTORNEY'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2540 • FAX (970) 962-2900 • TDD (970) 962-2620

**AGENDA ITEM:** 14  
**MEETING DATE:** 2/29/2016  
**TO:** City Council  
**FROM:** Tami Yellico, City Attorney's Office  
**PRESENTER:** Tami Yellico, City Attorney

**TITLE:**

An Update to City Council on two lawsuits and a possible Motion to allow City Council the option to go into Executive Session for the purpose of receiving legal advice and for matters that may be subject to negotiation concerning the lawsuits of Jeremy C. Myers v. Brian Koopman and Tammy Fisher v. Brian Koopman and Luke Hecker

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the Motion.

**OPTIONS:**

1. Adopt the action as recommended. Legal advice and potential discussion regarding negotiation on pending litigation is appropriate for executive session.
2. Deny the action.

**SUMMARY:**

This is an administrative action to update City Council on two pending lawsuits and to allow for the possibility of an Executive Session for the purpose of receiving legal advice and for matters that may be subject to negotiation concerning the lawsuits of Jeremy C. Myers v. Brian Koopman and Tammy Fisher v. Brian Koopman and Luke Hecker.

**BUDGET IMPACT:**

- Positive  
 Negative  
 Neutral or negligible

Costs to date for these cases is set forth below. The discussion of these cases does not have any impact in itself.

**BACKGROUND:**

The City is involved in the lawsuits of Jeremy C. Myers v. Brian Koopman and Tammy Fisher v. Brian Koopman and Luke Hecker. City Council requested an update on these two cases. Pleadings for both cases are available on the City Attorney's webpage at: <http://www.cityofloveland.org/index.aspx?page=2314>. Below are brief summaries of the cases. Discussion of this pending litigation is appropriate for executive session.

**Jeremy C. Myers v. Brian Koopman, et al**  
**Case No. 1:09 cv 2802**

Plaintiffs Jeremy Meyers and Western Salvage, Ltd., first filed suit in 2009 against numerous defendants, including Loveland police officer Brian Koopman, Loveland Chief of Police Luke Heckman, and the City of Loveland itself. Other named defendants included various officers of the Fort Collins police department, the City of Fort Collins, Larimer County, the Larimer County sheriff and district attorney, and the Eighth Judicial District. The plaintiffs alleged the various defendants violated their Fourth and Fourteenth Amendment rights through an alleged (1) unreasonable search and seizure, (2) malicious prosecution, (3) use of excessive force, (4) failure to train and supervise, and (5) a conspiracy. Though the suit was originally filed in state district court, the matter was removed to federal district court on the motion of the Larimer County defendants.

Generally speaking, the claims stemmed from the September 6, 2007, execution of a no-knock search warrant by the Larimer County Sheriff's Office SWAT Team at 1101 North Madison Street in Loveland, seeking evidence of a methamphetamine manufacturing laboratory being operated at the premises. The warrant was obtained by Loveland police officer Brian Koopman, based upon information provided by a confidential informant that a meth lab was being operated there, and based upon knowledge that the owner of the premises (Jeremy Myers) had previously in September 2002, been investigated for and charged with various drug-related criminal offenses following the search of the same premises and discovery of illegal drugs and drug paraphernalia.

During the search, field tests were conducted on apparent chemical substances found on the premises, both of which tested presumptively positive for amphetamine, a component of methamphetamine. Other items seized from the subject premises included a large plastic container with a bilayer fluid, amber colored on the top and red on the bottom, weighing approximately 704.6 grams, which fluid tested presumptively positive for the presence of amphetamine during a field test, and a glass jar containing approximately 987.3 grams of a white crystalline substance partially submerged in an unknown fluid which also tested presumptively positive for the presence of amphetamine during the field test.

Jeremy Meyers turned himself in at the Loveland Police Department the day after the search was conducted, at which time he was placed under arrest based upon the presumptively positive field test results of the substances seized during the search. Myers remained in custody until he posted bond on September 10, 2007, and the Larimer County district attorney filed criminal charges against Myers in state court. However, further laboratory testing by the Colorado Bureau of Investigation of the samples recovered from the raid later revealed that they were not controlled substances. On November 15, 2007, the district attorney dismissed all charges against Myers. Two years later, Myers initiated this lawsuit, making the claims set forth above.

Since initiation of the suit, all other defendants have been dismissed and all claims except one have been dismissed. The only remaining claim at the present time is a Fourth Amendment claim for malicious prosecution against Detective Brian Koopman. In 2012, the federal district court granted a motion filed by Koopman which would have had the effect to finally dismiss this remaining claim against him, but Myers appealed the decision to the Tenth Circuit Court of Appeals. The Tenth Circuit Court of Appeals reversed part of that decision and remanded the case for further proceedings in the federal district court on issues raised by Koopman with regard to absolute and qualified immunity to which police officers may be entitled under the Fourth Amendment.

The defense filed a Petition for Writ of Certiorari in the U.S. Supreme Court in February 2014. An Amicus Brief in support of the Petition was filed by the International Municipal Lawyers Association, also urging the Supreme Court to take up what one Supreme Court justice had

referred to as an “embarrassing diversity of legal opinion” concerning the extent to which a malicious prosecution claim is actionable against a police officer under the federal civil rights statute. The U.S. Supreme Court denied the Petition in June 2014, declining to resolve this issue.

Accordingly, at the present time, the case is back in the federal district court for resolution of the sole remaining Fourth Amendment claim of malicious prosecution against Detective Koopman. Pursuant to the remand instructions from the 10th Circuit Court of Appeals, the federal district court is to hold further proceedings to resolve the issues relating to arguments regarding absolute and qualified immunity. The defense filed a renewed motion for summary judgment to bring these issues back before the court, and the plaintiff filed a motion for a status conference, both of which the federal district court denied as unnecessary, indicating that “the court will address in a written order the issues of absolute and qualified immunity” after considering the “extant arguments” of the parties already before the court. To date, the court has not issued any such further orders. There is no particular timeframe in which the court must resolve these issues. The City has spent \$200,000 on this case. Having met its deductible/self-insured retention, the City’s additional costs are now being paid by CIRSA, which has spent \$52,058, bringing the total amount paid to date to \$252,058.

**Tammy Fisher v. Brian Koopman and Luke Hecker**  
**Case No. 1:15-CV-00166**

On July 25, 2014, Plaintiff filed a Notice of Claim alleging that she suffered damages and monetary loss in excess of \$100,000 as a result of a police investigation regarding Plaintiff’s conduct during an investigation of a separate criminal matter in which the primary suspect was not Plaintiff. Plaintiff was alleged to have “tipped off” the primary suspect that the police were coming with a search warrant. Several claims were threatened in the notice, including malicious prosecution, intentional infliction of emotional distress, interference with a business relationship, abuse of process, defamation, negligent hiring and retention, and failure to supervise and train. Plaintiff filed suit on January 12, 2015 in Larimer County District Court; the Defendants removed the case to U.S. District Court and the case is currently assigned to Judge Martinez. An Answer was filed on behalf of Chief Hecker and Detective Koopman on February 19, 2015 disputing the Plaintiff’s allegations and claims.

Plaintiff filed a motion to amend her complaint to add the City as a defendant and assert additional claims. Magistrate Judge Wang heard oral argument on the motion and subsequently issued an order denying Plaintiff’s motion. The Plaintiff filed an objection to the Magistrate Judge’s order to which Chief Hecker and Brian Koopman have responded. Judge Martinez overruled Plaintiff’s objection and denied the motion to amend.

The Plaintiff’s deposition was held July 30, 2015 and discovery was completed on October 9, 2015.

Defendants filed a Motion for Summary Judgment on November 9, 2015 to which Plaintiff responded. The parties are currently awaiting the court’s ruling on the motion. To date \$60,246 has been spent by the City on this case.

The Colorado Open Meetings Law and the City Charter authorize City Council to go into Executive Session to receive legal advice and to discuss matters that may be the subject of negotiations upon an affirmative vote of two-thirds of the members of Council present.

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**REVIEWED BY CITY MANAGER:**

*William D. Cahill*

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**LIST OF ATTACHMENTS:**

None