

MINUTES
LOVELAND CITY COUNCIL MEETING
MONDAY, FEBRUARY 29, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

CALL TO ORDER: Mayor Gutierrez called the meeting to order at 6:03 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL, Councilors Present: Gutierrez, Johnson, Ball, Clark, McKean, Shaffer and Overcash. Councilor Krenning arrived at 6:09 p.m. and Councilor Fogle arrived at 6:12 p.m.

Councilor Johnson read the proclamation declaring Loveland a heart safe community Thompson Valley EMS Captain Mark Turner accepted the proclamation.

Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. Members of the public will be given an opportunity to speak to the item before the Council acts upon it.

Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items.

Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. 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.

Loveland resident, Jackie Marsh asked for item 5 to be moved to the Regular Agenda. Councilor McKean asked for Item 8 to be moved to the Regular Agenda. Councilor Shaffer moved to approve the consent agenda with the exception of items 5 and 8. The motion seconded by Councilor Fogle 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 City Council Minutes For the January 26, 2016 Study Session, February 9, 2016 Study Session and the February 16, 2016 Regular meeting was approved.
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 was approved.

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 was approved.

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 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. 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

This item was considered on Regular Agenda.

**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 was approved.

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)
PUBLIC COMMENT

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 was approved.

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
This item was considered on Regular Agenda.

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

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.

Roger Wiedleman, 4814 N. Franklin asked Council to review who would be serving on the Larimer County Selection Committee and if anyone on the committee was a Loveland resident.

Mayor Gutierrez introduced the new Economic Development Director, Susan Grafton.

PROCEDURAL INFORMATION

Anyone in the audience will be given time to speak to any item on the Regular Agenda before the Council acts upon it. The Mayor will call for public comment following the staff report. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council quorum present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

5. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)

PUBLIC COMMENT

SOUTH CATALYST PROJECT FUNDING

Economic Development Manager, Mike Scholl introduced this item to Council. 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. Mayor Gutierrez asked for public comment. Jackie Marsh, Rabbask Designs, spoke in opposition to the ordinance. **Councilor Shaffer moved To Approve On First Reading, An Ordinance 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. The motion was seconded by Councilor Ball. After discussion, Councilor Ball moved to call the question. The motion, seconded by Councilor Krenning, carried with seven councilors voting in favor and Councilors Overcash and Gutierrez voting against. The original motion was considered and carried with six councilors voting in favor and Councilors Overcash, Krenning and McKean voting against.**

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

BROADBAND TASK FORCE

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. There were no public comments. **Councilor Shaffer moved To Appoint John Fogle As Council Liaison To The Broadband Task Force For A Term Effective Until June 1, 2017. The motion, seconded by Councilor Johnson, carried with all councilors present voting in favor thereof. Staff will bring back the establishment of a Communications Technologies Commission on a future Council agenda.**

11. **CITY MANAGER** (presenters: Bill Cahill and Tim Hand)

MANDATORY PAROLE RECOMMENDATION

City Manager, Bill Cahill, introduced this item to Council. 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. There were no public comments. **Councilor Clark moved 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. The motion, seconded by Councilor Overcash, carried with five councilors voting in favor and Councilors Krenning, Clark, McKean and Shaffer voting against.**

12. **CITY ATTORNEY** (presenter: Tami Yellico)
PUBLIC COMMENT
CONSTRUCTION DEFECTS

City Attorney, Tami Yellico introduced this item to Council. This 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. Public Comments: Mark Kenthopp, LBAR Realtors Chair spoke in support of the Option A ordinance. Renee Huff, LBAR spoke in support of the Option A ordinance. Michelle Jacobs Love0alnd resident also spoke in support of the Option A ordinance. **ORIGINAL MOTION: Councilor Shaffer moved to Approve On First Reading, An Ordinance Adding a New Chapter 15.58 to the Loveland Municipal Code to Encourage Construction of Condominiums. The motion was seconded by Councilor Fogle. AMEND: Councilor Krenning moved to Amend the motion to make the following changes to the ordinance: 13th Whereas shall read "The Council further finds that the use of alternative dispute resolution as a means to resolved construction defect claims by mediation should be encouraged as a standard practice with tin the City; and"; as well as the removal of the words "or arbitration" from section 15.58.100. The motion, seconded by Councilor Shaffer, carried with all councilors present voting in favor thereof. AMENDED MOTION: A vote was called on the original motion as amended, which carried with eight councilors voting in favor and Mayor Gutierrez voting against.**

13. **POLICE** (presenter: Tim Brown and Brent Worthington)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION FOR OFFICERS AND VEHICLES

Finance Director, Brent Worthington introduced this item. This is an administrative action. 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. Council asked the City Manager to come back with more information regarding the impact on other city departments. Council discussed approving the 4 police cars at this time and considering the officers at a future date. **Mayor Gutierrez moved to Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Four Police Vehicles and directed staff to remove all references to the "three polices officers and funds associated", for consideration of this ordinance on second reading. The motion seconded by Councilor Clark, carried with all councilors present voting in favor thereof.**

14. **CITY ATTORNEY** (presenter: Tami Yellico)
LITIGATION UPDATE

City Attorney Tami Yellico gave 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.

Councilor Krenning moved to extend the meeting end time to 11:00p.m. per Council Resolution #R-7-2016. The motion, seconded by Councilor Fogle, carried with eight councilors voting in favor and Mayor Gutierrez voting against.

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.

- Shaffer** Announced the I-25 "Electeds" meeting is March 2, 2016 and the MPO meeting is March 3, 2016.
- Fogle** Announced, with Brinkman partners permission, their proposal for the County land RFP indicated that they would not consider the AIM or Probation as a possible use, because it did not appear compatible with other intended uses at that location.
- Gutierrez** Supreme Court had set "The Clean Power Plan" aside, however the Governor has indicated he is moving forward with the plan in Colorado. There are at least 6 bills that might be introduced in the future, relative to the Plan.

CITY MANAGER REPORT

None

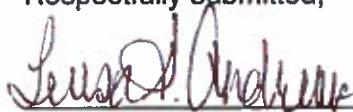
CITY ATTORNEY REPORT

None

ADJOURN

Mayor Gutierrez, after hearing no further business adjourned the February 29, 2016 Regular meeting at 10:48 p.m.

Respectfully submitted,


Teresa G. Andrews, City Clerk




Cecil A. Gutierrez, Mayor