

AGENDA
LOVELAND CITY COUNCIL MEETING
TUESDAY, JULY 5, 2016
(5:00 P.M.) DINNER – City Manager’s Conference Room
(6:00 P.M.) REGULAR MEETING - City Council Chambers
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

The City of Loveland is committed to providing an equal opportunity for services, programs and activities and does not discriminate on the basis of disability, race, age, color, national origin, religion, sexual orientation or gender. For more information on non-discrimination or for translation assistance, please contact the City’s Title VI Coordinator at TitleSix@cityofloveland.org or [970-962-2372](tel:970-962-2372). The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act (ADA). For more information on ADA or accommodations, please contact the City’s ADA Coordinator at adacoordinator@cityofloveland.org or [970-962-3319](tel:970-962-3319).

“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 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 adacoordinator@cityofloveland.org o al 970-962-3319”.

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

(6:00) REGULAR MEETING - City Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

SPECIAL AGENDA ITEMS

- (6:10) 1. CITY COUNCIL (presenter: Tami Yellico)**
COUNCIL MEETING RULE CHANGE (Tentative)
Motion Approving A Resolution Rescinding All Prior Resolutions Concerning The Rules Of Procedure For The City Council Of The City Of Loveland, Colorado And Adopting Consolidated Rules Of Procedure.

- (6:25) 2. HUMAN RESOURCES (presenter: Julia Holland)**
SALARY INCREASES FOR MUNICIPAL JUDGE
Motion approving Resolution Of The Loveland City Council Regarding compensation of the Municipal Judge, Gerrellen Joneson.
 This is an administrative action regarding compensation of the Municipal Judge. At the direction of City Council, the salary for the Municipal Judge shall receive a three and one-half percent (3.5%) merit increase beginning on July 1, 2016.

- (6:35) 3. **HUMAN RESOURCES** (presenter: Julia Holland)
SALARY INCREASES FOR CITY ATTORNEY
Motion approving Resolution Of The Loveland City Council Regarding compensation of the City Attorney Tami Yellico.

This is an administrative action regarding compensation of the City Attorney. At the direction of City Council, the salary for the City Attorney shall receive a three and one-half percent (3.5%) merit increase beginning on July 1, 2016.

- (6:45) 4. **HUMAN RESOURCES** (presenter: Julia Holland)
APPOINTMENT OF CITY MANAGER

A Motion approving Resolution confirming the appointment of Steve Adams as City Manager for the City of Loveland and approving an Employment Agreement effective July 1, 2016.

This is an administrative action to adopt the resolution confirming the appointment of Steve Adams as City Manager effective July 1, 2016 and to authorize the Mayor to execute an employment agreement on terms and conditions consistent with Council's direction. The City Manager appointment was made by motion on June 28, 2016.

(6:55) CONSENT AGENDA

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.

5. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF MEETING MINUTES
A Motion To Approve City Council Minutes For the May 17, 2016 and June 7, 2016 Regular Meetings and the May 24, 2016 and June 14, 2016 Study Sessions and the June 16, 2016 Special Meeting.

This is an administrative action item to approve the City Council minutes for the May 17, 2016 and June 7, 2016 Regular Meetings; the May 24, 2016 and June 14, 2016 Study Sessions; and the June 16, 2016 Special Meeting.

6. **CITY MANAGER** (presenter: Steve Adams)
APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

1. Adopt a motion to reappoint Will Gresham to the Affordable Housing Commission for a term effective until June 30, 2019
2. Adopt a motion to reappoint Barbara Irelan to the Affordable Housing Commission for a term effective until June 30, 2019
3. Adopt a motion to reappoint Diann Rice to the Affordable Housing Commission for a term effective until June 30, 2019

4. **Adopt a motion to appoint Gil Barela to the Affordable Housing Commission for a partial term effective until June 30, 2018**
5. **Adopt a motion to appoint Jerry Beers as an alternate member on the Affordable Housing Commission for a term effective until June 30, 2017**
6. **Adopt a motion to reappoint Amy Olinger to the Human Services Commission for a term effective until December 31, 2019**
7. **Adopt a motion to appoint Maren Soreide to the Human Services Commission for a term effective until December 31, 2019**
8. **Adopt a motion to reappoint Stan Taylor to the Human Services Commission for a term effective until December 31, 2019**
9. **Adopt a motion to reappoint David Schneider to the Loveland Utilities Commission for a term effective until June 30, 2019**
10. **Adopt a motion to reappoint Randy Williams to the Loveland Utilities Commission for a term effective until June 30, 2019**
11. **Adopt a motion to reappoint Bruce Croissant to the Transportation Advisory Board for a term effective until June 30, 2019**
12. **Adopt a motion to reappoint Lou Price to the Transportation Advisory Board for a term effective until June 30, 2019**

This is an administrative action item appointing members to Affordable Housing Commission, Human Services Commission, Loveland Utilities Commission and Transportation Advisory Board.

7. **CULTURAL SERVICES** (presenter: Bryan Zellmer)
SUPPLEMENTAL APPROPRIATION FOR CULTURAL DONATIONS

A Motion To Approve On Second Reading, Ordinance #6020 Enacting a Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Foote Lagoon Concert Series, The Rialto Theater Center Arts & Education Programs And The Rialto Theater Center Cinema Series

This is an administrative action item. Donations have been received from Kaiser Permanente to fund the Foote Lagoon Series (\$20,000) and the Iva McKee Charitable Trust to fund the Arts & Education Programs (\$28,000) and the Cinema Series (\$12,000). The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

8. **MUNICIPAL COURT** (presenter: Geri Joneson)
COURT SURCHARGE FEES

A Motion To Approve On Second Reading, Ordinance #6021 To Amend Chapter 1.12.010, Subsection C, Of The Loveland Municipal Code To Include Municipal Court Justice Programs As A Recipient Of 30% Of The Total Surcharge Collected

This is an administrative action item. In February, a committee reviewed the use of a surcharge that has funded Alternative Dispute Resolution Programs and more recently, Traffic Safety and Enforcement Programs. The committee agreed that Municipal Court Justice Programs were valuable sentencing alternatives that benefit offenders and the community. It was further agreed that funding could be achieved by allocating 30% of the total annual surcharge to Municipal Court Justice Programs. The remaining 70% would be allocated to Traffic Safety and Enforcement. This would be a simple redistribution of funds with no financial consequence nor impact to the budget. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

9. **PUBLIC WORKS** (presenter: Jeff Bailey)
SUPPLEMENTAL APPROPRIATION BYRD DRIVE

A Motion To Approve On Second Reading, Ordinance #6022 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Byrd Drive Roadway Connection

This is an administrative action item. City Council approval is necessary to appropriate the funds to authorize the use of City of Loveland and Colorado Department of Transportation (CDOT) funds to construct the missing segment of Byrd Drive between Crossroads Blvd and Earhart Road. Council approved the Intergovernmental Agreement (IGA) at the May 6, 2016 Council Session which accepted the CDOT funds and conditions to be used to construct the missing segment of roadway. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

10. **CITY CLERK** (presenter: Terry Andrews)
DDA ELECTION
A Motion To Approve On Second Reading, Ordinance #6023 Calling for a Special Election To Be Held November 8, 2016 Which Shall Be Conducted As A Coordinated Election With The Larimer County Clerk and Recorder and, To The Extent Necessary To So Conduct That Election As A Coordinated Election, The Colorado Uniform Election Code Of 1992 Shall Govern
 This is a legislative action item needed to allow the City to conduct a special election on November 8, 2016 as a coordinated election with the Larimer County Clerk and Recorder. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.
11. **CITY CLERK** (presenter: Terry Andrews)
PUBLIC COMMENT
CODE AMENDMENT TO INCREASE TASTING DAYS
A Motion To Approve On First Reading, An Ordinance Amending Section 8.08.030(K) Of The Loveland Municipal Code To Increase The Number Of Days Tastings Are Permitted
 This is a legislative action item to consider amending Section 8.08.030(K) of the Loveland Municipal Code to increase the frequency and total number of tastings a retail liquor store or liquor-licensed drug store can conduct sample tastings. The increase would move from fifty two tastings yearly, for no more than two times between Monday and Saturday, to one hundred and four tastings, for no more than four times between Monday and Saturday.
12. **CULTURAL SERVICES** (presenter: Susan Ison)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION FOR RIALTO AND MUSEUM PROGRAMS
A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Rialto Theater Cinema Series Program And Also The Loveland Museum/Gallery's Education, Classes And Programs
 This is an administrative action item. A donation of \$14,201 has been received by the Rialto Theater from the Backstage Rialto to expand the theater's Cinema Series Program. Also, an appropriation of \$8,000 to fund the Cherry Pie Celebration, Halloween Fun Festival and the Lone Tree School programs. The City has received donations in the amount of \$14,102 to support the Rialto Theater Cinema Series and \$8,000 is anticipated to be generated from the Museum events. Thus, there is no impact on unassigned General Fund balance.
13. **INFORMATION TECHNOLOGY** (presenter: Bill Westbrook)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION TO INVENTORY FIBER OPTIC
A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For An Inventory Of City Owned Fiber Optic Assets

This is an administrative action item. Information Technology is requesting an expense supplemental budget appropriation to support the broadband initiative for Loveland and internal traffic & IT operations. We are requesting an appropriation of \$86,515 for the 2016 budget from the Fiber Network Fund. This appropriation is intended to cover expenses for a physical inventory of eleven miles of City owned fiber infrastructure consisting of 67 splice hand holes and 464 slack (pull) hand holes, in coordination with a separate Platte River Power Authority funded project to perform a physical inventory of all fiber assets owned by PRPA. The partner performing this project will be Backbone Fiber, LLC, who is contracted with the City to perform fiber services including installation, splicing, maintenance, and researching and gathering of information for the City owned fiber network. The project will start immediately upon budget approval and is expected to last up to four months.

14. PARKS AND RECREATION (presenter: Molly Elder)
PUBLIC COMMENT

SUPPLEMENTAL APPROPRIATION FOR MEHAFFEY DOG PARK

A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Fund Safety Repairs At Mehaffey Dog Park

This is an administrative action item. The ordinance provides \$41,000 from the General Fund to support emergency repairs made to the Mehaffey Dog Park to address safety concerns. The funding for the requested appropriation is from unreserved fund balance in the General Fund. The appropriation of this fund reduces the flexibility to fund other future events or projects.

15. PUBLIC WORKS (presenter: Jeff Bailey)
PUBLIC COMMENT

IGA WITH CDOT FOR HIGHWAY 34 AND BOYD LAKE AVE CONSTRUCTION

1. A Motion Adopting Resolution R-46-2016 Approving An Amendment To An Intergovernmental Agreement Between The City Of Loveland, Colorado And The State Of Colorado, Acting By And Through The Colorado Department Of Transportation, To Upgrade The Intersection Of U.S. Highway 34 And Boyd Lake Avenue In The City Of Loveland

2. A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Upgrades To The Intersection Of U.S. Highway 34 And Boyd Lake Avenue.

This is an administrative action item. City Council approval is necessary to finalize the submitted IGA amendment and to authorize the use of the Federal Hazard Elimination funds that were recently awarded to upgrade the intersection. Overall funding approval will be required once this project is competitively bid and a contractor is selected to complete the work.

Project Funds

CDOT & FHWA HES Grant = \$495,000 (appropriated in August 2013)

Local Contribution (design, signal equipment and roadway construction) = \$1,800,000 (appropriated in October 2015).

CDOT FASTER Safety Mitigation funds = \$900,000

Approval of this item will allocate funds for the construction of this project (EN1302) and allow an agreement to be in place for reimbursement of construction costs.

16. LOVELAND FIRE RESCUE AUTHORITY (presenter: Pat Mialy)
2016 MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN
A Motion To Approve Resolution R-47-2016 Adopting 2016 Larimer County Multi-Jurisdictional Hazard Mitigation Plan

This is an administrative action item. Emergency Managers throughout Larimer County

have collaborated to develop a single county wide Hazard Mitigation Plan (HMP) for responding to disasters and preventing losses in future occurrences. The plan includes requirements set forth by the Federal Emergency Management Agency (FEMA) and the Colorado Division of Homeland Security and Emergency Management in order for the City and Larimer County to be eligible for funding and technical assistance from state and federal hazard mitigation programs.

The impact on the budget for the adoption of the HMP is neutral; however, FEMA requires the City to have a current HMP in order to receive many types of FEMA-funded grants.

17. **ECONOMIC DEVELOPMENT** (presenter: Susan Grafton)
BUSINESS ASSISTANCE FOR GENESIS HOSPITALITY
A Motion To Adopt Resolution R-48-2016 Approving The Terms And Conditions Of The Genesis Hospitality Corporation Business Assistance Agreement
 This is an administrative action item. This is an administrative action. On May 24, 2016, Genesis Hospitality appeared before Council in study session requesting business assistance. The company plans to expand their current facility with construction of a new manufacturing facility next to their existing plant on Medford Drive. Attached for Council review is the proposed Business Assistance Agreement providing for a maximum of \$100,000 in permit fee waivers and construction use tax.
18. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)
GATORWEST ADDITION ANNEXATION
A Motion To Adopt Resolution R-49-2016 Finding a Certain Petition for Annexation Known as Gatorwest Addition, Filed June 20, 2016, to be in Substantial Compliance with Section 30 of Article II of the Colorado Constitution and with the Requirements of Section 31-12-107(1), C.R.S.; and Establishing a Date, Time, and Place for a Hearing to Determine Whether the Proposed Annexation Complies with the Applicable Requirements of Sections 31-12-104 and 31-12-105, C.R.S., and is Eligible for Annexation to the City of Loveland, Colorado
 This is a legislative action item to set a public hearing date of August 16, 2016 for the consideration of an annexation of 2.3 acres to be known as the Gatorwest Addition. The property is located at 5100 Granite Street, and also has frontage on the west side of N. Garfield Avenue, roughly half way between W. 50th Street and Ranch Acres Drive. Included with the annexation proposal is a request to zone the property B-Developing Business. The applicant is M. Bryan Short with Gatorwest, LLC.
19. **WATER AND POWER** (presenter: Greg Dewey)
LETTER OF UNDERSTANDING WITH CDOT FOR USE OF IDYLWILDE
A Motion To Adopt Resolution R-50-2016 Approving A Letter Of Understanding (LOU) Between The Colorado Department Of Transportation And The City Of Loveland
 This is an administrative action item. A Letter of Understanding (LOU) to establish mutual collaboration between the Colorado Department of Transportation (CDOT) and the City of Loveland (City) regarding the status and condition of the Idylwilde parking lot on completion of U.S. Highway 34 reconstruction.
 The letter of understanding is intended to assure that CDOT will not create more work or expense for the City in meeting the final U.S. Forest Service requirements for reclamation.
20. **WATER AND POWER** (presenter: Lindsey Bashline)
ENERGY IGA WITH PLATTE RIVER AND OTHER MUNICIPALITIES
A Motion To Adopt Resolution R-51-2016 Approving An Intergovernmental Agreement Among The Town Of Estes Park, The City Of Fort Collins, The City Of Longmont, The City Of Loveland, And Platte River Power Authority For Demand

Side Management And Distributed Energy Resource Program Partnership

This is an administrative action item. An Intergovernmental Agreement (IGA) for Demand Side Management (DSM) and Distributed Energy Resource (DER) Program Partnership has been mutually drafted by the staff of Platte River Power Authority (PRPA) and the Municipalities of Estes Park, Fort Collins, Longmont and Loveland. The PRPA Board of Directors unanimously adopted the IGA at the May 26, 2016 meeting and the Loveland Utilities Commission unanimously voted to recommend that Council approve the IGA at the June 15, 2016 meeting.

DSM and DER programs are currently budgeted for in the Water and Power budget. The IGA does not necessarily increase DSM or DER program costs, but it does provide a mechanism for increasing DSM and DER programming (thereby increasing costs). No DSM or DER programs would be contracted for in excess of funds appropriated and budgeted in the Water and Power budget.

**21. COMMUNITY PARTNERSHIP OFFICE (presenter: Alison Hade)
HSG AND CDBG RECOMMENDED ALLOCATIONS**

A Motion To Adopt Resolution R-52-2016 Approving the 2016 Grant Funding Recommendation of the Loveland Human Services Commission and the Loveland Affordable Housing Commission

This is an administrative action item. The Human Services Commission and Affordable Housing Commission considered 51 grant requests totaling \$1.38 million, and recommended funding 42 with allocations of \$550,411 for human services and \$299,516 for affordable housing and public facilities. The attached staff report describes how the commissions made their decisions.

**22. FINANCE (presenter: Theresa Wilson)
MAY 2016 FINANCIAL REPORT**

This is an information only item. The Snapshot Report includes the City’s preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending May 31, 2016.

**23. CITY MANAGER (presenter: Alan Krcmarik)
MAY 2016 INVESTMENT REPORT**

This is an information only item. The budget projection for investment earnings for 2016 is \$2,199,328. On the portfolio’s 2016 beginning balance this equates to an annual interest rate of 1.02%. Based on the May monthly report, the estimated yield on the fixed income securities held by USBank was at 1.26%, for total assets the yield was 1.11%. For the year-to-date, total earnings of \$861,530 have been posted to City fund accounts. U.S. short-term Treasury interest rates rose again in May; the portfolio’s change in unrealized gain for the year-to-date was down to \$1.42 million. The end of May portfolio market value is estimated to be \$217.8 million. The total market value of the portfolio is now higher than the end of 2015 by about \$400,000. The peak amount for the portfolio was reached before the 2013 flood when it had an estimated market value of \$226.3 million.

END OF CONSENT AGENDA

(7:05) CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

(7:15) 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

- (7:25) 24. **YOUTH ADVISORY COMMISSION** (presenters: Beth Gudmestad & YAC Members)
PUBLIC HEARING
ELECTRONIC SMOKING DEVICE RESTRICTIONS
Option 1. A Motion To Approve On First Reading, An Ordinance Amending Chapter 7.40 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Indoor Areas Within City Owned Facilities
Option 2. A Motion To Approve On First Reading, An Ordinance Amending Sections 7.40.020 And 7.40.030 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Public Places
This is a legislative action item providing two alternative and mutually exclusive ordinances to prohibit the use of electronic smoking devices in public places. The Youth Advisory Commission Ordinance seeks to treat all emissions from electronic smoking devices the same as conventional tobacco smoke and the Council Directed Ordinance seeks to prohibit emissions from electronic smoking devices only within City buildings.
- (8:00) 25. **CITY ATTORNEY** (presenter: Tami Yellico)
PUBLIC COMMENT
SALES TAX EXEMPTION ON PRESCRIPTIONS FOR ANIMALS
An Ordinance Amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code Creating a New Sales Tax Exemption Regarding Prescriptions for Animals.
This is a legislative action item to consider amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code to specifically exempt Prescriptions for Animals from the City's sales tax.
- (8:45) 26. **PUBLIC WORKS** (presenters: Leah Browder, Steve Southard and Tim Brown)
PUBLIC HEARING
GOLF CAR CODE AMENDMENT
A Motion To Approve On First Reading, An Ordinance To Amend The Loveland Municipal Code With Respect To The Authorization And Regulation Of Golf Cars On Certain Public Streets Within The City Of Loveland
This is a legislative action item. During the City Council Meeting on March 15, 2016 it was requested that bollards within a City emergency access path be adjusted to allow privately-owned golf carts to travel to The Olde Course. In order to implement the City Council's preferred approach as interpreted by staff, as simple an amendment as possible to the Municipal Code to allow golf car travel to Loveland's municipal golf courses is recommended. Estimated costs to adjust bollard locations are \$5,000. These funds will be identified within the Public Works Project Engineering budget. Should funding be required to secure an alternate entry point to replace the currently used private Vista Verde gate access, a supplemental appropriation may be necessary.
- (9:15) 27. **CITY ATTORNEY** (presenter: Tami Yellico)

LITIGATION REGARDING UTILITY EASEMENTS

Discussion and Staff Direction Regarding Litigation for Utility Easements and Possible Executive Session and/or Negotiations

This is an administrative action item. City Council may be asked to consider formal action by motion, to direct staff with regard to litigation and/or a potential Executive Session, to consider possible litigation and/or negotiation for utility easement quiet title actions.

(9:30) 28. CITY ATTORNEY (presenter: Tami Yellico)

BUCK 2ND LLP NEGOTIATION DIRECTION

A Motion to go into Executive Session for the Purpose of Legal Advice, Negotiations, and Staff Direction in Buck 2nd LLP v City of Loveland and Giuliano & Father Construction, Inc. and Giuliano Addition, LLLP v City of Loveland. This is an administrative action to allow for receiving legal advice and to discuss matters subject to negotiation. In Executive Session, City Council can provide guidance regarding negotiations concerning the lawsuit of Buck 2nd v City of Loveland and Giuliano & Father Construction v City of Loveland for the purpose of negotiations, possible settlement, or court ordered mediation.

(9:45) 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

AGENDA ITEM: 2
MEETING DATE: 7/5/2016
TO: City Council
FROM: Julia Holland, Human Resources
PRESENTER: Julia Holland, Director of Human Resources

TITLE:

A Resolution of the Loveland City Council regarding the compensation of the Municipal Judge Gerellen Joneson.

RECOMMENDED CITY COUNCIL ACTION:

Motion to adopt Resolution as recommended.

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 is an administrative action regarding compensation of the Municipal Judge. At the direction of City Council, the salary for the Municipal Judge shall receive a three and one-half percent (3.5%) merit increase beginning on July 1, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

Merit pool for 2016 previously approved by council was 3.5%

BACKGROUND:

On June 28, 2016, City Council conducted its annual evaluation of Judge Gerellen Joneson and City Council directed that the annual base salary for the Municipal Judge be increased by three and on-half percent (3.5%).

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution

RESOLUTION #R- _____-2016**A RESOLUTION OF THE LOVELAND CITY
COUNCIL REGARDING THE COMPENSATION
OF THE MUNICIPAL JUDGE**

WHEREAS, on April 21, 2015, the City of Loveland (the “City”) and Gerellen R. Joneson entered into an Agreement appointing Gerellen R. Joneson (“Joneson”) as Loveland’s Municipal Judge effective April 21, 2015 (the “Agreement”); and

WHEREAS, on June 28, 2016, pursuant to the terms of the Agreement and Loveland City Charter Section 9-2(c), the Loveland City Council (“City Council”) conducted its annual evaluation of Joneson; and

WHEREAS, pursuant to such evaluation City Council desires to increase Joneson’s compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO that:

Section 1. Joneson’s compensation for 2016 shall be increased by three and one-half percent (3.5%) of Joneson’s current annual base salary effective July 1, 2016.

Section 2. Except as amended by this Resolution Joneson’s compensation and benefits as set forth in the Agreement shall remain unchanged and in full force and effect.

Section 3. The Agreement, as amended by this Resolution is hereby reaffirmed and ratified.

Section 4. Adequate cash reserves have been and shall be placed irrevocably in the City budget to be held for any severance payment made necessary pursuant to the terms of the Agreement.

Section 5. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 3
MEETING DATE: 7/5/2016
TO: City Council
FROM: Julia Holland, Human Resources
PRESENTER: Julia Holland, Director of Human Resources

TITLE:

A Resolution of the Loveland City Council regarding the compensation of the City Attorney Tami Yellico.

RECOMMENDED CITY COUNCIL ACTION:

Motion to adopt Resolution as recommended.

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 is an administrative action regarding compensation of the City Attorney. At the direction of City Council, the salary for the City Attorney shall receive a three and one-half percent (3.5%) merit increase beginning on July 1, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

Merit pool for 2016 previously approved by council was 3.5%

BACKGROUND:

On June 28, 2016, City Council conducted its annual evaluation of City Attorney Tami Yellico and City Council directed that the annual base salary for the City Attorney be increased by three and on-half percent (3.5%).

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution

RESOLUTION #R- _____-2016

**A RESOLUTION OF THE LOVELAND CITY
COUNCIL REGARDING THE COMPENSATION
OF THE CITY ATTORNEY**

WHEREAS, on November 18, 2014, the City of Loveland (the “City”) and Tami Yellico entered into an Agreement appointing Tami Yellico (“Yellico”) as Loveland’s City Attorney effective January 5, 2015 (the “Agreement”); and

WHEREAS, on June 28, 2016, pursuant to the terms of the Agreement and Loveland City Charter Section 9-1(g), the Loveland City Council (“City Council”) conducted its annual evaluation of Yellico; and

WHEREAS, pursuant to such evaluation City Council desires to increase Yellico’s compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO that:

Section 1. Yellico’s compensation for 2016 shall be increased by three and one-half percent (3.5%) of Yellico’s current annual base salary effective July 1, 2016.

Section 2. Except as amended by this Resolution Yellico’s compensation and benefits as set forth in the Agreement shall remain unchanged and in full force and effect.

Section 3. The Agreement, as amended by this Resolution is hereby reaffirmed and ratified.

Section 4. Adequate cash reserves have been and shall be placed irrevocably in the City budget to be held for any severance payment made necessary pursuant to the terms of the Agreement.

Section 5. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 4
MEETING DATE: 7/5/2016
TO: City Council
FROM: Julia Holland, Human Resources
PRESENTER: Julia Holland, Director of Human Resources

TITLE:

A Resolution confirming the appointment of Steve Adams as City Manager for the City of Loveland and approving an Employment Agreement effective July 1, 2016.

RECOMMENDED CITY COUNCIL ACTION:

Motion to adopt the resolution confirming the appointment of Steve Adams as City Manager effective July 1, 2016 and to authorize the Mayor to execute an employment agreement on terms and conditions consistent with Council's direction. City Council may call an executive session relating to the employment of the City Manager and the associated employment agreement as authorized for personnel matters, matters that may be subject to negotiations, and for legal advice pursuant to the Colorado Open Meetings Law in CRS § 24-6-402(4)(b), (4)(e), (4)(f) and (4)(g) and by City Charter Sections 4-4(c)(1), (c)(3), (c)(5) and (c)(6)

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action.
3. Adopt a modified action. Council may determine further negotiation is necessary, which may include the need for an executive session.
4. Refer back to staff for further development and consideration.

SUMMARY:

This is an administrative action to adopt the resolution confirming the appointment of Steve Adams as City Manager effective July 1, 2016 and to authorize the Mayor to execute an employment agreement on terms and conditions consistent with Council's direction. The City Manager appointment was made by motion on June 28, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

If final employment agreement expenses are more than previous agreement the impact will be negative.

BACKGROUND:

On June 28, 2016, Council appointed Steve Adams as the City Manager, effective July 1, 2016. Consistent with council direction, negotiations have been initiated and Mr. Adams is in agreement with the terms and conditions of the proposed employment agreement. Council may

authorize the Mayor to execute the proposed employment agreement or conduct additional negotiations with the appointed City Manager, Steve Adams.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution

RESOLUTION #R-_____-2016

A RESOLUTION CONFIRMING THE APPOINTMENT OF STEVE ADAMS AS CITY MANAGER FOR THE CITY OF LOVELAND AND APPROVING AN EMPLOYMENT AGREEMENT EFFECTIVE JULY 1, 2016

WHEREAS, Section 8-1 of the Loveland City Charter provides that the City Council shall appoint a City Manager to serve at the pleasure of the Council; and

WHEREAS, at a meeting on June 28, 2016, the City Council by motion appointed Steve Adams as City Manager for the City of Loveland; and

WHEREAS, the City Council desires reduce to writing its' appointment of Steve Adams as the City Manager and set forth the terms and conditions of Steve Adams' appointment by the City Council as the Loveland City Manager in the City Manager Employment Agreement attached here to as **Exhibit A** and incorporated herein by reference ("the Employment Agreement").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, that:

Section 1. Pursuant to City Charter Section 8-1, the appointment by the City Council of Steve Adams to the position of City Manager for the City of Loveland is hereby confirmed effective July 1, 2016, subject to the terms and conditions of the Employment Agreement.

Section 2. The attached Employment Agreement is hereby approved and the Mayor and the City Clerk are authorized to execute the Employment Agreement on behalf of the City.

Section 3. Adequate cash reserves shall be deemed irrevocably pledged in the City budget to be held for any severance payment to Steve Adams made necessary pursuant to the terms of the Employment Agreement.

Section 4. This Resolution shall go into effect as of the date and time of its adoption.

SIGNED this _____ day of July, 2016.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

MINUTES
LOVELAND CITY COUNCIL MEETING
TUESDAY, MAY 17, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

6:00 p.m. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Fogle, Krenning, Ball, Johnson, Overcash, and Clark. Councilor Shaffer arrived at 6:04 p.m. and Councilor McKean arrived at 6:15 p.m. Mayor Gutierrez was not present.

The Proclamation declaring May 21, 2016 as Kids To Parks Day was presented by Councilor Krenning and received by Parks and Recreation Director, Elizabeth Anderson.

The Proclamation declaring May 15-21, 2016 as National Police Week was presented by Councilor Clark and received by Officer Tim Yunger.

The Proclamation declaring May as Motorcycle Safety Awareness Month was presented by Councilor Johnson and received by Michelle Brassell, Leather and Lace Club.

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.

Councilor McKean requested that item 9 be removed from the consent agenda and considered on the regular agenda.

Councilor Shaffer moved to approve items 1-8 and item 13 on the Consent Agenda with the exception of item 9. The motion, seconded by Councilor Clark, 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 April 26, 2016 Study Session and the May 3, 2016 Regular Meeting Minutes was approved.

This is an administrative action item to approve the City Council minutes for the April 26,

2016 study session and the May 3, 2016 regular meeting.

2. **CITY MANAGER** (presenter: Bill Cahill)
APPOINTMENTS TO THE PLANNING COMMISSION
 1. A motion to appoint David Cloutier to the Planning Commission for a partial term effective until December 31, 2016 was approved.
 2. A motion to appoint Jamie Roskie to the Planning Commission for a full term effective until December 31, 2018 was approved.
 This is an administrative item appointing members to Planning Commission.

3. **CITY MANAGER** (presenter: Bill Cahill)
APPOINTMENT TO THE YOUTH ADVISORY COMMISSION
 A motion to make the following appointments to the Youth Advisory Commission for the School Year 2016-2017:
 Reappointments as YAC Commissioners: Oliver Byles, Jack Crowley, Nick Jacoby, Mark McKenna, Caitlin Parets, Stirling Pettit, Lorenzo Scalise, and Hattie Volk.
 Appointments as YAC Commissioners: Zoe Keeler, Brandon Lindsey, Ava McQuade, and Megan Valliere
 Appointments as YAC Alternates: Travis Pflock, Heather Price, Lincoln Solt, and Lauryn Starke was approved.
 This is an Administrative Item recommending appointments of members for the Youth Advisory Commission.

4. **PUBLIC WORKS** (presenter: Kevin Gingery)
AMENDING FLOOD PLAIN BUILDING CODE
 A Motion To Approve On Second Reading, Ordinance #6012 Amending The Loveland Municipal Code At Chapter 15.14.020 Regarding Definitions For The Floodplain Building Code was approved.
 This is an administrative action to simplify two definitions and add seven additional definitions to the Floodplain Building Code chapter. This action has no cost associated with it. The ordinance was approved unanimously on first reading by City Council on May 3, 2016.

5. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)
FAIRGROUNDS 8TH ADDITION ANNEXATION
 1. A Motion To Approve On Second Reading, Ordinance #6013 Approving The Annexation Of Certain Territory To The City Of Loveland, Colorado, To Be Known And Designated As "Fairgrounds Eighth Addition" To The City Of Loveland was approved.

 2. A Motion To Approve On Second Reading, Ordinance #6014 Amending Section 18.04.060 Of The Loveland Municipal Code, The Same Relating To Zoning Regulations For "Fairgrounds Eighth Addition" To The City Of Loveland was approved.
 This is a public hearing to consider the following items on second reading: A legislative action to adopt an ordinance to annex 4 acres of City owned property to be known as the Fairgrounds Eighth Addition; and A quasi-judicial action to zone the 4 acres to the I-Developing Industrial District. The property is located immediately west of the existing Loveland Fire Training Facility and east of S. Roosevelt Avenue, approximately 1200 feet north of 14th Street SW. The applicant is the City of Loveland. The ordinance was approved unanimously on first reading by City Council on May 3, 2016.

6. **ECONOMIC DEVELOPMENT** (presenter: Cindy Mackin)

AIRPORT MARKETING

A Motion To Approve On Second Reading, Ordinance #6015 Enacting A Supplemental Budget And Appropriation To The 2016 Northern Colorado Regional Airport Budget For Airport Marketing was approved.

This is an administrative action. The ordinance provides \$50,000 from the Lodging Tax Fund to support the Northern Colorado Regional Airport marketing and PR efforts through a comprehensive marketing campaign which would include advertising. The funding is from reserves in the Lodging Tax Fund and reduces the flexibility for funding other future events or programs. The current balance of the Lodging Tax reserves is \$781,053. The ordinance was approved unanimously on first reading by City Council on May 3, 2016.

7. NORTHERN COLORADO REGIONAL AIRPORT (presenter: Jason Licon)

PUBLIC COMMENT

AIRPORT IGA AMENDMENTS

1) A Motion To Approve On First Reading, An Ordinance For The First Amendment To The Amended And Restated Intergovernmental Agreement For The Joint Operation Of The Fort Collins-Loveland Municipal Airport, To Be Henceforth Known As The Northern Colorado Regional Airport And Ratification Of Previous Actions was approved.

2) A Motion To Approve On First Reading, An Ordinance Amending Portions Of The Loveland Municipal Code Concerning The Northern Colorado Regional Airport was approved.

This is an administrative action to adopt two ordinances involving the Northern Colorado Regional Airport Commission. The first ordinance amends the Amended and Restated Intergovernmental Agreement for the joint operation of the Airport for the Northern Colorado Regional Airport Commission to delegate, within specific parameters, the authority for the Airport Commission to enter into longer lease agreements, grant agreements, and make expenditures for Airport needs from appropriated, but unassigned reserves. This ordinance also corrects a procedural defect by ratifying all actions taken pursuant to the Airport IGA dated January 22, 2015. The second ordinance changes certain other provisions of the City Code related to the Airport, particularly the delegation of powers and the change of the airport name.

8. CITY MANAGER (presenter: Alan Krcmarik)

PUBLIC COMMENT

INVESTMENT POLICY CORRECTION

A Motion To Approve On First Reading, An Ordinance Amending The City Of Loveland Investment Policy was approved.

This is a legislative action to consider a technical amendment to correct a prior amendment to the City's Investment Policy. In the fall of 2015, the Citizens' Finance Advisory Commission ("CFAC") reviewed the Investment Policy and recommended a few changes to the City Council. Council adopted the changes on second reading on January 5, 2016. The form of the amendments presented to Council did not capture all of the limitations on the investments allows under Section VIII. of the policy. The CFAC intended to limit investments by an expressed dollar amount **and** as a percentage of the total portfolio. As previously adopted the percentage limitations were inadvertently omitted.

9. COMMUNITY PARTNERSHIP OFFICE (presenter: Alison Hade)

HOUSE OF NEIGHBORLY SERVICE REQUEST

This item was considered on the Regular Agenda.

ADDENDUM ITEM

13. **CITY CLERK** (presenter: Terry Andrews)
SPECIAL MEETING ON MAY 24, 2016
A Motion To Call For A Special Meeting Immediately Following The Study Session On May 24, 2016. The Purpose Of The Special Meeting Is To Update City Council On The South Catalyst Project. An Executive Session May Be Held was approved.
 An Executive Session may only be called at a Regular or Special Meeting. Staff would request an opportunity to update Council on the South Catalyst Project, which may require an executive session.

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.

Albert Gill, Manager of World Beverage in Loveland, requested a change to the Loveland Municipal Code, 8.08.030(k) regarding tastings to mirror the Colorado Liquor Code 12-47-301.(10)(c)XI which would change tastings from 52 days to 104 days.

Bruce Croissant, 1629 Jackson Ave, spoke regarding a book titled "Evicted" regarding homelessness and poverty as well as Loveland, Larimer County and School District statistics.

Stacy Lynne, spoke regarding Loveland Police Department matters with the follow residents allotted time: John Medors, Loveland resident, Jeremy Myers, Holly Kennedy, Donna Medors, Virginia Farber, and Bill Mawhinney.

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

9. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alison Hade)
HOUSE OF NEIGHBORLY SERVICE REQUEST
 This is an administrative action item. House of Neighborly Service (HNS) is requesting that the City of Loveland subordinate the position of its Deeds of Trust to allow the agency to refinance two current loans that were incurred for the purchase and remodeling of the property located at 1511 East 11th Street. HNS purchased an office building in 2012, and in 2013, the City of Loveland provided grants and fee waivers for remodeling that were accompanied by restrictions that, if the agency sells the building within 20 years or discontinues providing a social service, the grants and fee waivers must be repaid.
Councilor Shaffer moved To Approve Resolution #R-36-2016 Approving Subordination Of Five Deeds Of Trust Held By The City Of Loveland Totaling One Million Ninety Thousand One Hundred Ninety Six Dollars Associated With Property Located At 1511 East 11th Street Owned By House Of Neighborly Service. The motion, seconded by Councilor McKean, carried with all councilors present voting in favor thereof.

10. **PARKS AND RECREATION** (presenter: Elizabeth Anderson)
CDOT RIGHTS OF WAY ON HWY 34
 This is an Administrative action item. The City of Loveland and the Colorado Department of Transportation (“CDOT”) seek a mutual decision that benefits both the City of Loveland and CDOT regarding the reconstruction of US 34. A Possession and Use Agreement (“Agreement”) will allow CDOT to move forward with the first phase of re-construction for US 34, in the Big Thompson Canyon. Construction package one includes the rock blasting to construct the new roadway alignment at the horseshoe curve west of VSMP. The Agreement will permit CDOT to move forward with construction prior to a final agreement on the value of the required Loveland right of way. Final plans and values will be determined in the next 90 days and will be presented to Council in July along with a formal intergovernmental agreement for construction and use of additional City property.
Councilor Shaffer moved To Approve Resolution #R-37-2016 Approving Possession And Use Agreement Between The City Of Loveland, Colorado And The Colorado Department Of Transportation For Public Rights Of Way For Construction On Highway 34 And Authorizing The City Manager To Execute The Agreement. The motion, seconded by Councilor McKean, carried with all councilors present voting in favor thereof.
11. **CITY ATTORNEY** (presenter: Tami Yellico)
PUBLIC HEARING
COUNTY ANIMAL SHELTER FEE WAIVERS
 This is an administrative action to consider approving an Ordinance Granting Larimer County An Exemption from Certain Capital Expansion Fees and other Development Fees for the Larimer County Animal Shelter Project.
 Staff will update City Council on discussions with Larimer County regarding waiving certain capital expansion fees (CEFs) and other impacts fees assessed to Larimer County by the City in the amount of approximately \$7,080 for the construction of a new animal shelter within the City and not to require reimbursement of such fees to the CEFs by the general fund or other fund. **Discussion ensued amending Exhibit A of the Ordinance to show the Storm Water Investment Fee at \$97,227.90 and the total Development Fees at \$208,455.90**
Councilor Shaffer moved To Approve On First Reading, the Amended Ordinance Granting Larimer County An Exemption From Certain Capital Expansion Fees And Other Development Fees For The Larimer County Animal Shelter Project And Authorizing The City Manager To Enter Into An Intergovernmental Agreement With The County For The Payment Of The Remainder Of The Fees. The motion, seconded by Councilor Krenning, carried with seven Councilors voting in favor and Councilor McKean voting in opposition.
12. **ECONOMIC DEVELOPMENT** (presenter: Susan Grafton)
REGIONAL TOURISM ACT (RTA) PROJECT
 This is an administrative action. The Go NoCO Board and the project team have been working on the terms and conditions for the four approval RTA projects since the end of 2015. The state Economic Development Commission (EDC) approved the projects and the state increment funding amount in November 2015 and provided additional guidance on terms and conditions in December of that year. The purpose of the possible Executive Session is to provide Council with an update on the current negotiations to develop strategy for negotiations, to instruct negotiators, and to determine positions relative to matters that may be subject to negotiations, and for the receipt of legal advice.
Councilor Shaffer moved that the City Council go into executive session to receive an update on current negotiations with the Go NoCO Board regarding Regional Tourism Act (RTA) Projects as authorized by Colorado Revised Statutes Section 24-

6-402(4)(e) and Loveland Charter Section 4-4(c)(1) concerning a matter that is subject to negotiations, to develop the City's negotiation positions and strategies, and to instruct the City's negotiators concerning those positions and strategies; and as authorized by Colorado Revised Statutes Section 24-6-402(4)(b) and Loveland Charter Section 4-4(c)(3) to receive legal advice from the City Attorney's Office at 8:40 p.m. The motion seconded by Councilor Clark, carried with all councilors present voting in favor thereof.

Council Reconvened at 9:45

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.

Overcash

Councilor Johnson was approved by Council to be the Loveland Housing Authority Board as Council Liaison.

Fogle

Shared the Notification of Larimer County Scientific Cultural Facilities District, in which 1/10th of \$.01 goes towards arts and science and will be on the November ballot.

CITY MANAGER REPORT

None

CITY ATTORNEY REPORT

None

ADJOURN

Hearing no further business to come before Council at this time, Mayor Pro Tem Fogle adjourned the meeting at 9:47 p.m. on May 17, 2016.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

John H. Fogle, Mayor Pro Tem

MINUTES
CITY COUNCIL REGULAR MEETING
TUESDAY, JUNE 7, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

6:00 p.m. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Gutierrez, Fogle, Krenning, Ball, Johnson, Overcash, Clark and McKean. Councilor Shaffer arrived at 6:04 p.m.

The Proclamation declaring June 20 – 24 2016 as “BIKE WEEK” was presented by Councilor Overcash and received by David Hollingsed, PEDAL.

The Proclamation honoring City Resident TOM BUCHANAN posthumously was read by Councilor McKean and received by Tom’s grandchildren.

INTRODUCTION OF POLICE CHIEF, BOB TICER

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. .

Councilor McKean requested that items 9 and 10 be removed from the consent agenda and considered on the regular agenda. Mayor Pro Tem Fogle requested that item 15 be removed from the consent agenda and placed after the Executive Session.

Councilor Shaffer moved to approve the Consent Agenda with the exceptions of items 9, 10 and 15. The motion, seconded by Councilor Clark, carried with all councilors present voting in favor thereof. Mayor Pro Tem Fogle indicated that he was identifying a recusal regarding item 11 because his wife is employed at the Maple Terrace Apartment project.

CONSENT AGENDA

**1. CITY CLERK (presenter: Terry Andrews)
APPROVAL OF MEETING MINUTES**

A Motion To Approve City Council Minutes For the May 10, 2016 Study Session was approved.

This is an administrative action item to approve the City Council minutes for the May 10,

2016 study session.

2. **CITY MANAGER** (presenter: Bill Cahill)
APPOINTMENT TO THE CITIZENS FINANCE ADVISORY COMMISSION
1. A motion to appoint Steve Olson to the Citizens' Finance Advisory Commission for a term effective until December 31, 2018 was approved.
 This is an administrative item appointing members to the Citizens' Finance Advisory Commission.

3. **NORTHERN COLORADO REGIONAL AIRPORT** (presenter: Jason Licon)
PUBLIC COMMENT
AIRPORT IGA AMENDMENTS
1) A Motion To Approve On Second Reading, Ordinance #6016 For The First Amendment To The Amended And Restated Intergovernmental Agreement For The Joint Operation Of The, Fort Collins-Loveland Municipal Airport, To Be Henceforth Known As The Northern Colorado Regional Airport And Ratification Of Previous Actions was approved.
2) A Motion To Approve On Second Reading, Ordinance #6017 Amending Portions Of The Loveland Municipal Code Concerning The Northern Colorado Regional Airport was approved.
 This is an administrative action to adopt two ordinances involving the Northern Colorado Regional Airport Commission. The first ordinance amends the Amended and Restated Intergovernmental Agreement for the joint operation of the Airport for the Northern Colorado Regional Airport Commission to delegate, within specific parameters, the authority for the Airport Commission to enter into longer lease agreements, grant agreements, and make expenditures for Airport needs from appropriated, but unassigned reserves. This ordinance also corrects a procedural defect by ratifying all actions taken pursuant to the Airport IGA dated January 22, 2015. The second ordinance changes certain other provisions of the City Code related to the Airport, particularly the delegation of powers and the change of the airport name.

4. **CITY MANAGER** (presenter: Alan Krcmarik)
PUBLIC COMMENT
INVESTMENT POLICY CORRECTION
A Motion To Approve On Second Reading, Ordinance #6018 Amending The City Of Loveland Investment Policy was approved.
 This is a legislative action to consider a technical amendment to correct a prior amendment to the City's Investment Policy. In the fall of 2015, the Citizens' Finance Advisory Commission ("CFAC") reviewed the Investment Policy and recommended a few changes to the City Council. Council adopted the changes on second reading on January 5, 2016. The form of the amendments presented to Council did not capture all of the limitations on the investments allows under Section VIII. of the policy. The CFAC intended to limit investments by an expressed dollar amount **and** as a percentage of the total portfolio. As previously adopted the percentage limitations were inadvertently omitted.

5. **CULTURAL SERVICES** (presenter: Bryan Zellmer)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION FOR CULTURAL DONATIONS
A Motion To Approve On First Reading, An Ordinance Enacting a Supplemental Budget and Appropriation to the 2016 City of Loveland Budget for the Foote Lagoon Concert Series, the Rialto Theater Center Arts & Education Programs and the Rialto Theater Center Cinema Series was approved.
 Donations have been received from Kaiser Permanente to fund the Foote Lagoon Series (\$20,000) and the Iva McKee Charitable Trust to fund the Arts & Education Programs

(\$28,000) and the Cinema Series (\$12,000). These programs would not be possible without these donations.

6. **MUNICIPAL COURT** (presenter: Geri Joneson)
PUBLIC COMMENT
COURT SURCHARGE FEES

A Motion To Approve On First Reading, An Ordinance To Amend Chapter 1.12.010, Subsection C, Of The Loveland Municipal Code To Include Municipal Court Justice Programs As A Recipient Of 30% Of The Total Surcharge Collected was approved.

This is an administrative item. In February, a committee reviewed the use of a surcharge that has funded Alternative Dispute Resolution Programs and more recently, Traffic Safety and Enforcement Programs. The committee agreed that Municipal Court Justice Programs were valuable sentencing alternatives that benefit offenders and the community. It was further agreed that funding could be achieved by allocating 30% of the total annual surcharge to Municipal Court Justice Programs. The remaining 70% would be allocated to Traffic Safety and Enforcement. This would be a simple redistribution of funds with no financial consequence nor impact to the budget.

7. **PUBLIC WORKS** (presenter: Jeff Bailey)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION BYRD DRIVE

A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Byrd Drive Roadway Connection was approved.

City Council approval is necessary to appropriate the funds to authorize the use of City of Loveland and Colorado Department of Transportation (CDOT) funds to construct the missing segment of Byrd Drive between Crossroads Blvd and Earhart Road. Council approved the Intergovernmental Agreement (IGA) at the May 6th, 2016 Council Session which accepted the CDOT funds and conditions to be used to construct the missing segment of roadway. The developer, Byrd Drive Development, LLC, will be responsible for constructing Byrd Drive by the time CDOT needs to remove the Frontage Road. This request is included in a development agreement that has been finalized with the developer.

Project Funds

CDOT Granted Funds	=	\$1,100,000.00
City Provided Project Funds	=	\$ 588,000.00
Anticipated Developer Funds	=	\$ 591,844.00

8. **CITY CLERK** (presenter: Terry Andrews)
PUBLIC COMMENT
DDA ELECTION

1) A Motion To Approve Resolution #R-38-2016 Of The Loveland City Council Authorizing The City Clerk To Notify The Larimer County Clerk And Recorder Of The City Of Loveland's Intention To Participate In The Statewide Election To Be Held On November 8, 2016, as a coordinated election with the County was approved.

2) A Motion To Approve On First Reading, An Ordinance Calling for a Special Election To Be Held November 8, 2016 Which Shall Be Conducted As A Coordinated Election With The Larimer County Clerk and Recorder and, To The Extent Necessary To So Conduct That Election As A Coordinated Election, The Colorado Uniform Election Code Of 1992 Shall Govern was approved.

The proposed resolution is an administrative action authorizing the City Clerk to notify the Larimer County Clerk and Recorder of the City's intent to participate in a coordinated election with the County on November 8, 2016.

The proposed Ordinance is a legislative action needed to allow the City to conduct a special election on November 8, 2016 as a coordinated election with the Larimer County Clerk and Recorder.

9. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alison Hade)
CDBG REALLOCATION
 This item was considered on the Regular Agenda

10. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alison Hade)
HUMAN SERVICES GRANT ALLOCATION
 This item was considered on the Regular Agenda

11. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alan Krcmarik)
PAB ASSIGNMENT MAPLE TERRACE
A Motion To Approve Resolution #R-41-2016 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2016 was approved.
 This is an administrative action. This Resolution will authorize the assignment of all of the City's 2016 private activity bond allocation in the amount of \$3,649,150 to the Housing Authority of the City of Loveland ("HACOL" or the "Authority") for the purpose of issuing bonds or a revenue note for the 130-unit rental housing Maple Terrace Apartments Project (the "Project") to be acquired, rehabilitated, and equipped by Maple Terrace Investors, an affiliate of GHC Housing Partners. The private activity bond assignment is not a cash contribution. It allows the funding for an eligible project to come from the issuance of bonds, a loan, or a note. The Project is an affordable housing project and meets the federal and state requirements for the use of Private Activity Bond financing and federal tax credits. The City's 2016 allocation will be combined with other allocations to reach a total principal amount of \$14 million. The other sources will be from an allocation from the state-wide balance, an assignment of allocation from Larimer County, and from a previously assigned allocation from the City of Loveland in 2014. The City of Loveland will not have any financial responsibility for the repayment of the bonds or note issued for the project. The Project will be responsible to make the bond or note payments.

12. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alan Krcmarik)
TEFRA MAPLE TERRACE
A Motion To Approve Resolution #R-42-2016 Approving The Issuance Of A Multifamily Housing Revenue Note By The Housing Authority Of The City Of Loveland was approved.
 This is an administrative action approving a tax-exempt financing of not more than \$14,000,000 of a Multi-family Revenue Note by the Housing Authority of the City of Loveland. The proceeds of the revenue note will be loaned to Maple Terrace Investors LLC, an affiliate of GHC Housing Partners, to provide funds to finance a portion of the cost of acquisition, rehabilitation, and equipping of a 130-unit multi-family rental project located at 574 E. 23rd Street in Loveland. Rent proceeds and other revenues of the Project will be the source of repayment for the Note. In no event shall the City of Loveland or any other political subdivision of the State of Colorado be liable for the repayment of the Note nor shall the Note constitute a debt of the State of Colorado or the City of Loveland or any other such political subdivision.

13. **MUNICIPAL COURT** (presenter: Vince Junglas)
TEEN COURT IGA WITH THOMPSON SCHOOL DISTRICT
A Motion To Approve Resolution #R-43-2016 Approving An Amended Intergovernmental Agreement Between The City Of Loveland, A Home Rule Municipality, And The Thompson School District R-2J For Operation Of The Loveland Municipal Teen Court Program was approved.

This is an administrative action to consider a resolution approving an amended Intergovernmental Agreement (“IGA”) for operation of a municipal Teen Court program. Teen Court is a joint effort between the City of Loveland Judicial Branch (Municipal Court), Executive Branch (City Attorney) and the Thompson School District (“the District”). The amended IGA between the City and the District includes operational provisions and provides funding for the program, the City will contribute an amount not to exceed \$5,000 for the operation of the program in the 2016-2017 school year. The funds will cover a portion of the District’s administrative, operational, and personnel costs incurred in connection with the program. The District has approved the amended IGA. Partial funds in the amount of \$3000 for the aforementioned purpose are included in the 2016 Municipal Court Budget.

Partial funds in the amount of three thousand (\$3,000) dollars per year have been appropriated as part of the 2016 Municipal Court Budget. An additional two thousand (\$2,000) dollars will be paid out of the Loveland Municipal Court Professional Services Account, 100-13-115-0000-43450, which has a current balance of nine thousand one hundred (\$9,100) dollars. Payment to the District occurs in two installments of two thousand five hundred (\$2,500) dollars for each semester.

14. **LOVELAND POLICE DEPARTMENT** (presenter: Tim Brown)
JAG GRANT
A Motion For Approval Of Staff Application For A Federal Justice Assistance Grant was approved.
 This is an administrative action. The Federal JAG grant of \$16,451 for the Police Department will fund overtime for Detectives in the Special Investigations Unit at the Northern Colorado Drug Task Force. There is no match.
15. **HUMAN RESOURCES** (presenter: Julia Holland)
SPECIAL MEETING ON JUNE 28, 2016
This item was considered on the Regula Agenda.
16. **HUMAN RESOURCES** (presenter: Julia Holland)
WORKERS’ COMPENSATION RENEWAL
A Motion to award the City’s Workers’ Compensation Coverage to Pinnacol Assurance and Authorize the City Manager to enter into a contract with Pinnacol, execute security and collateral agreements required in connection with the contract, and establish a purchase order in the Amount of \$1,350,000 was approved.
 This is an administrative action to authorize the City Manager to enter into contract with Pinnacol Assurance for July 2016 through July 2017 Workers’ Compensation coverage, which includes premium costs and claims payable from prior years. The City’s insurance broker took the Workers’ Compensation coverage to market for bids. Pinnacol was the only carrier to provide a quote.
17. **CITY MANAGER** (presenter: Jeff Bailey)
TRAIN HORN NOISE
A Motion To Authorize Official City Comment On The Train Horn Rule To Be Published On The Federal Railroad Administration Website was approved.
 This is an administrative action. 49 CFR part 222 – Use of Locomotive Horns at Public Highway-Rail Grade Crossings (Rule), also known as the Train Horn Rule, was opened for public comment on March 7, 2016, by the Federal Railroad Administration (FRA). The attached letter contains comments directly related to train horn impacts upon the city and recommends avenues for relief. Staff is requesting that Council adopt the language in the attached letter from City Manager Cahill as the City’s formal comments on the Rule. After approval, the comment letter will be uploaded to the FRA’s comment website for their

review and consideration. The deadline for providing public comment on the Rule is July 5, 2016.

**18. ECONOMIC DEVELOPMENT (presenter: Mike Scholl)
ENA WITH BRINKMAN**

A Motion Approving The First Amendment to the Exclusive Negotiation Agreement With Brinkman Capital, LLC For The South Catalyst Project And Authorizing The Execution Of Said Amendment was approved.

This is an administrative action directing the City Manager to sign the amendment to the Exclusive Negotiation Agreement (ENA) with the Brinkman Capital, LLC (Brinkman) for the South Catalyst Project. The initial agreement (see attached) was on the Council agenda for February 2, 2016, however the meeting was cancelled due to a snow storm and the final approval was delayed by two weeks. The First Amendment to the Exclusive Negotiation Agreement (see attached) reflects the initial two week delay to the start of the ENA; and changes the deadline for the completion of the preliminary terms of the agreement from August 2, 2016 to August 16, 2016. Because there is no administrative extension allowed under the original agreement, this amendment is required to go before City Council for consideration.

**19. FINANCE (presenter: Brent Worthington)
APRIL 2016 FINANCIAL REPORT**

This is an information only item. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending April 30, 2016.

**20. CITY MANAGER (presenter: Alan Krcmarik)
APRIL 2016 INVESTMENT REPORT**

This is an information only item. The budget projection for investment earnings for 2016 is \$2,199,328. On the portfolio's 2016 beginning balance this equates to an annual interest rate of 1.02%. Based on the April monthly statement, the estimated yield on the fixed income securities held by USBank was at 1.28%, for total assets the yield was 1.16%. For year-to-date, total earnings of \$551,093 were posted to City fund accounts. U.S. short-term Treasury interest rates rose slightly in April; the portfolio's change in unrealized gain for the year-to-date was \$1.74 million. The end of April portfolio market value is estimated to be \$217.9 million. The total market value of the portfolio is now higher than the end of 2015 by about \$646,800. 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.

None

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

9. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alison Hade)
CDBG REALLOCATION

This is an administrative action by the Affordable Housing Commission to recommend to City Council reallocation of \$18,930 of 2015-2016 Community Development Block Grant (CDBG) funds to Elderhaus Adult Day Program to purchase HVAC equipment for its new day center. These CDBG funds became available due to recipient Live the Victory, dba The Matthews House's (Matthews House) inability to use the funds awarded to create new office space at the House of Neighborly Service Life Center. Funds were allocated by the U.S. Department of Housing and Urban Development (HUD) and were initially appropriated in the 2015 City Budget and rolled over to the 2016 City Budget. Council asked questions regarding the impact to the program and the City. There were no public comments. **Councilor Shaffer moved To Approve Resolution #R-39-2016 Approving the Grant Funding Recommendation of the Loveland Affordable Housing Commission for the Reallocation of Certain Community Development Block Grant Funds. The motion, seconded by Councilor Johnson, carried with all councilors present voting in favor thereof.**

10. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alison Hade)
HUMAN SERVICES GRANT ALLOCATION

This is an administrative action to consider the 2016 grant allocation recommendation of the Human Services Commission totaling \$550,411. Council requested Staff bring back a report outlining the legal ramifications to the city if they approve accept the funds or chose not to accept the funds. Also, Council asked for a greater understanding regarding the "exception" period and what that means in understandable terms. There were no public comments. **Councilor Clark moved to postpone consideration of Resolution #R-40-2016 Approving the 2016 Grant Funding Recommendation of the Loveland Human Services Commission to July 5, 2016. The motion, seconded by Councilor Krenning, carried with five councilors voting in favor and councilors Shaffer, Johnson, Gutierrez and Ball voting against.**

21. **CITY ATTORNEY** (presenter: Tami Yellico)
PUBLIC HEARING
COUNTY ANIMAL SHELTER FEE WAIVERS

This is an administrative action to consider approving an Ordinance Granting Larimer County an Exemption from Certain Capital Expansion Fees and other Development Fees for the Larimer County Animal Shelter Project.

Staff will update City Council on discussions with Larimer County regarding waiving certain capital expansion fees (CEFs) and other impacts fees assessed to Larimer County by the City in the amount of approximately \$92,307.90 for the construction of a new animal shelter within the City and not to require reimbursement of such fees to the CEFs by the general fund or other fund. There were no public comments. **Councilor Shaffer moved to Approve On Second Reading, Ordinance #6019 Granting Larimer County An Exemption From Certain Capital Expansion Fees And Other Development Fees For**

The Larimer County Animal Shelter Project And Authorizing The City Manager To Enter Into An Intergovernmental Agreement With The County For The Payment Of The Remainder Of The Fees. The motion, seconded by Councilor Krenning, carried with seven Councilors voting in favor and councilors Clark and McKean voting in opposition.

22. **DEVELOPMENT SERVICES**
PUBLIC HEARING

(presenter: Kerri Burchett)

WATERS EDGE ADDITION ANNEXATION

This is a public hearing to consider the following items on first reading:

1) Legislative actions to adopt a resolution and ordinance to annex 82.6 acres of property to be known as the Waters Edge Addition; and 2) A quasi-judicial action to zone the 82.6 acres to R1 Developing Low Density Residential District. The property is located north of 28th Street SW, south of Ryan's Gulch Reservoir and west of Taft Avenue and the Lakeside Terrace Subdivision. The applicant is Lynda Beierwaltes with Luxor, LLC.

Senior Planner, Kerri Burchett introduced the project to Council. Bill Bierwaltes, 1907 Gail Ct, representing the applicant, gave a presentation. Mayor Gutierrez announced all of the evidence that had been received and generated by the applicant, city and public be made a part of the record. Mayor Gutierrez opened the public hearing for all three items to be considered at 7:07 p.m. Dick Mallot, 2765 McKenzie Ct, spoke in opposition to the ordinances; Dan O'Donnell, 2633 McKenzie Ct, spoke in opposition; Jim Willard, 2665 McKenzie Ct. spoke in opposition; Victoria Gardner, spoke in opposition; Carl Flack, 2109 Flora Ct, spoke in opposition; Julie Harden, 2673 Amber Dr, spoke in opposition; Rod Straub, 2792 Amber Dr. spoke in opposition; Susan Kessler, 2768 Amber Dr. spoke in opposition; Steve Olson asked Council to consider alternative ingress and egress at the time the development is considered; Jim Akins, 1714 McKenzie Ct. spoke in opposition; Gordon Bretzing, 2613 McKenzie spoke in opposition; Connie Winters, 2868 Sally Ann Dr. spoke in opposition; Gene Keys, 2791 Amber Dr. spoke in opposition. All of the speakers asked Council to consider purchasing the land for open space for the asking price from the developer. Consensus of Council, was for the developer and the homeowners to explore the possibilities of a joint purchase between the neighboring homeowners and the developer with a possible match of some kind from the City. Roger Weideman, asked Council to ensure at least 50% of the total cost of the open space be provided by the adjacent homeowners, before using public dollars to match the funds to purchase land for open space. Mayor Gutierrez closed the public hearing at 8:22 p.m.

Councilor Shaffer moved To Approve Resolution #R-44-2016 Concerning The Annexation To The City Of Loveland, Colorado, Of A Certain Area Designated As "Waters Edge Addition" More Particularly Described Herein, And Setting Forth Findings Of Fact And Conclusions Based Thereon As Required By The Colorado Constitution And By State Statute. The motion, seconded by Councilor Krenning carried with all councilors present voting in favor thereof.

Councilor Shaffer moved to Approve On First Reading, An Ordinance Approving The Annexation Of Certain Territory To The City Of Loveland, Colorado, To Be Known And Designated As "Waters Edge Addition" To The City Of Loveland. The motion, seconded by Councilor Krenning, carried with all councilors present voting in favor thereof.

Councilor Shaffer moved to To Approve On First Reading, An Ordinance Amending Section 18.04.040 Of The Loveland Municipal Code, The Same Relating To Zoning Regulations For "Waters Edge Addition" To The City Of Loveland. The motion, seconded by Councilor Krenning carried with all councilors present voting in favor thereof.

Councilor Shaffer moved to place consideration on second reading of the Annexation and Zoning ordinances for Waters Edge until August 2, 2016. The

motion, seconded by Councilor McKean, carried with all councilors present voting in favor thereof.

Councilor Krenning moved to have Councilor Shaffer moved to run the June 14, 2016 Study Session of City Council. The motion seconded by Councilor Overcash, carried with all councilors present voting in favor thereof.

Councilor krenning moved to extend the meeting until 12:00 a.m. The motion, seconded by Councilor McKean, carried with seven councilors voting in favor and Councilor Ball and Gutierrez voting against.

23. **CITY ATTORNEY** (presenter: Tami Yellico)
MUNICIPAL JUDGE PERSONNEL MATTERS

This is an administrative action. The purpose of the Executive Session is to discuss personnel matters concerning the performance, pay, and benefits of the Municipal Judge. Councilor Shaffer moved to go into Executive Session related to personnel matters including performance, pay, and benefits of the Municipal Judge as authorized by C.R.S § 24-6-402(4)(f) and Loveland City Charter section 4-4(c)(5) at 9:29 p.m. The motion seconded by Councilor Johnson, carried with all councilors present voting in favor thereof.

24. **HUMAN RESOURCES** (presenter: Julia Holland)
CITY COUNCIL EMPLOYEE PERFORMANCE EVALUATIONS

This is an administrative action for Council to conduct an executive session on June 7, 2016, for the annual review of performance for the City Attorney, Municipal Judge and City Manager. Councilor Shaffer moved to call an executive session for the purpose of considering personnel matters, specifically the annual performance evaluations of the City Manager, City Attorney and the Municipal Judge, as authorized for personnel matters to include review, evaluation, deliberation, and discussion regarding annual evaluations of these Council employees as authorized by CRS section 24-6-402(4)(f)(I) and Charter Section 4-4(c)(5); and to consider and discuss documents and materials related to these personnel matters that are not subject to public inspection under the Colorado Open Records Act as authorized by C.R.S. § 24-6-402-(4)(g) and Charter Section 4-4(C)(6) at 9:29 p.m. The motion, seconded by Councilor Fogle, carried with all councilors present voting in favor thereof. Consultant, Jo Matoon may be present for a portion of the executive session.

Council reconvened at 11:57 p.m. Councilor Krenning moved to extend the meeting until 2:00 a.m. The motion, seconded by Councilor Fogle, carried with six councilors voting in favor and Councilors Ball, Shaffer and Gutierrez voting against.

Councilor reconvened at 1:50 a.m.

Councilor Overcash moved that the City of Loveland terminate it's contract with Bill Cahill as City Manager, effective June 30, 2016. The motion, seconded by Councilor Johnson, carried with all councilors present voting in favor thereof.

Councilor Fogle read a statement for the press from the City Council.

15. **HUMAN RESOURCES** (presenter: Julia Holland)
SPECIAL MEETING ON JUNE 28, 2016

This is an administrative action to call for a Special meeting, which may include Executive Sessions per 24-6-402 C.R.S. The Special meeting will begin immediately following the Study Session on June 28, 2016. The purpose of this Special meeting is to conduct annual evaluation interviews with Council's appointed positions City Attorney and Municipal

Judge. Mayor Pro Tem Fogle moved calling for a Special meeting to be held at 6:30 p.m. or as soon as possible thereafter, in these Council Chambers, following the regularly scheduled Study session on June 28, 2016. The purpose of the special meeting is to call an Executive Session as allowed by CRS section 24-6-402(4)(f)(I) and Charter Section 4-4(c)(5) concerning personnel matters to conduct the annual performance evaluation interviews with the City Attorney and the Municipal Judge and also to include possible interviews and placement of an interim city manager. The motion, seconded by Councilor Clark, 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.

None

CITY MANAGER REPORT

None

CITY ATTORNEY REPORT

None

ADJOURN

Hearing no further business to come before Council at this time, Mayor Gutierrez adjourned the meeting at 1:55 a.m. on June 8, 2016.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

MINUTES
LOVELAND CITY COUNCIL STUDY SESSION AND SPECIAL MEETING
TUESDAY, MAY 24, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

STUDY SESSION 6:30 P.M.

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

1. ECONOMIC DEVELOPMENT

GENESIS HOSPITALITY CORPORATION BUSINESS ASSISTANCE

Susan Grafton, Economic Development Director, presented this informational item to discuss a business assistance request on behalf of Genesis Hospitality Corporation (Genesis). The company is looking to expand their current facility with construction of a new manufacturing facility next to their existing plant on Medford Drive. Gunter Preuss, President of Genesis and Erika Hamrick, Controller, were in attendance to explain the company's expansion plans.

2. CITY MANAGER

POPULATION & ECONOMIC TRANSITIONS FOR NORTHERN CO

Chris Akers with the State Demographers Office presented this informational item to the City Council regarding statewide, regional and local economic and demographic trends. The information helps set the context for the development of the 2017 Budget and long-term planning.

Mayor Gutierrez adjourned to the Study Session at 7:24 p.m.

CALL TO ORDER, Mayor Gutierrez called the Special Meeting to order at 7:32 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL Councilors Present: Gutierrez, Fogle, Johnson, Ball, Clark, Krenning and Overcash. Councilors absent: McKean. Councilor Shaffer arrived at 8:06 p.m. and Councilor Krenning departed at 8:26 p.m.

ECONOMIC DEVELOPMENT

SOUTH CATALYST PROJECT

Mike Scholl, Economic Development Manager, presented this public briefing on the South Catalyst project. The presentation included an update on the progress of the South Catalyst project and negotiations with the Brinkman Partners. Also included were revised design schemes and an update on the estimated budget. City Council approved an Exclusive Negotiation Agreement (ENA) with the Brinkman Partners in February 2016, and staff has proceeded with negotiations on the design elements and the proposed cost. The City Council may choose to enter into Executive Session to provide direction to staff on the negotiations.

Councilor Fogle moved that the City Council go into executive session to discuss negotiations concerning the Downtown South Catalyst Project as authorized by Colorado Revised Statutes Section 24-6-402(4)(e) and Loveland Charter Section 4-4(c)(1) concerning a matter that is subject to negotiations, to develop the City's negotiation positions and strategies, and to instruct the City's negotiators concerning those positions and strategies; and as authorized by Colorado Revised Statutes Section 24-6-402(4)(b) and Loveland Charter Section 4-4(c)(3) to receive legal advice from the City Attorney's Office at 8:29 p.m. The motion, seconded by Councilor Shaffer, carried with all councilors present voting in favor thereof. Council reconvened at 9:30 p.m.

ADJOURN

Hearing no further business to come before Council, Mayor Gutierrez adjourned the May 24, 2016 Special Meeting at 9:35 p.m.

Respectfully Submitted,

Jeannie M. Weaver, Acting Deputy City Clerk

Cecil A. Gutierrez, Mayor

MINUTES
LOVELAND CITY COUNCIL STUDY SESSION
TUESDAY, JUNE 14, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

STUDY SESSION 6:30 P.M.

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

1. FINANCE

2015 ANNUAL AUDIT

Brent Worthington, Finance Director, along with Matthew Marino and Cheryl Wallace with Rubin Brown LLC presented this informational item. The Comprehensive Annual Financial Report for the year ending December 31, 2015, received an unmodified opinion from the external auditors. This indicates that, in all material respects, the report fairly presents the financial position of the City and is in conformity with generally accepted accounting principles. The Rubin Brown representatives will send statistics that compare other Colorado municipalities to Mr. Worthington to send on to Council.

2. DEVELOPMENT SERVICES

BUILDING DIVISION IMPROVEMENTS UPDATE

Brett Limbaugh, Development Services Director, and John Schumacher, Chief Building Official, presented this informational item that reviewed and discussed City staff's ongoing improvements to the building permit processes. This staff presentation focused on improvements that have been recently implemented along with upcoming changes that will better serve our customers. Council expressed appreciation for the progress so far and staff will keep Council informed.

3. CITY COUNCIL

DISCUSSION OF THE PROCESS TO APPOINT AN INTERIM CITY MANAGER

Tami Yellico, City Attorney and Julia Holland, Human Resources Director were present to facilitate Council's discussion on the process to call for a Special Meeting on June 16th in order to be able to make a formal motion on the process that will be followed to appoint an Acting City Manager.

ADJOURN

Hearing no further business to come before Council, Councilor Shaffer adjourned the June 14, 2016 Study Session at 9:17 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Joan Shaffer, Councilor

MINUTES
LOVELAND CITY COUNCIL SPECIAL MEETING
THURSDAY, JUNE 16, 2016, 6:30 P.M.
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

ROLL CALL: Councilors Present: Fogle, Ball, Johnson, Overcash, Clark and McKean. Council Shaffer arrived at 6:40 p.m.

1. CITY COUNCIL

DISCUSSION REGARDING ACTING CITY MANAGER

This is an administrative action. There will be a vacancy in the position of City Manager effective 12:01 a.m. June 30, 2016. Loveland City Charter Section 8-2 authorizes the City Council to designate a qualified City employee to serve as Acting City Manager until the vacant City Manager position is filled. There were no public comments. **RESOLUTION: Councilor Ball moved to approve Resolution #R45-2016, Adopting The Process To Be Followed To Appoint An Acting City Manager. The motion was seconded by Mayor Pro Tem Fogle. Councilor Clark moved to amend the application by removing the term “qualified” and also adding all LRFA and City Employee applicants. AMENDMENT: The motion was seconded by Councilor Ball, which carried with four councilors voting in favor and Councilors Shaffer, McKean and Overcash voting against. AMENDED RESOLUTION: Roll was called on the Resolution as amended, which carried with six councilors voting in favor and Councilor Shaffer voting against.**

2. CITY ATTORNEY

OPEN RECORDS REQUESTS

This is an administrative action. The purpose of the Executive Session is to receive legal advice from the City Attorney’s Office concerning open records requests as authorized by Colorado Revised Statutes Section 24-6-402(4)(b) and Loveland Charter Section 4-4(c)(3). I would appreciate the opportunity to discuss with City Council in Executive Session the potential legal issues and outcomes with regard to such requests. **Councilor Shaffer moved to Go Into Executive Session Related To Receive Legal Advice from the City Attorney’s Office concerning Open Records Requests as authorized by Colorado Revised Statutes § 24-6-402(4)(b) and Loveland Charter Section 4-4(c)(3) at 7:07. The motion, seconded by Councilor Clark, carried with six councilors voting in favor and Councilor McKean voting against.**

Council Reconvened at 7:43 – City Attorney will convey direction of Council to the City Clerk.

ADJOURN

Mayor Pro Tem Fogle, upon hearing no further business of this Council, adjourned the June 16, 2016 Special Meeting at 7:50 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

John Fogle, Mayor Pro Tem

AGENDA ITEM: 6
MEETING DATE: 7/5/2016
TO: City Council
FROM: City Manager's Office
PRESENTER: Steve Adams, City Manager

TITLE:
Appointments To Affordable Housing Commission, Human Services Commission, Loveland Utilities Commission, and Transportation Advisory Board

RECOMMENDED CITY COUNCIL ACTION:

1. Adopt a motion to reappoint Will Gresham to the Affordable Housing Commission for a term effective until June 30, 2019
2. Adopt a motion to reappoint Barbara Irelan to the Affordable Housing Commission for a term effective until June 30, 2019
3. Adopt a motion to reappoint Diann Rice to the Affordable Housing Commission for a term effective until June 30, 2019
4. Adopt a motion to appoint Gil Barela to the Affordable Housing Commission for a partial term effective until June 30, 2018
5. Adopt a motion to appoint Jerry Beers as an alternate member on the Affordable Housing Commission for a term effective until June 30, 2017
6. Adopt a motion to reappoint Amy Olinger to the Human Services Commission for a term effective until December 31, 2019
7. Adopt a motion to appoint Maren Soreide to the Human Services Commission for a term effective until December 31, 2019
8. Adopt a motion to reappoint Stan Taylor to the Human Services Commission for a term effective until December 31, 2019
9. Adopt a motion to reappoint David Schneider to the Loveland Utilities Commission for a term effective until June 30, 2019
10. Adopt a motion to reappoint Randy Williams to the Loveland Utilities Commission for a term effective until June 30, 2019
11. Adopt a motion to reappoint Bruce Croissant to the Transportation Advisory Board for a term effective until June 30, 2019
12. Adopt a motion to reappoint Lou Price to the Transportation Advisory Board for a term effective until June 30, 2019

OPTIONS:

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

SUMMARY:

This is an administrative item appointing members to Affordable Housing Commission, Human Services Commission, Loveland Utilities Commission and Transportation Advisory Board.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

The **Affordable Housing Commission** had three term vacancies during the Spring 2016 recruiting cycle and five applications were received. Effective June 9, 2016 Pam McCrory resigned from the commission. Interviews were conducted on June 7, 2016 and the committee recommends reappointing Will Gresham, Barbara Irelan and Diann Rice, each for a term effective until June 30, 2019. Gil Barela is recommended for appointment to a partial term effective until June 30, 2018. Jerry Beers is recommended for appointment as an alternate member on the commission for a term effective until June 30, 2017.

During the Spring, 2016 recruiting cycle, the **Human Services Commission** had three term vacancies. Three applications were received and interviews were conducted June 2, 2016. The committee recommends reappointing Amy Olinger and Stan Taylor and appointing Maren Soreide to the Human Services Commission, each for a term effective until December 31, 2019.

The **Loveland Utilities Commission** has three term vacancies. During the Spring recruiting cycle, applications were received from the three incumbents. Interviews with two applicants were held June 15, 2016. The committee recommends the reappointment of David Schneider and Randy Williams to the Loveland Utilities Commission, each for a term effective until June 30, 2019. The third applicant will be interviewed at a later date.

Interviews were held June 20, 2016 with two applicants for the **Transportation Advisory Board**. The board has two term vacancies and the two incumbents' applications were the only received. The interview committee recommends the reappointment of Bruce Croissant and Lou Price to the Transportation Advisory Board, each for a term effective until June 30, 2019.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

None

AGENDA ITEM: 7
MEETING DATE: 7/5/2016
TO: City Council
FROM: Susan Ison, Cultural Services Director
PRESENTER: Bryan Zellmer, Rialto Theater Manager

TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Foote Lagoon Concert Series, The Rialto Theater Center Arts & Education Programs And The Rialto Theater Center Cinema Series

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

SUMMARY:

This is an administrative item. Donations have been received from Kaiser Permanente to fund the Foote Lagoon Series (\$20,000) and the Iva McKee Charitable Trust to fund the Arts & Education Programs (\$28,000) and the Cinema Series (\$12,000). The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

These programs would not be possible without these donations.

BACKGROUND:**Kaiser Permanente Donation:**

The Foote Lagoon Concert Series has been a long-running, community event for people of all ages. The concerts, which feature a wide variety of musical styles and genres, bring people from the community of Loveland and surrounding neighborhoods together to engage in experiences that celebrate a myriad of different cultural influences and musical expression. There will be some new additions this year: a Loveland Library Stage for Kids, introductory performers for the main acts, and artisans and vendors.

Iva McKee Charitable Trust Donation:

This donation is combined with another donation from Backstage Rialto/Linda Ligon to develop a new and expanded Cinema Program, featuring a number of thematic series—Musical Mondays, Tuesday Family Cinema, Date Night at the Movies, Political Humor, Phyllis Walbye Films, I Love Anime and Silent Films. The New Cinema Program will launch June 3 with a pre-party gala, followed by a special showing of *The Princess Bride*. The cinema program takes the Rialto back to its historic roots as a movie theater.

Several Arts & Education program will be supported by the Trust this summer: the Broadway Bootcamp, a 2-week workshop that offers students the opportunity to develop their acting, singing, and theater dance abilities under the tutelage of Broadway starts; and Kids' Stage at the Foote Lagoon Concerts.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

FIRST READING: July 5, 2016

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR THE RIALTO THEATER CINEMA SERIES AND THE LOVELAND MUSEUM GALLERY'S EDUCATION, CLASSES AND PROGRAMS

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for the Rialto Theater Cinema Series and the Loveland Museum Gallery's education, classes and programs; 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 Rialto Theater Cinema Series and the Loveland Museum Gallery's education, classes and programs, 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 \$14,102 from donations in the General Fund are available for appropriation. That revenues in the amount of \$8,000 from program generated revenue in the General Fund are available for appropriation. Such revenues in the total amount of \$22,102 are hereby appropriated to the 2016 City budget for the Rialto Theater Cinema Series and the Loveland Museum Gallery's education, classes and programs. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 100**

Revenues

100-52-730-0000-35305	Donations	14,102
100-52-721-0000-35325	Program Revenue	8,000
Total Revenue		22,102

Appropriations

100-52-730-0000-43774	Film Rental	12,265
100-52-730-0000-43737	Advertising	1,837
100-52-721-0000-43777 ECP007	Social, Youth, & Family Programs	4,000
100-52-721-0000-43777 ECP009	Social, Youth, & Family Programs	1,000
100-52-721-0000-43777 ECP012	Social, Youth, & Family Programs	3,000
Total Appropriations		22,102

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).

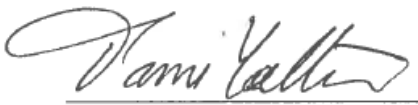
ADOPTED this ____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

AGENDA ITEM: 8
MEETING DATE: 7/5/2016
TO: City Council
FROM: Geri R. Joneson, Municipal Court
PRESENTER: Geri R. Joneson, Judge

TITLE:

An Ordinance To Amend Chapter 1.12.010, Subsection C, Of The Loveland Municipal Code To Include Municipal Court Justice Programs As A Recipient Of 30% Of The Total Surcharge Collected

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading.

OPTIONS:

1. Adopt the action as recommended.
 2. Deny the action. Denial of this action would hinder progress and improvements to the programs. Staff would be unable to take the programs to the next level.
 3. Adopt a modified action. Council could modify the action by increasing or decreasing the percentage of the total surcharge to be designated.
 4. Refer back to staff for further development and consideration. This option will delay the progress of the programs and require staff to locate alternative sources of funding for Council to consider.
-

SUMMARY:

This is an administrative item. In February, a committee reviewed the use of a surcharge that has funded Alternative Dispute Resolution Programs and more recently, Traffic Safety and Enforcement Programs. The committee agreed that Municipal Court Justice Programs were valuable sentencing alternatives that benefit offenders and the community. It was further agreed that funding could be achieved by allocating 30% of the total annual surcharge to Municipal Court Justice Programs. The remaining 70% would be allocated to Traffic Safety and Enforcement. This would be a simple redistribution of funds with no financial consequence nor impact to the budget. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

In 1999 the Loveland City Council adopted Ordinance No. 4499 which amended Section 1.12.010 of the Loveland Municipal Code by adding Subsection C. Ordinance No. 4499 created a \$10 surcharge for each ordinance violation, traffic offense, or traffic infraction to be used to the purpose of funding "Alternative Dispute Resolution Programs".

In 2006 Council adopted Ordinance No. 5160 which amended section 1.12.010 (C) of the Loveland Municipal Code. Ordinance No. 5160 amended the surcharge funding purpose from the "Restorative Justice Program" to "Traffic Safety and Enforcement".

In February 2016 Council suggested, as a possible funding source for Municipal Court Justice Programs, that the court review the history and purpose of the surcharge.

The Court and members of the Loveland Police Department, Traffic Engineering, and Public Works Department met to discuss the application of the surcharge. The committee agreed that Municipal Court Justice Programs are valuable sentencing alternatives that benefit offenders and the community. It was further agreed that with City Council approval, funding could be easily achieved by reallocating this revenue source. After discussion and review of needs and desires of the three participating departments, it was determined that a fair allocation would be 30% of the total annual surcharge to “municipal court justice programs” and 70% to “traffic safety and enforcement” to be used collaboratively between the Loveland Police Department and the Traffic Engineering Division of the Public Works Department.

Since 2012, the amount of the surcharge collected by Municipal Court and budgeted to the Public Works Department - Traffic Engineering Division is as follows:

COLLECTED:	BUDGETED:
2012 - \$66,135.09	\$65,000
2013 - \$63,332.00	\$65,000
2014 - \$73,372.00	\$60,000
2015 - \$86,732.00	\$65,000
2016 -	\$65,000

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Ordinance

FIRST READING **June 7, 2016**

SECOND READING **July 5, 2016**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT
CHAPTER 1.12.010 REGARDING PENALTY SURCHARGE**

WHEREAS the Loveland Municipal Code Section 1.12 addresses fines and penalties for violations of City ordinances; and

WHEREAS Chapter 1.12.010 subsection C adds a surcharge of ten dollars for all ordinance violation and traffic offenses that are paid into a separate account; and

WHEREAS Teen Court provides juveniles an alternative to the municipal court system using principles of restorative justice and Jumpstart provides homeless, near homeless and families in crisis an alternative to the municipal court system using principles of education and community resources;

WHEREAS municipal court justice programs provide alternatives to the Court and the community for restorative justice where everyone involved learns and benefits.

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

1. That Chapter 1.12.010.C of the Loveland Municipal Code is hereby amended to read as follows:

1.12.010 General penalty and penalty for traffic infractions.

C. In addition to the aforesaid fine, there shall be added a surcharge in the amount of ten dollars for each ordinance violation, traffic offense, or traffic infraction, except parking violations. All monies generated by the surcharge under this subsection (C) shall be paid into a separate account of the City of Loveland, to be used for the purpose of funding traffic safety and enforcement and municipal court justice programs. Traffic safety and enforcement shall receive 70% and municipal court justice programs 30% of the total surcharge collected.

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. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this ____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 9
MEETING DATE: 7/5/2016
TO: City Council
FROM: Leah Browder, Public Works Director
PRESENTER: Jeff Bailey, Interim City Engineer

TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Byrd Drive Roadway Connection

RECOMMENDED CITY COUNCIL ACTION:

Appropriate the necessary funds to construct Byrd Drive (Project No. EN1504) between Crossroads Blvd and Earhart Road in Loveland, Colorado in the amount of \$1,188,000 and authorize the City Manager to execute the development agreement.

OPTIONS:

1. Adopt the action as recommended, which will allow the Byrd Drive roadway connection to be completed in 2016 as planned.
2. Deny the action, which would stop the Byrd Drive roadway connection from being completed in 2015 and result in the need for a significant detour route to be in place.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. Byrd Drive roadway connection would be delayed and a significant detour route would have to be initiated until Byrd Drive could be constructed.

SUMMARY:

This is an administrative action. City Council approval is necessary to appropriate the funds to authorize the use of City of Loveland and Colorado Department of Transportation (CDOT) funds to construct the missing segment of Byrd Drive between Crossroads Blvd and Earhart Road. Council approved the Intergovernmental Agreement (IGA) at the May 6, 2016 Council Session which accepted the CDOT funds and conditions to be used to construct the missing segment of roadway. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The amount of \$500,000 is already appropriated in the 2016 budget in Account No. 211-23-232-1701-49360, and will be transferred into the project-specific account. The remaining amount of \$88,000 needs to be supplementally appropriated for the project in addition to the CDOT granted funds. The developer, Byrd Drive Development, LLC, will be responsible for constructing Byrd Drive by the time CDOT needs to remove the Frontage Road. This request is included in a development agreement that has been finalized with the developer.

Project Funds

CDOT Granted Funds	=	\$1,100,000.00
City Provided Project Funds	=	\$ 588,000.00

BACKGROUND:

The City of Loveland 2035 Transportation Plan includes the construction of Byrd Drive from Crossroads Blvd to Earhart Road with a 2-lane arterial cross section as depicted in the Larimer County Urban Area Street Standards (LCUASS). In late 2014, CDOT approved \$30 million for the I-25/Crossroads Interchange which included the replacement of the twin structures over Crossroads Blvd along with road widening and ramp reconstruction. This project was approved to facilitate the widening of I-25 from Longmont to north of Fort Collins.

As a result of this project, the Frontage Road between Crossroads Blvd and Earhart Road is planned to be demolished and decommissioned since the ramps are being shifted. The Frontage Road traffic will then be rerouted onto Byrd Drive in this location. A detour will need to be provided if Byrd Drive cannot accommodate 2 lanes of traffic by September 7, 2016.

The developer who owns most of the adjacent property has finalized design of the utilities and roadway for this section. A development agreement has been agreed upon which holds the developer responsible for the construction of the roadway with the timelines required by CDOT. CDOT will provide \$1.1 million for the project and maintenance of Byrd Drive. The city has agreed to provide \$588,000 thousand for the oversizing of the project. The developer is responsible for the remainder of the cost.

The City already has \$500,000 appropriated in the 2016 budget in Account No. 211-23-232-1701-49360. Therefore, a supplemental appropriation of \$1,100,000 for the CDOT funds and \$88,000 for City funds is necessary to utilize these funds for the construction of Byrd Drive.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

FIRST READING **June 7, 2016**

SECOND READING **July 5, 2016**

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR BYRD DRIVE ROADWAY CONNECTION

WHEREAS, the City has received and reserved funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for Byrd Drive Roadway Connection; 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 Byrd Drive Roadway Connection, 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 \$17,600 from fund balance in the General Fund are available for appropriation. That revenues in the amount of \$1,100,000 from a State grant in the Transportation Fund are available for appropriation. That reserves in the amount of \$70,400 from fund balance in the Streets Capital Expansion Fee Fund are available for appropriation. Such revenues in the total amount of \$1,188,000 are hereby appropriated to the 2016 City budget for Byrd Drive Roadway Connection. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 100**

Revenues		
Fund Balance		17,600
Total Revenue		17,600
Appropriations		
100-91-999-1701-47211	Transfers to Transportation Fund	17,600
Total Appropriations		17,600

**Supplemental Budget
Transportation Fund 211**

Revenues		
211-23-232-1701-32100	State Grant	1,100,000
211-23-232-1701-37100	Transfers from General Fund	17,600
211-23-232-1701-37269	Transfers from Streets CEF	70,400
Total Revenue		1,188,000
Appropriations		
211-23-232-1701-49360	Construction	(500,000)
211-23-232-1701-49360 EN1504	Construction	1,688,000
Total Appropriations		1,188,000

**Supplemental Budget
Streets Capital Expansion Fee Fund 269**

Revenues		
Fund Balance		70,400
Total Revenue		70,400
Appropriations		
269-23-232-1701-47211	Transfers to Transportation Fund	70,400
Total Appropriations		70,400

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).

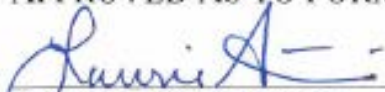
ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 10
MEETING DATE: 7/5/2016
TO: City Council
FROM: Terry Andrews, City Clerk's Office
PRESENTER: Terry Andrews, City Clerk

TITLE:

An Ordinance Calling for a Special Election To Be Held November 8, 2016 Which Shall Be Conducted As A Coordinated Election With The Larimer County Clerk and Recorder and, To The Extent Necessary To So Conduct That Election As A Coordinated Election, The Colorado Uniform Election Code Of 1992 Shall Govern

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading.

OPTIONS:

1. Adopting the ordinance ensures the actions will be completed timely as required by State statute and City Charter.
2. Deny the action, could affect the City's ability to participate in the coordinated election.

SUMMARY:

The proposed Ordinance is a legislative action needed to allow the City to conduct a special election on November 8, 2016 as a coordinated election with the Larimer County Clerk and Recorder. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

Funds have been appropriated in the 2016 Budget to conduct this election.

BACKGROUND:

On March 15, 2016 City Council approved Resolution #R-20-2016 directing the City Clerk to begin work on the compilation of the Qualified Elector List for voters located within the DDA boundaries. Staff indicated at that time, the return for additional actions necessary to move forward with an election in November.

The two measures to be decided on by DDA voters are both "Taxpayer Bill of Rights" (TABOR) ballot issues, requiring the election to be held November 8, 2016, which is a general election, and according to Larimer County the ballot may be as large as two pages.

State law requires the City to notify the Larimer County Clerk and Recorder of its intention to participate in this upcoming statewide special election as a coordinated election at least 100 days prior to the election. The resolution authorizing this notification was approved unanimously by City Council on June 7, 2016.

In addition to calling a Special coordinated election with Larimer County on November 8, 2016, the proposed Ordinance provides that the City's election will be governed by the Colorado Uniform Election Code, to the extent as necessary. In all other respects, the City's special election will be governed by the Colorado Municipal Election Code, the City Charter and applicable City ordinances.

It should also be noted that Staff will be returning in August with additional considerations regarding the DDA election, which would include setting the Ballot titles.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

FIRST READING: June 7, 2016

SECOND READING: July 5, 2016

ORDINANCE # _____

AN ORDINANCE CALLING FOR A SPECIAL ELECTION, TO BE HELD ON NOVEMBER 8, 2016, SHALL BE CONDUCTED AS A COORDINATED ELECTION WITH THE LARIMER COUNTY CLERK AND RECORDER AND, TO THE EXTENT NECESSARY TO SO CONDUCT THAT ELECTION AS A COORDINATED ELECTION, THE COLORADO UNIFORM ELECTION CODE OF 1992 SHALL GOVERN

WHEREAS, on June 7, 2016, the Loveland City Council has adopted Resolution #R-38-2016 authorizing the City Clerk to notify the Larimer County Clerk and Recorder (“the County Clerk”) of the City of Loveland’s intention to participate in the November 8, 2016, statewide election and to coordinate the City’s November 8, 2016, special election in that statewide election with the County Clerk; and

WHEREAS, Loveland Charter Section 6-1 provides that City elections are to be governed by the provisions of the Colorado Municipal Election Code of 1965 (C.R.S. §31-10-101, et seq) (“the Municipal Election Code”), except as otherwise provided by the City Charter or by City ordinance; and

WHEREAS, C.R.S. §31-10-102.7 authorizes a municipality to provide by ordinance that it will utilize the requirements and procedures of the Uniform Election Code of 1992, Articles 1 to 13 of Title 1 of the Colorado Revised Statutes, (“the Uniform Election Code”) in lieu of the requirements and procedures of the Municipal Election Code for any election; and

WHEREAS, since it is the intent of the City Council that the City’s special election to be held on November 8, 2016, be a coordinated election with the County Clerk as part of the statewide election on November 8, 2016, the purpose of this Ordinance is to provide that such coordinated election shall be governed by the Uniform Election Code, but only to the extent necessary to conduct that election as a coordinated election, and otherwise the City’s special election on November 8, 2016, shall be governed by the Municipal Election Code, the City Charter and applicable City ordinances.

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

Section 1. That the City’s November 8, 2016, special election shall be governed by the Uniform Election Code, but only to the extent necessary to conduct this

election as a coordinated election with the County Clerk, as part of the statewide election to be held on November 8, 2016. In all other respects, the City's special election on November 8, 2016, shall be governed by the Municipal Election Code, the City Charter, and applicable City ordinances.

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. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Dated this 5th day of July, 2016.

Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney

AGENDA ITEM: 11
MEETING DATE: 7/5/2016
TO: City Council
FROM: Terry Andrews, City Clerk
PRESENTER: Vince Junglas, Assistant City Attorney

TITLE:
An Ordinance Amending Section 8.08.030(K) Of The Loveland Municipal Code To Increase The Number Of Days Tastings Are Permitted

RECOMMENDED CITY COUNCIL ACTION:

Hold a public hearing and adopt an ordinance on first reading.

OPTIONS:

1. Adopt the Ordinance.
 2. Deny the Resolution. (Certain liquor licensees will only be permitted to have tastings two days a week for no more than fifty two days a year).
 3. Adopt modified action.
 4. Refer back to staff for further development and consideration. (None).
-

SUMMARY:

This is a legislative action to consider amending Section 8.08.030(K) of the Loveland Municipal Code to increase the frequency and total number of tastings a retail liquor store or liquor-licensed drug store can conduct sample tastings. The increase would move from fifty two tastings yearly, for no more than two times between Monday and Saturday, to one hundred and four tastings, for no more than four times between Monday and Saturday.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

At the May 17, 2016 regular meeting of City Council, this request was initiated by a local business manager who would like to offer additional tastings in his establishment to match the maximum number of tastings permitted by the state of Colorado. At the meeting Council directed Staff to bring the ordinance back for consideration.

In 2004, The Colorado General Assembly adopted, and the Governor signed into law, House Bill 04-1021 permitting local jurisdictions to allow retail liquor store and liquor-licensed drugstores to conduct sample tastings of alcohol beverages (beer, wine, and liquor) in their establishments without charging for such samples. This bill also required that, if a local government desired to allow such tastings in its jurisdiction, the local governmental body must do so by ordinance. On December 6, 2005, Council reviewed and adopted a measure that permitted sample tastings of malt, vinous, and spirituous beverages under certain types of liquor licenses for no more than two days between Monday and Saturday with a yearly cap of fifty two tastings, which was half of what was permitted by State statute (one hundred and four total days and no more than four days between Monday and Saturday).

Colorado has a thriving liquor manufacturing industry and ranks third¹ nationally in craft breweries per capita. The tasting amendments allow greater flexibility and volume for local licensees to sample the truly diverse and extensive array of beer, wine, and spirituous liquor that Colorado has to offer. The current statutory framework limits what licensees can do for tastings being only fifty two days a year with only two tastings permitted during a week. The proposed change will double the amount of sampling a licensee may provide to customers.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

¹ https://www.brewersassociation.org/attachments/0000/6291/Capita_perbrewery.pdf

FIRST READING: July 5, 2016

SECOND READING:

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 8.08.030(K) OF THE LOVELAND MUNICIPAL CODE TO INCREASE THE NUMBER OF DAYS TASTINGS ARE PERMITTED

WHEREAS, Section 12-47-301(10), C.R.S., authorizes local jurisdictions to allow retail liquor stores and liquor-licensed drugstores to conduct sample tastings of malt, vinous, or spirituous beverages in their establishments without charging for such samples; and

WHEREAS, Section 12-47-301(10)(c)(XI), C.R.S., authorizes tastings to occur on no more than four of the six days from a Monday to the following Saturday, not to exceed 104 days per year; and

WHEREAS, on December 6, 2005, City Council adopted on second reading Ordinance No. 5043, 2005, restricting the number of tastings to two of the six days from a Monday to the following Saturday, not to exceed 52 days per year second reading; and

WHEREAS, there is interest in the regulated community in a Code change to increase the number of days tastings can occur to match the maximum number allowed by state law; and

WHEREAS, City staff believes that allowing tastings of spirituous liquors and increasing the number of days such tasting is allowed, subject to the restrictions set forth in state law and City Code, will not adversely affect the health, safety, or welfare of the public.

WHEREAS, the City Council has determined that these proposed amendments to the City Code are desirable and in the best interest of the City.

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

Section 1. That Section 8.08.030(K) of the Loveland Municipal Code is hereby amended as follows:

8.08.030 Limitations on tastings.

K. Tastings may occur on no more than ~~two~~four of the six days from a Monday to the following Saturday, not to exceed ~~fifty-two~~one hundred and four days per year;

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. 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 _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 12
MEETING DATE: 7/5/2016
TO: City Council
FROM: Susan Ison, Cultural Services Director
PRESENTER: Susan Ison

TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Rialto Theater Cinema Series Program And Also The Loveland Museum/Gallery's Education, Classes And Programs

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. If this appropriation request were not to be approved, we would have to refund the money to vendors and sponsors and cancel all of the remaining programs and events for 2016.
3. Adopt a modified action. (specify in the motion)

SUMMARY:

This is an administrative action. A donation of \$14,201 has been received by the Rialto Theater from the Backstage Rialto to expand the theater's Cinema Series Program. Also, an appropriation of \$8,000 to fund the Cherry Pie Celebration, Halloween Fun Festival and the Lone Tree School programs.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The City has received donations in the amount of \$14,102 to support the Rialto Theater Cinema Series and \$8,000 is anticipated to be generated from the Museum events. Thus, there is no impact on unassigned General Fund balance.

BACKGROUND:**Rialto**

\$14,102 from Backstage Rialto has been donated for support of the Rialto's expanded Cinema program. The purpose of this donation is to fund the launch of an expanded Cinema Program in the Summer of 2016. A wide variety of movies covering different genres and from different time periods will be screened throughout June and July with the intent to appeal to different audiences and get more segments of the community to learn about and use the Rialto Theater and its many, diverse offerings.

If this appropriation request were not to be approved, we would have to refund the money to Backstage Rialto and cancel all of the remaining movies in order to not go over budget. This action would also have an impact on another donation, previously submitted to Council for appropriation from the Iva Lee McKee Charitable Trust who is supporting the free movies for kids on Tuesdays throughout the summer as well as helping with advertising dollars towards the

expanded cinema program. We would therefore have to refund a significant portion of the Iva Lee McKee money if we were forced to cancel the series.

Loveland Museum/Gallery

The Cherry Pie Celebration, the Halloween Family Fun Festival and the Lone Tree Summer School programs are self-supporting. The mission of the Museum is to promote and enrich the quality of life by providing diverse cultural experiences through history, all forms of artistic expression and in community celebration. Additionally, the Museum has had an educational mission since 1999, as part of the Museum's American Alliance of Museums accreditation. All three of these programs provide services to the community based on the Museum's general mission statement and educational mission. Lone Tree Summer School has been a traditional educational program of the Museum for almost 40 years; Cherry Pie Celebration has been a museum event for over 30 years; and the Halloween Family Fun Festival has been a popular community event of the Museum for over 15 years. Together, these events see almost 5,000 attendees. Revenue is generated in several ways from all three programs. Registration for Lone Tree School is \$75 per non-member student and \$50 per museum member student; cash sponsorships for the Cherry Pie and Halloween Events have consistently been over \$2000 per year; vendor booth fees for both events have consistently equaled over \$1,000 per year; pie, ice cream and coffee sales for the Cherry Pie event have been over \$5000 the past two years. The revenues for these three programs combined have exceeded their expenses consistently for the past four years.

If this appropriation request were not to be approved, we would have to refund the money to vendors and sponsors of Cherry Pie and registrants of Lone Tree School and cancel all of the remaining programs and events for 2016.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

FIRST READING: July 5, 2016

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR THE RIALTO THEATER CINEMA SERIES AND THE LOVELAND MUSEUM GALLERY'S EDUCATION, CLASSES AND PROGRAMS

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for the Rialto Theater Cinema Series and the Loveland Museum Gallery's education, classes and programs; 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 Rialto Theater Cinema Series and the Loveland Museum Gallery's education, classes and programs, 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 \$14,102 from donations in the General Fund are available for appropriation. That revenues in the amount of \$8,000 from program generated revenue in the General Fund are available for appropriation. Such revenues in the total amount of \$22,102 are hereby appropriated to the 2016 City budget for the Rialto Theater Cinema Series and the Loveland Museum Gallery's education, classes and programs. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 100**

Revenues

100-52-730-0000-35305	Donations	14,102
100-52-721-0000-35325	Program Revenue	8,000
Total Revenue		22,102

Appropriations

100-52-730-0000-43774	Film Rental	12,265
100-52-730-0000-43737	Advertising	1,837
100-52-721-0000-43777 ECP007	Social, Youth, & Family Programs	4,000
100-52-721-0000-43777 ECP009	Social, Youth, & Family Programs	1,000
100-52-721-0000-43777 ECP012	Social, Youth, & Family Programs	3,000
Total Appropriations		22,102

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).

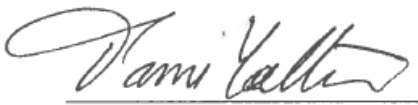
ADOPTED this ____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

AGENDA ITEM: 13
MEETING DATE: 7/5/2016
TO: City Council
FROM: Information Technology
PRESENTER: Bill Westbrook, Information Technology

TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For An Inventory Of City Owned Fiber Optic Assets

RECOMMENDED CITY COUNCIL ACTION:

Conduct a public hearing and adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
 2. Deny the action. This information is vital for advancement of the broadband initiative and City operations. Any delay in approving this Supplemental Budget and Appropriation item would delay identification of fiber infrastructure and dark fiber availability for potential internal or partner needs and in turn delay progress on the Citizen approved Broadband Initiative 2C.
 3. Adopt a modified action.
 4. Refer back to staff for further development and consideration. It is vital that City Staff and potential partners have the inventory information available to assist in determining the City owned assets that can be used in the design and operation of fiber optic broadband network. Further information requests will be addressed by staff with the outcome that the project will be delayed due to inadequate information being available to assist in the planning for the design and operation of a fiber network.
-

SUMMARY:

This is an administrative item. Information Technology is requesting an expense supplemental budget appropriation to support the broadband initiative for Loveland and internal traffic & IT operations. We are requesting an appropriation of \$86,515 for the 2016 budget from the Fiber Network Fund. This appropriation is intended to cover expenses for a physical inventory of eleven miles of City owned fiber infrastructure consisting of 67 splice hand holes and 464 slack (pull) hand holes, in coordination with a separate Platte River Power Authority funded project to perform a physical inventory of all fiber assets owned by PRPA. The partner performing this project will be Backbone Fiber, LLC, who is contracted with the City to perform fiber services including installation, splicing, maintenance, and researching and gathering of information for the City owned fiber network. The project will start immediately upon budget approval and is expected to last up to four months.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

This supplemental appropriation is shown as a negative budget impact as no 2016 Budgeted funds were identified for this item. Staff has now taken some time to prepare estimated costs for

a physical inventory of City-owned fiber infrastructure. The remaining unassigned Fiber Network Fund balance will be \$230,997 if approved.

BACKGROUND:

The passage of Ballot Issue 2C effectively overturned Loveland's restrictions imposed through Senate Bill 152 (SB 152) and allows the City of Loveland to investigate alternatives for promoting broadband options while considering the needs and desires of our community. Support of that effort as well as to advance internal operations related to fiber use requires that the City have a complete inventory of its owned fiber infrastructure. The City owns 21 miles of fiber infrastructure, 10 miles of which are recent projects and have inventory information readily available. Earlier projects encompassing the other 11 miles did not have detailed inventory as a requirement, so that inventory information is missing. This request will provide a physical inventory for those 11 miles to include location, total strands, strands spliced and the associated splicing diagram at each hand hole, and identification of available dark fiber for possible use in the broadband initiative.

This supplemental appropriation will need to be approved so that accurate inventory information of all City-owned fiber assets are identified for use in developing the Broadband Assessment and Feasibility Analysis by our selected consultant.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

FIRST READING

July 5, 2016

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR THE COMPLETE INVENTORY OF ALL CITY-OWNED FIBER OPTIC CABLE

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

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2016, 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 \$86,515 from fund balance in the Fiber Network Fund are available for appropriation. Revenues in the total amount of \$86,515 are hereby appropriated to the City budget for 2016 to the Fiber Network Fund for completion of a physical inventory of all City-owned fiber optic cable infrastructure. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

Supplemental Budget Fiber Network Fund 280		
Revenues		
Fund Balance		86,515
Total Revenue		86,515
Appropriations		
280-16-162-0000-43450	Professional Services	86,515
Total Appropriations		86,515

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. 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 July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

AGENDA ITEM: 14
MEETING DATE: 7/5/2016
TO: City Council
FROM: Parks and Recreation
PRESENTER: Elizabeth Anderson, Parks and Recreation Director

TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Fund Safety Repairs At Mehaffey Dog Park

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 Parks and Recreation Department would not receive the funds necessary to bring the affected accounts positive and back in line with budget.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. However, due to the safety related concerns of the citizen complaints received we have already completed removal and replacement of the dog park surface material.

SUMMARY:

This is an administrative action. The ordinance provides \$41,000 from the General Fund to support emergency repairs made to the Mehaffey Dog Park to address safety concerns.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The funding for the requested appropriation is from unreserved fund balance in the General Fund. The appropriation of this fund reduces the flexibility to fund other future events or projects.

BACKGROUND:

In the fall of 2015, Mehaffey Dog Park was completed and opened to the public. During the construction of the park, the Parks and Recreation Department made the decision to utilize donated wood chips for the dog park ground cover. This material was provided to the project at no cost and we were told that the material was "clean".

In early 2016, staff began receiving complaints from community members regarding dogs exhibiting kennel cough type symptoms after visiting the dog park. We believed this was due to moisture that lay trapped within the wood chips throughout the winter months creating mold/mildew which dogs were then inhaling as they rooted through the ground cover. In response to this issue, staff turned over the wood chip surface material in preparation for spraying it with a disinfectant once weather conditions improved.

After the ground cover was turned over we immediately began receiving numerous citizen complaints regarding hazardous debris, such as glass, wire and metal, surfacing in the wood

chips. It is our belief that this was flood debris since the chips had been stored in an area hard hit by the flood. Out of concerns for the safety of our citizens and their dogs, we promptly closed the dog park. The contaminated surfacing material was removed and replaced with pea gravel. Removal and replacement costs (including hauling and disposal of original material) totaled \$41,000. As this was an unforeseen repair, there was no remaining budget available in the Mehaffey Park project account to fund this ground cover replacement and the account numbers from which the funds were drawn to pay for the repairs are currently showing a negative balance.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

FIRST READING: July 5, 2016

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR MEHAFFEY DOG PARK

WHEREAS, the City has reserved funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for Mehaffey Dog Park; 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 Mehaffey Dog Park, 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 \$41,000 from fund balance in the General Fund are available for appropriation. Such revenues in the total amount of \$41,000 are hereby appropriated to the 2016 City budget for Mehaffey Dog Park. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 100**

Revenues

Fund Balance	41,000
Total Revenue	41,000

Appropriations

100-51-569-0000-42044	Sand, Gravel, & Asphalt	7,616
100-51-569-0000-43899	Other Services	33,384
Total Appropriations		41,000

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 _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

AGENDA ITEM: 15
MEETING DATE: 7/5/2016
TO: City Council
FROM: Leah Browder, Public Works Director
PRESENTER: Jeff Bailey, Interim City Engineer

TITLE:

A Resolution Approving An Amendment To An Intergovernmental Agreement Between The City Of Loveland, Colorado And The State Of Colorado, Acting By And Through The Colorado Department Of Transportation, To Upgrade The Intersection Of U.S. Highway 34 And Boyd Lake Avenue In The City Of Loveland

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Upgrades To The Intersection Of U.S. Highway 34 And Boyd Lake Avenue.

RECOMMENDED CITY COUNCIL ACTION:

Approve and sign the Colorado Department of Transportation (CDOT) Intergovernmental Agreement (IGA) amendment and appropriate additional Federal Highway Administration (FHWA) funds, in the amount of \$900,000, which have been awarded to the City by CDOT for intersection improvements at US34 and Boyd Lake Avenue.

OPTIONS:

1. Adopt the action as recommended, which will allow the intersection improvement to be completed in 2016 as planned.
2. Deny the action, which would postpone the intersection improvement from being completed in 2016 and cause the loss of federal funding.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. This option is not recommended as the project would be delayed and federal funding could be lost.

SUMMARY:

This is an administrative action item. City Council approval is necessary to finalize the submitted IGA amendment and to authorize the use of the Federal Hazard Elimination funds that were recently awarded to upgrade the intersection. Overall funding approval will be required once this project is competitively bid and a contractor is selected to complete the work.

Project Funds

CDOT & FHWA HES Grant = \$495,000 (appropriated in August 2013)

Local Contribution (design, signal equipment and roadway construction) = \$1,800,000 (appropriated in October 2015).

CDOT FASTER Safety Mitigation funds = \$900,000

Approval of this item will allocate funds for the construction of this project (EN1302) and allow an agreement to be in place for reimbursement of construction costs.

BUDGET IMPACT:

- Positive – Adds \$900,000 in previously unanticipated CDOT funding to the project.
- Negative
- Neutral or negligible

BACKGROUND:

In 2013, the City of Loveland was granted a Federal Hazard Elimination grant in the amount of \$495,000 for signal equipment upgrades at the intersection of US34 and Boyd Lake Avenue. Council approved the use of these funds on August 14, 2013.

Recently, as part of a broader CDOT evaluation of intersection safety, this intersection was ranked as having the highest safety improvement need in the North Front Range. Since the City was already planning a 2016 improvement project using the originally awarded FHE grant funding, the FASTER Safety Mitigation funding was awarded to expand the project to upgrade pedestrian facilities and to contribute toward additional eastbound and westbound left turn lanes on US34.

The additional funding will also allow for the construction of a subsequent phase of the ultimate improvement project, consisting of a roundabout at the Boyd Lake Avenue/Mountain Lion Drive intersection. This improvement, in conjunction with this summer's McWhinney project to extend Mountain Lion Drive across the Boyd Lake Outlet Exchange Ditch (near Kohl's), will provide a parallel east/west route to US34, providing an alternate thoroughfare potentially removing traffic from US34, as well as enhancing development opportunities for several vacant commercial parcels.

Design of the US34/Boyd Lake Intersection Project is being finalized and the project should be advertised for bids later this month. Construction is anticipated to begin in September 2016.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution
2. CDOT Intergovernmental Agreement (IGA) amendment
3. Ordinance

RESOLUTION #R-__-2016

A RESOLUTION APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, TO UPGRADE THE INTERSECTION OF U.S. HIGHWAY 34 AND BOYD LAKE AVENUE IN THE CITY OF LOVELAND

WHEREAS, the City of Loveland (the “City”) was awarded a Federal Hazard Elimination grant in 2013 to design and construct intersection improvements at U.S. Highway 34 and Boyd Lake Avenue (the “Intersection”), and the City Council approved an Intergovernmental Agreement between the City of Loveland and the Colorado Department of Transportation (“CDOT”) regarding such grant (the “IGA”) by resolution on February 5, 2013; and

WHEREAS, the IGA was executed by the City and CDOT on August 14, 2013. Since that date, a need for additional pedestrian facilities at the Intersection and turn lanes on U.S. Highway 34 has been identified; and

WHEREAS, the City applied for and has been awarded federal FASTER Safety Mitigation funding in the amount of \$900,000 in order to complete the additional safety improvements to the U.S. Highway 34 and Boyd Lake Avenue intersection. These federal funds are in addition to the \$445,500.00 in state funds awarded under the IGA; and

WHEREAS, the Federal Highway Administration (“FHWA”) is providing the FASTER Safety Mitigation funding to be administered and made available through the State of Colorado, acting by and through CDOT; and

WHEREAS, the City and CDOT wish to enter into an amendment to the IGA to define the division of responsibilities with regard to the additional Intersection improvements; and

WHEREAS, as governmental entities in Colorado, the City and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the “Amendment,” attached hereto as Exhibit A and incorporated herein by reference (the “Amendment”), is hereby approved subject to final approval of an ordinance appropriating the funds required under the Amendment.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the amendment to the Intergovernmental Agreement on behalf of the City after the Ordinance is approved by City Council and becomes effective.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this ____ day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Project #: SHO M830-063

AMENDMENT

Amendment No.: 1	Original Agreement Routing No.: 13-HA4-52198	Amendment Routing No.: 14-HA4-ZH-00690-M0001
---------------------	---	---

1) PARTIES

This Amendment to the above-referenced Original Agreement (hereinafter called the “Agreement”) is entered into by and between CITY OF LOVELAND (hereinafter called the “Local Agency”), and the STATE OF COLORADO (hereinafter called the “State”) acting by and through the DEPARTMENT OF TRANSPORTATION, (hereinafter called “CDOT”).

2) EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “Effective Date”). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3) FACTUAL RECITALS

- a. The Parties entered into the Agreement for the purpose of the design and construction of a signal replacement at US 34 and Boyd Lake Avenue, in Loveland, Colorado.
- b. Additional pedestrian improvement work is being added to the Scope of Work at the request of CDOT, increasing the total cost.
- c. The parties now desire to add \$900,000.00 in State Funds and to increase the maximum amount payable from \$495,000.00 to \$1,395,000.00.

4) CONSIDERATION – COLORADO SPECIAL PROVISIONS

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment. The Parties agree to replacing the Colorado Special Provisions with the most recent version (if such have been updated since the Agreement and any modification thereto were effective) as part consideration for this Amendment.

5) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

6) MODIFICATIONS

The Agreement and all prior amendments thereto, if any, are modified as follows:

Delete Section 4(B) in its entirety and replace with

B. The Local Agency has estimated the total cost of the Work to be \$1,395,000.00, which is to be funded as follows:

- a. Federal Funds (CFDA #20.205): \$445,500.00
 - b. State Funds: \$949,500.00
- Total Funds: \$1,395,000.00

Delete Section 4(C) in its entirety and replace with

C. The maximum amount payable to the Local Agency under this contract shall be \$1,395,000.00, unless such amount is increased by a written modification to this contract executed before any increased cost is incurred, it being understood that all funds in excess of \$1,395,000.00 are born 100% by the Local Agency. It is understood and agreed by the parties hereto that the total cost of the work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this contract, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award..

Delete Scope of Work in Exhibit A, Section 13, "Remarks", its entirety and replace with
 US 34 & Boyd Lake Ave. – Traffic Signal Rebuild
 & Right Turn Lane/Pedestrian Improvements
 Scope of Work (Aug. 2012-Revised June 2016)

The Colorado Department of Transportation (CDOT) will oversee the City of Loveland (city) when the city designs and constructs an upgraded traffic signal and other improvements at the intersection of US 34 and Boyd Lake Avenue in Loveland, CO. The existing signal is located roughly mid-way between the I-25/Centerra shopping area and the more established main part of Loveland. This work may contain the following features: removal/installation of traffic signal equipment, construction of channelized right turn lanes, and minor pedestrian enhancements (sidewalks, ADA ramps, countdown pedestrian heads). Additional pedestrian improvement work is being added to scope at the request of CDOT.

Federal Hazard Elimination funds have been awarded to this project for both design and construction. CDOT and the city believe it will be beneficial to perform this work because of documented vehicular crash patterns that could be mitigated with the proposed improvements. Roadside development is low density with some businesses on the north side and Mountain View High School near the SW corner (school buses, student vehicles, and pedestrians use the NB approach to access US 34).

This work will conform to CDOT's Specifications for Road and Bridge Construction, American with Disabilities Act and the Larimer County Urban Area Street Standards. The design phase of this work will begin as soon as reasonably possible after the execution of this agreement. The design phase will identify more exact requirements and will result in the production of detailed plans and specifications. The construction phase of the contract is planned for the fall of 2016 or and is anticipated to take several months.

7) EFFECTIVE DATE OF AMENDMENT

This Amendment shall take effect on the Effective Date.

8) ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Agreement or any amendment shall always control other provisions in the Agreement or any amendments.

9) AVAILABLE FUNDS

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

THE PARTIES HERETO HAVE EXECUTED THIS INTERGOVERNMENT AGREEMENT

*** Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">LOCAL AGENCY CITY OF LOVELAND</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, GOVERNOR</p> <p>By _____</p> <p style="text-align: center;">Joshua Laipply, P.E., Chief Engineer (For) Shailen P. Bhatt, Executive Director</p> <p>Date: _____</p>
<p style="text-align: center;">Additional Local Agency Signature (If Necessary)</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">LEGAL REVIEW Cynthia H. Coffman, Attorney General</p> <p>By _____</p> <p style="text-align: center;">Assistant Attorney General</p> <p>Date: _____</p>

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

<p>STATE OF COLORADO STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p>	<p>By: _____</p> <p style="text-align: center;">Colorado Department of Transportation</p> <p>Date: _____</p>
---	--

FIRST READING July 5, 2016

SECOND READING _____

ORDINANCE NO. _____

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND
APPROPRIATION TO THE 2016 CITY OF LOVELAND BUDGET FOR
CONSTRUCTION AT THE US34 & BOYD LAKE INTERSECTION**

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the 2016 City budget for construction at the US34 & Boyd Lake Avenue intersection; 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 construction at the US34 & Boyd Lake Avenue intersection, 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 \$900,000 from Federal Grants in the Transportation Fund are available for appropriation. Such revenues in the total amount of \$900,000 are hereby appropriated to the 2016 City budget for construction at the US34 & Boyd Lake Avenue intersection. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

Supplemental Budget Transportation Fund 211			
Revenues			
211-23-232-0000-32000	EN1302	Federal Grants	900,000
Total Revenue			900,000
 Appropriations			
211-23-232-1701-49360	EN1302	Construction	900,000
Total Appropriations			900,000

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).

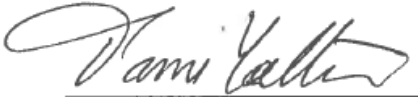
ADOPTED this ____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

AGENDA ITEM: 16
MEETING DATE: 7/5/2016
TO: City Council
FROM: Mark Miller, Loveland Fire Rescue Authority
PRESENTER: Pat Mialy, Emergency Manager

TITLE:

A Resolution Adopting 2016 Larimer County Multi-Jurisdictional Hazard Mitigation Plan

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. Denial of this action could prevent the City from Federal Emergency Management Agency grant funding.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. If the action is referred back to the staff there would be a delay in the overall adoption process throughout Larimer County and the update is required within this year.

SUMMARY:

This is an administrative action item. Emergency Managers throughout Larimer County have collaborated to develop a single county wide Hazard Mitigation Plan (HMP) for responding to disasters and preventing losses in future occurrences. The plan includes requirements set forth by the Federal Emergency Management Agency (FEMA) and the Colorado Division of Homeland Security and Emergency Management in order for the City and Larimer County to be eligible for funding and technical assistance from state and federal hazard mitigation programs.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The impact on the budget for the adoption of the HMP is listed as neutral; however, FEMA requires the City to have a current HMP in order to receive many types of FEMA-funded grants.

BACKGROUND:

The 2016 Larimer County Multi-Jurisdictional Hazard Mitigation Plan (HMP) is the County's and City's primary document that describes measures identified:

- to protect life and property by reducing the potential for future damages and economic losses that result from natural hazards;
- to qualify for additional grant funding, in both the pre-disaster and post-disaster environment;
- to provide quick recovery and redevelopment following future disasters;
- to integrate other existing and associated local planning documents;
- to demonstrate a firm local commitment to hazard mitigation principles; and
- to comply with state and federal legislative requirements tied to local hazard mitigation planning.

The plan update was coordinated by Larimer County with participation from all participating entities in an effort to improve consistency throughout the County, maximize the efficiency for deploying resources in the County and minimize the administrative burden of generating the required plan in each community. The updated HMP incorporated strategies to address the findings the Urban Land Institute Report that was generated after the 2013 flood. The primary changes from the last approved plan include:

- the inclusion of additional Larimer County communities (previously only Loveland, Fort Collins and Estes Park, now more than dozen communities);
- the document includes an archive of disasters and incidents that have occurred since the last version of the plan; and
- new vulnerability assessments of identified hazards.

The HMP will be updated and maintained to continually address the natural hazards determined to be of high and moderate risk as defined by the local hazard, risk, and vulnerability summary. Other natural hazards will be evaluated during future updates of the HMP to determine if they warrant additional attention to reduce their impact. The HMP will be updated and FEMA approved within its five-year expiration date.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution
2. [2016 Hazard Mitigation Plan](#)

RESOLUTION # R-47-2016**A RESOLUTION APPROVING AND ADOPTING THE
LARIMER COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN**

WHEREAS, in accordance with section C.R.S. §29-1-203 governmental entities may cooperate or contract one with another to provide any function, service or facility lawfully authorized to each of the respective units of governments; and

WHEREAS, in accordance with C.R.S. §29-1-201, governmental entities are permitted and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, City of Loveland (“City”) and Larimer County are independent governmental entities duly organized and existing in accordance with Colorado law and are called upon to respond to emergency hazards contained within their respective jurisdictions; and

WHEREAS, the City of Loveland recognizes the threat that natural hazards pose to people and property within our community; and

WHEREAS, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

WHEREAS, adoption of a Multi-Jurisdictional Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

WHEREAS, the City of Loveland is located within Larimer County and the City of Loveland Planning Area, and fully participated in the mitigation planning process to prepare this Multi-Jurisdictional Hazard Mitigation Plan; and

WHEREAS, the Colorado Division of Homeland Security and Emergency Management and the Federal Emergency Management Agency, Region VIII officials have reviewed the Multi-Jurisdictional Hazard Mitigation Plan and approved it contingent upon official adoption by the participating governments and entities; and

WHEREAS, it is the intent and desire of the City to adopt the Multi-Jurisdictional Hazard Mitigation plan in the interest of the health, safety and welfare of City residents; and

WHEREAS, the Council of City of Loveland finds that it is in the best interests of the City to adopt the “Larimer County Multi-Jurisdictional Hazard Mitigation Plan” attached hereto as **Exhibit A** and incorporated by reference (the “Plan”).

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF LOVELAND, COLORADO AS FOLLOWS:**

Section 1. That the Plan as set forth in Exhibit A is hereby adopted.

Section 2. That the City Manager is hereby authorized and directed to submit this resolution adopting the Plan to the Colorado Division of Homeland Security and Emergency Management and the Federal Emergency Management Agency, Region VIII officials to secure final approval of the Multi-Hazard Mitigation Plan.

Section 3. That this Resolution shall go into effect as of the date and time of its adoption.

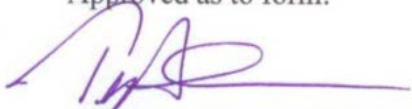
ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney

AGENDA ITEM: 17
MEETING DATE: 7/5/2016
TO: City Council
FROM: Economic Development Office
PRESENTER: Susan Grafton, Director Economic Development

TITLE:
A Resolution Approving The Terms And Conditions Of The Genesis Hospitality Corporation Business Assistance Agreement

RECOMMENDED CITY COUNCIL ACTION:

Approve the Resolution.

OPTIONS:

1. Adopt the action as recommended.
 2. Deny the action. If the action is denied, the business assistance agreement will not be approved.
 3. Adopt a modified action.
 4. Refer back to staff for further development and consideration.
-

SUMMARY:

This is an administrative action. On May 24, 2016, Genesis Hospitality appeared before Council in study session requesting business assistance. The company plans to expand their current facility with construction of a new manufacturing facility next to their existing plant on Medford Drive. Attached for Council review is the proposed Business Assistance Agreement providing for a maximum of \$100,000 in permit fee waivers and construction use tax. (Exhibit A to Resolution)

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

Genesis Hospitality Corporation has approached the City of Loveland about a business assistance package to aid them in expansion of their existing Loveland facility. The third generation family owned business was formed in 1992 and has manufactured their wood products exclusively in Loveland since opening. They provide very high end, innovative architectural wood solutions for both the residential and hospitality markets. Their woodworking capabilities include hand crafted custom cabinetry, passage doors, millwork and beams. In addition to their custom wood products, Genesis offers a full range of professional services such as design, engineering, project management and installation. Customers include: The Broadmoor in Colorado Springs, The Little Nell in Aspen, The Westin in Snowmass Village and The Left Bank Bar in Vail as well as many private residences.

Genesis currently employs 80 people from sales to production craftsman. The employee average annual wage is \$50,000; and, benefits are provided. Total revenue for the company in 2015 was just under \$13 million. In order to meet current and future demands in the markets, Genesis needs more space for operations. They are currently working with a project manager to

develop plans and are researching possible locations. Their preference is to build adjacent to their existing facility in Loveland on Medford Drive.

Project Details:

- New 64,800 square foot manufacturing facility
- \$8.5 million construction costs
- \$3.5 million in new equipment purchases
- 50 new jobs added over five years, at \$50,000 average annual wage, with benefits provided
- Permit Fee and Use Tax estimated at \$244,165 (see attached estimate)
- The Economic Impact Analysis (EIA) yielded an impact to the City of about \$120,000 over a five year period
- They are considered a primary employer since well over 50% of their goods and services go outside of Loveland
- Genesis will own the new building along with the existing 45,200 square foot manufacturing facility
- Upon research into the background of the company, there are no outstanding or past issues of concern

Staff recommends the following business assistance:

Building Permit Fee and Use Tax Waiver	\$100,000
(100% waiver up to a maximum of \$100,000)	

Alternatives

1. Provide More Assistance: As indicated on the attached Permit Estimate, Council could decide to provide additional permit fee waivers or reduction of Impact Fees. With an EIA yield of \$120,000 over 5 years, the \$100,000 waiver seemed an appropriate investment.
2. Provide Less Assistance: A lesser amount could be offered by Council, but as noted the assistance recommended is less than 1% of the total project cost.

Strategic Alignment:

Support of the City's small to medium sized companies is key to the growth of Loveland's local economy. Capital investment, exportation of goods and services as well as the addition of new jobs by local business helps to stabilize the local economy. The addition and expansion of manufacturing facilities is also important as the City looks to continue the legacy of manufacturing in Loveland.

Analysis:

- Staff's support of the business assistance request is based on a positive impact to the City, per the EIA, of roughly \$120,000 over the next five years and the addition of 50 new jobs at an annual wage of \$50,000 plus benefits.
- The use of fee and use tax waivers is an effective method of providing business assistance without a direct cash outlay.
- The recommended assistance is less than 1% of the estimated \$12 million in private investment (\$8.5 million construction and \$3.5 million new equipment) by Genesis.
- This assistance helps indicate the City's support for local businesses.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Resolution

RESOLUTION #R- _____**A RESOLUTION APPROVING THE TERMS AND CONDITIONS OF THE GENESIS HOSPITALITY CORPORATION INCENTIVE AGREEMENT**

WHEREAS, Genesis Hospitality Corporation (“Genesis”) is in the process of expanding their current facility with the construction of a new 64,800 square foot manufacturing facility (the “Manufacturing Facility”) next to their existing plant on that real property located on Medford Drive, and legally described on **Exhibit “A”** attached hereto and incorporated herein by reference (“the Property”); and

WHEREAS, if Genesis constructs the Manufacturing Facility, it will be required to pay the City certain City fees, including building permit fees (“Fees”) and City use tax (“Use Taxes”) as a precondition to receiving from the City a building permit and/or a final certificate of occupancy or letter of completion for the Manufacturing Facility; and

WHEREAS, pursuant to City Code Section 16.38.070, the City Council may by resolution allow for the waiver of the Fees, if it makes a determination and finding that such waiver will serve a public purpose, which may include providing the public with significant economic benefits, and if Council, by resolution, approves a written agreement with the person owing the Fees containing such terms and conditions as the City Council determines are in the best interests of the City; and

WHEREAS, pursuant to City Code Section and 3.16.590, the City Council may grant by resolution a use tax credit against the collection of the Use Taxes on such terms and conditions as it determines is in the best interest of the City and if it finds that such deferral and waiver serves a public purpose, including, without limitation, providing the public with significant social, economic or cultural benefits, resulting in a waiver of such taxes; and

WHEREAS, Genesis has informed the City that the financial incentives set forth herein are required to make the budget for the construction and opening of the Manufacturing Facility feasible; and

WHEREAS, Genesis has asked the City to assist in the development of the Manufacturing Facility by waiving certain building permit fees (“Fees”) and to grant a credit waiving Use Taxes that will otherwise be due with respect to development of the Manufacturing Facility in an aggregate amount not to exceed \$100,000.00, in accordance with City Code Sections 16.38.070 and 3.16.590 respectively; and

WHEREAS, the City Council believes that the construction and the operation of the Manufacturing Facility in Loveland would produce significant economic benefits to the citizens of Loveland, primarily in the form of increased property tax and sales tax revenues to the City and therefore a deferral of a portion of the Fees and waiver of Use Taxes is in the best interests of the public by encouraging activities that provide significant economic benefits; and

WHEREAS, to achieve such public purposes and to serve the public interests of the City, the Company and the City have negotiated and desire to enter into that certain Genesis Hospitality

Corporation Incentive Agreement attached hereto as **Exhibit “A”** and incorporated by reference (the “Incentive Agreement”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO THAT:

Section 1. The City Council hereby finds that the assistance granted to Genesis in the Incentive Agreement, including the deferral of the Fees and Use Taxes in an aggregate amount not to exceed \$100,000.00 in accordance with City Code Sections 16.38.070 and 3.16.590 respectively, are in the best interests of the public and the City and will serve the public purposes of providing significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased tax revenues.

Section 2. The Incentive Agreement is hereby approved.

Section 3. The City Manager is hereby authorized, following consultation with the City Attorney, to modify the Incentive Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 4. The City Manager and the City Clerk are hereby authorized and directed to execute the Incentive Agreement on behalf of the City.

Section 5. This Resolution shall be effective as of the date of its adoption.

ADOPTED this ___ day of _____, 2016.

CITY OF LOVELAND, COLORADO,
a municipal Corporation

By: _____
Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

GENESIS HOSPITALITY CORPORATION
BUSINESS ASSISTANCE AGREEMENT

THIS GENESIS HOSPITALITY CORPORATION INCENTIVE AGREEMENT is made and entered into this 28 day of June, 2016, by and between **THE CITY OF LOVELAND, COLORADO**, a home rule municipality (the "City"), **GENESIS HOSPITALITY CORPORATION**, a Colorado corporation ("Genesis").

WHEREAS, Genesis is in the process of expanding their current facility with the construction of a new 64,800 square foot manufacturing facility (the "Manufacturing Facility") next to their existing plant on that real property located on Medford Drive, and legally described on **Exhibit "A"** attached hereto and incorporated herein by reference ("the Property"); and

WHEREAS, if Genesis constructs the Manufacturing Facility, it will be required to pay the City certain City fees, including building permit fees ("Fees") and City use tax ("Use Taxes") as a precondition to receiving from the City a building permit and/or a final certificate of occupancy or letter of completion for the Manufacturing Facility; and

WHEREAS, pursuant to City Code Section 16.38.070, the City Council may by resolution allow for the waiver of the Fees, if it makes a determination and finding that such waiver will serve a public purpose, which may include providing the public with significant economic benefits, and if Council, by resolution, approves a written agreement with the person owing the Fees containing such terms and conditions as the City Council determines are in the best interests of the City; and

WHEREAS, pursuant to City Code Section and 3.16.590, the City Council may grant by resolution a use tax credit against the collection of the Use Taxes on such terms and conditions as it determines is in the best interest of the City and if it finds that such deferral and waiver serves a public purpose, including, without limitation, providing the public with significant social, economic or cultural benefits, resulting in a waiver of such taxes; and

WHEREAS, Genesis has informed the City that the financial incentives set forth herein are required to make the budget for the construction and opening of the Manufacturing Facility feasible; and

WHEREAS, Genesis has asked the City to assist in the development of the Manufacturing Facility by waiving certain building permit fees ("Fees") and to grant a credit waiving Use Taxes that will otherwise be due with respect to development of the Manufacturing Facility in an aggregate amount not to exceed \$100,000.00, in accordance with City Code Sections 16.38.070 and 3.16.590 respectively; and

WHEREAS, by the adoption of Resolution No. _____, the City Council has made a finding that the construction and the operation of the Manufacturing Facility in Loveland will produce significant economic benefits to the citizens of Loveland, primarily in the form of increased property tax and sales tax revenues to the City, as well as jobs and other significant economic benefits, and therefore waiver of a portion of the Fees and a waiver of Use

Taxes is in the best interests of the public by encouraging activities that provide significant economic benefits;

WHEREAS, by the adoption of its Resolution No. _____, the City Council has approved this Agreement allowing Genesis to waive payment of Fees and granting a credit or waiver for Use Taxes in an aggregate amount not to exceed \$100,000.00 on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Genesis Obligations

A. Genesis agrees to:

- i. Obtain on or before May 30, 2017 all necessary City planning and development approvals and permits and all building permits necessary to construct the Manufacturing Facility in accordance with the Loveland Municipal Code and all other governmental rules and regulations;
- ii. Complete construction of the Manufacturing Facility and obtain a temporary or permanent certificate of occupancy ("C.O.") prior to May 30, 2018;
- iii. Obtain a City sales tax license and remain current on all sales tax obligations during the Deferral Period (as hereinafter defined); and
- iv. Perform all other obligations set forth in this Agreement, including but not limited to the payment of other Fees (as hereinafter defined).

B. If Genesis fails to obtain necessary building permits for the Manufacturing Facility on or before May 30, 2017, the City shall have no further obligation to waive Fees or waive Use Taxes under this Agreement and this Agreement shall terminate.

2. Waiver of Fees

A. The City agrees, as authorized under City Code Section 16.38.070, that the Genesis may waive payment of the following Fees (the "Waived Fees"):

Building Permit Fees -

B. Genesis acknowledges and agrees that the actual Fees that will be due in connection with the construction of the Manufacturing Facility have not been finally determined and have been estimated on the basis of information provided to the City by Genesis. All Fees in excess of the Waived Fees shall be paid by Genesis, and any portion of the Waived Fees not utilized when actual Fees are determined shall be forfeited.

C. The Waived Fees and Waived Use Taxes shall not, in any event, exceed the aggregate total sum of One Hundred Thousand Dollars (\$100,000) (the “Cap”) and Genesis shall pay all Fees and Use Taxes in excess of the Cap.

3. Waiver of Construction Materials Use Tax

A. On the express condition that Genesis completes construction of the Manufacturing Facility and obtains a temporary or permanent certificate of occupancy for the Manufacturing Facility before May 30, 2018, the City use tax imposed pursuant to Code Section 3.16.040 upon the construction and building materials used for the Manufacturing Facility (the “Use Taxes”) shall be waived (the "Waived Use Taxes").

B. The Waived Fees and Waived Use Taxes shall not, in any event, exceed the total sum of One Hundred Thousand Dollars (\$100,000) (the “Cap”) and Genesis shall pay all Use Taxes in excess of the Cap.

C. If Genesis fails to complete the Manufacturing Facility and obtain a temporary or permanent certificate of occupancy before May 30, 2018, then:

- i. Any portion of the Waived Use Taxes not utilized before May 30, 2018 shall expire at that time and the City shall have no obligation to waive any Use Taxes due with respect to the Manufacturing Facility after such date.
- ii. Any Waived Use Taxes that would have been due with respect to the Manufacturing Facility in the absence of the foregoing waiver shall be deemed to have been deferred and shall be paid to the City by Genesis on or before May 30, 2018. If not timely paid, the City may use any or all collection remedies available to it under Loveland Municipal Code, including but not limited to Chapter 3.16 as it pertains to the Use Taxes.

C. The Waived Use Taxes shall not include any amounts for use taxes or fees payable to Larimer County or any other governmental entity in connection with the Manufacturing Facility, which shall be paid by Genesis as required by law.

4. Remedies upon Default

A. Default by Genesis shall be deemed to have occurred under this Agreement upon the occurrence of any one of the following events:

- i. Application for appointment of a receiver for Genesis or the Property;
- ii. Commencement of any proceeding under any bankruptcy or insolvency laws by or against Genesis;
- iii. The sale, transfer or conveyance of the Property or the Manufacturing Facility without the prior written consent of the City, such consent not to be unreasonably withheld;

- iv. The failure of Genesis to timely pay the other Fees or Use Taxes as required in paragraphs 2 or 3 above; or
- v. The failure of Genesis to perform any other obligation under this Agreement.

B. Upon the occurrence of any one or more of these events of default and the failure by Genesis to cure such default within thirty (30) days written notice from the City, the City shall have, as provided in City Code Section 16.38.071 and as granted in paragraph 13 below, a perpetual lien upon the Property from the date all or any portion of the Fees or Use Taxes become due under this Agreement until paid, and such lien shall have priority over all other liens against the Property except those for real property taxes. In addition, upon the occurrence of any one or more of the defaults set forth in this paragraph, all unpaid Fees due under paragraph 2 above and/or all Use Taxes that become due under paragraph 3 above shall at once become due and payable without further notice at the option of the City. Such unpaid sum shall thereafter accrue the interest at the default rate as provided in paragraph 6 below.

C. The City may pursue all remedies available to it under the law or in equity to collect any or all of the amounts owed to it under this Agreement including, without limitation, by judicially foreclosing its lien against the Property. The City Clerk may also certify such amounts in default to the Treasurer of Larimer County and those amounts may then be collected in the same manner as though they were real property taxes. In addition, the City shall have the right to revoke the certificate of occupancy or letter of completion which has been issued for the Manufacturing Facility.

5. Expenses and Costs of Collection

In the event that Genesis is in default under this Agreement and the City pursues collection and/or enforcement efforts through suit or otherwise, Genesis agrees to pay all of the City's reasonable expenses and costs of collection incurred by the City in connection with any such collection efforts and/or suit, in addition to the other amounts owed under this Agreement, which expenses and costs of collection shall include, without limitation, the following: attorneys fees; receiver's fees and costs; treasurer's fees and costs; payment of real property taxes owed for the Property; appraisal fees; property inspection fees; environmental audit costs; expert witness fees; deposition costs; filing fees; the cost of mailing, notice and other documents; the cost of serving process, notice and other documents; copy costs; and title insurance premiums or abstracting charges.

6. Default Interest

Upon Genesis' default under this Agreement to timely pay any or all of the amounts owed to the City by Genesis under this Agreement, which amounts shall include, without limitation, the costs and expenses of collection as described in paragraph 5 above, such amounts in default shall bear interest at the default rate of twelve percent (12%) per annum compounded annually from the date of default until paid in full.

7. Applicable Law and Venue

This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. In addition, the hereto acknowledge that there are legal constraints imposed upon the City by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, and imposed upon the City by its Charter and Code, and that, subject to such constraints, the parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provisions of this Agreement to the contrary, in no event shall any of the parties hereto exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Agreement shall be in the District Court for Larimer County, Colorado.

8. **Time is of the Essence**

Time shall be of the essence for the performance of all obligations under this Agreement.

9. **Assignment**

Genesis shall not assign or transfer any or all of its interests, rights or obligations under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld.

10. **Entire Agreement**

This Agreement contains the entire agreement between the parties relating to the subject matter hereof and may not be modified or amended except by written agreement signed by both parties.

11. **Headings**

Paragraph headings used in this Agreement are used for convenience of reference only and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

12. **Notices**

Any written notice given under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested, to the following addresses:

If to the City:	City Manager City of Loveland 500 East Third Street Loveland, CO 80537
-----------------	---

With Copy to:	City Attorney City of Loveland -and-
---------------	--

Economic Development Director
 City of Loveland
 500 East Third Street
 Loveland, CO 80537

If to Genesis: Genesis Hospitality Corporation
 4004 Medford Drive
 Loveland, Colorado 80538

13. Grant of Lien and Recording of Agreement

A copy of this Agreement shall be recorded with the Larimer County Clerk and Recorder and upon the occurrence of any event of default under this Agreement as provided in paragraph 4 above, this Agreement shall constitute a consensual grant by Genesis, and by its successors and assigns, to the City of the lien against the Property securing payment of all amounts in default that are due and owing to the City under this Agreement. The lien herein granted shall remain a lien against the Property until the full amounts owed to the City under this Agreement are paid in full to the City. The parties also agree that this lien shall be deemed a lien against the Property as a matter of law as provided in City Code Section 16.38.071.

14. Waiver of Confidentiality

Under C.R.S. § 24-72-204 of the Colorado Open Records Act and under City Code Section 3.16.230, the City is required to maintain as confidential documents that are not subject to public inspection, including Genesis' sales tax information and records that are submitted to and on file with the City. However, notwithstanding these provisions of law or any other applicable provisions of the law, Genesis hereby authorizes the City to provide such sales tax information and records to members of the Loveland City Council provided that such information and records are provided to City Council members in a confidential communication from the City Attorney, and are not otherwise used except for the purposes provided in this Agreement.

15. Binding Effect

This Agreement shall be binding upon and, except as otherwise provided in this Agreement, shall inure to the benefit of successors and assigns of the respective parties hereto.

16. Right of Offset.

Genesis agrees that the City shall have the right to withhold and set off any amounts which may become payable to Genesis by the City under this Agreement against any amounts which Genesis may owe to the City, whether arising under this Agreement or otherwise. For example, but not by way of limitation, if Genesis fails to pay any amounts due to the City for services not related to this Agreement, such as utility or other services, the City shall have the

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

AGENDA ITEM: 18
MEETING DATE: 7/5/2016
TO: City Council
FROM: Brett Limbaugh, Development Services
PRESENTER: Noreen Smyth, Current Planning

TITLE:

A Resolution Finding a Certain Petition for Annexation Known as Gatorwest Addition, Filed June 20, 2016, to be in Substantial Compliance with Section 30 of Article II of the Colorado Constitution and with the Requirements of Section 31-12-107(1), C.R.S.; and Establishing a Date, Time, and Place for a Hearing to Determine Whether the Proposed Annexation Complies with the Applicable Requirements of Sections 31-12-104 and 31-12-105, C.R.S., and is Eligible for Annexation to the City of Loveland, Colorado

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution setting a public hearing date for August 16 2016.

OPTIONS:

1. Adopt the action as recommended.
2. Adopt a modified action setting an alternate public hearing date. A revised resolution would be needed with this option.

SUMMARY:

This is a legislative action to set a public hearing date of August 16, 2016 for the consideration of an annexation of 2.3 acres to be known as the Gatorwest Addition. The property is located at 5100 Granite Street, and also has frontage on the west side of N. Garfield Avenue, roughly half way between W. 50th Street and Ranch Acres Drive. Included with the annexation proposal is a request to zone the property B-Developing Business. The applicant is M. Bryan Short with Gatorwest, LLC.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

BACKGROUND:

State Statutes require that City Council adopt a resolution finding that the annexation petition is in compliance with applicable requirements in 31-12-107 (1) C.R.S. The annexation petition for the Gatorwest Addition was accepted by the City Clerk on June 20, 2016. The petition demonstrates that; 1) the landowners of more than fifty percent of the area to be annexed have petitioned for annexation, 2) the annexation petition was considered complete as it contains all required information, 3) the annexation petition was submitted with an accompanying complete annexation map, and 4) the annexation petition was filed no more than 180-days from when it was signed. As a result of deeming the annexation petition complete, a public hearing date of August 16, 2016 can be set.

A neighborhood meeting was held on April 28, 2016 with three residents attending. Questions and discussion at the meeting centered on specifics of the building proposed to be constructed,

the uses proposed to locate on the property, and the volume of traffic anticipated to be generated by the uses. The annexation and zoning request is scheduled for a Planning Commission public hearing on June 27, 2016.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution
2. Annexation Map

RESOLUTION NO. R-49-2016

A RESOLUTION FINDING A CERTAIN PETITION FOR ANNEXATION KNOWN AS GATORWEST ADDITION, FILED JUNE 20, 2016, TO BE IN SUBSTANTIAL COMPLIANCE WITH SECTION 30 OF ARTICLE II OF THE COLORADO CONSTITUTION AND WITH THE REQUIREMENTS OF SECTION 31-12-107(1), C.R.S.; AND ESTABLISHING A DATE, TIME, AND PLACE FOR A HEARING TO DETERMINE WHETHER THE PROPOSED ANNEXATION COMPLIES WITH THE APPLICABLE REQUIREMENTS OF SECTIONS 31-12-104 AND 31-12-105, C.R.S., AND IS ELIGIBLE FOR ANNEXATION TO THE CITY OF LOVELAND, COLORADO

WHEREAS, on June 20, 2016, a Petition for Annexation was filed with the City Clerk by persons alleging to comprise more than fifty percent (50%) of the landowners in the area described on **Exhibit A**, attached hereto and incorporated herein, who assert ownership of more than fifty percent (50%) of said area, excluding public streets and alleys; and

WHEREAS, said Petition requests the City of Loveland to annex said area; and

WHEREAS, the City Council has determined that said Petition for Annexation is in substantial compliance with Section 30(1)(b) of Article II of the Colorado Constitution and of §31-12-107(1), C.R.S.; and

WHEREAS, the City Council desires to set a date, time, and place for public hearing to determine whether the proposed annexation complies with Section 30 of Article II of the Colorado Constitution and the applicable requirements of §§31-12-104 and 31-12-105, C.R.S., and is eligible for annexation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Loveland, Colorado, that:

1. The City Council hereby finds and determines:
 - (a) That a Petition for Annexation has been filed with the City Clerk signed by persons alleging to comprise more than fifty percent (50%) of the landowners

who assert ownership of more than fifty percent (50%) of the area described on **Exhibit A**, attached hereto and incorporated herein, excluding public streets and alleys;

(b) That said Petition requests the City of Loveland to annex said area;
and

(c) That said Petition substantially complies with and meets the requirements of Section 30(1)(b) of Article II of the Colorado Constitution and of §31-12-107(1), C.R.S.

2. Pursuant to §31-12-108, C.R.S., a public hearing is scheduled for August 16, 2016, at the hour of 6:00 p.m., for the purpose of enabling the City Council to determine whether the area proposed to be annexed complies with Section 30 of Article II of the Colorado Constitution and with the applicable requirements of §§31-12-104 and 31-12-105, C.R.S., and is eligible for annexation; whether or not an election is required under Section 30(1)(a) of Article II of the Colorado Constitution and of §31-12-107(2), C.R.S.; and whether or not additional terms and conditions are to be imposed. Said hearing shall be held at the Loveland Municipal Complex, 500 East Third Street, Loveland, Colorado.

3. The City Clerk shall give notice of said hearing in the manner prescribed by §31-12-108(2), C.R.S.

4. This Resolution shall become effective on the date and at the time of its adoption.

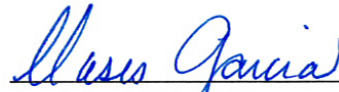
ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

A RESOLUTION FINDING A CERTAIN PETITION FOR ANNEXATION KNOWN AS GATORWEST ADDITION, FILED JUNE 20, 2016, TO BE IN SUBSTANTIAL COMPLIANCE WITH SECTION 30 OF ARTICLE II OF THE COLORADO CONSTITUTION AND WITH THE REQUIREMENTS OF §31-12-107(1), C.R.S.; AND ESTABLISHING A DATE, TIME, AND PLACE FOR A HEARING TO DETERMINE WHETHER THE PROPOSED ANNEXATION COMPLIES WITH THE APPLICABLE REQUIREMENTS OF SECTIONS 31-12-104 AND 31-12-105, C.R.S., AND IS ELIGIBLE FOR ANNEXATION TO THE CITY OF LOVELAND, COLORADO

EXHIBIT A

A PARCEL OF LAND BEING A PART OF TRACT 1, RANCH ACRES SUBDIVISION, AND PORTIONS OF THE VACATED SERVICE ROAD AND 51ST STREET RIGHTS OF WAY PER RECEPTION NUMBER 93023187, AND ADJACENT RIGHTS OF WAY LYING WITHIN THE NORTHEAST 1/4 SECTION 35, TOWNSHIP 6 NORTH, RANGE 69 WEST, 6TH P.M., LARIMER COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF TRACT 1 RANCH ACRES SUBDIVISION AS BEARING N 00°19'35" W AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

COMMENCING AT THE SOUTHWEST CORNER OF TRACT 1 RANCH ACRES SUBDIVISION SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF GRANITE STREET,

THENCE N 00°23'16" W ALONG SAID RIGHT OF WAY LINE FOR A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING;

THENCE S 89°28'02" W FOR A DISTANCE OF 60.00 FEET TO A POINT ON THE EXTENTION OF THE WEST RIGHT OF WAY LINE OF GRANITE STREET;

THENCE N 00°19'35" W ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 270.32 FEET;

THENCE DEPARTING SAID WEST LINE S 89°40'02" E FOR A DISTANCE OF 359.97 FEET TO THE WEST RIGHT OF WAY LINE OF US HIGHWAY 287 PER THE PLAT OF RANCH ACRES SUBDIVISION;

THENCE ALONG SAID WEST RIGHT--OF--WAY LINE S 00°19'58" E FOR A DISTANCE OF 249.36 FEET TO THE SOUTHWEST CORNER OF SHADE TREE FIFTH ADDITION TO THE CITY OF LOVELAND;

THENCE DEPARTING FROM SAID WEST RIGHT OF WAY S 89°57'03" E FOR A DISTANCE OF 101.09 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF US HIGHWAY 287 PER BOOK 1057 PAGE 402;

THENCE S 00°12'36" E ALONG SAID EAST RIGHT--OF--WAY LINE A DISTANCE OF 18.68 FEET;

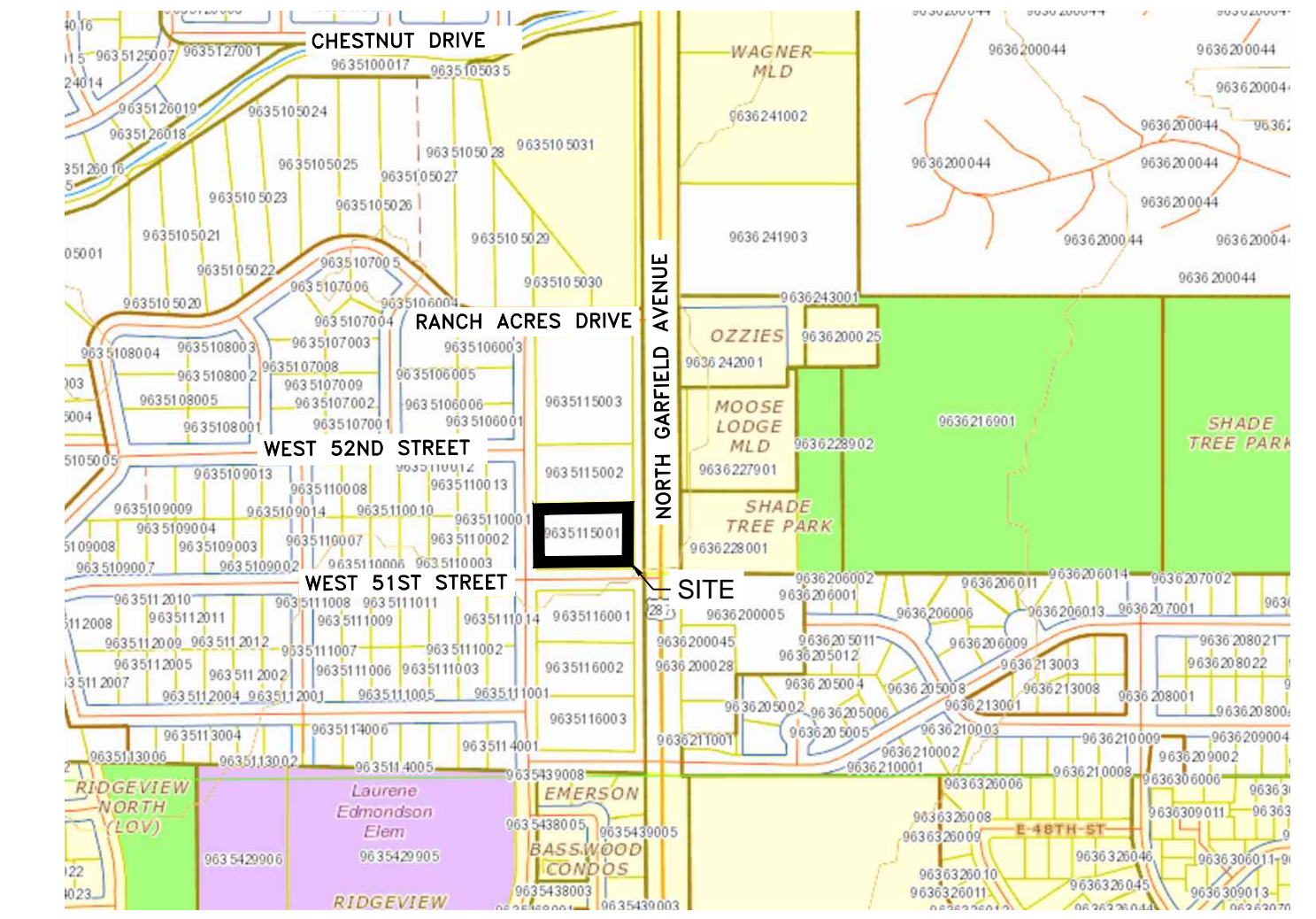
THENCE DEPARTING FROM SAID EAST RIGHT OF WAY S 89°28'02" W FOR A DISTANCE OF 401.05 FEET TO THE POINT OF BEGINNING.

Thus described tract contains 2.273 acres more or less, together with and subject to all easements and rights-of-way existing and/or of public record.

Gatorwest Addition

TO THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO

A PARCEL OF LAND BEING A PART OF TRACT 1, RANCH ACRES SUBDIVISION, AND PORTIONS OF THE VACATED SERVICE ROAD AND 51ST STREET RIGHTS OF WAY PER RECEPTION NUMBER 93023187, AND ADJACENT RIGHTS OF WAY LYING WITHIN THE NORTHEAST 1/4 SECTION 35, TOWNSHIP 6 NORTH, RANGE 69 WEST, 6TH P. M., LARIMER COUNTY, COLORADO



Vicinity Map

Certificate of Ownership.

Know all men by these presents that Gatorwest, LLC, a Colorado limited liability company being the Owner of certain lands in Larimer County, Colorado, have herewith petitioned to the City of Loveland for the Annexation of the property being described as follows:

A PARCEL OF LAND BEING A PART OF TRACT 1, RANCH ACRES SUBDIVISION, AND PORTIONS OF THE VACATED SERVICE ROAD AND 51ST STREET RIGHTS OF WAY PER RECEPTION NUMBER 93023187, AND ADJACENT RIGHTS OF WAY LYING WITHIN THE NORTHEAST 1/4 SECTION 35 AND THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 6 NORTH, RANGE 69 WEST, 6TH P. M., LARIMER COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF TRACT 1 RANCH ACRES SUBDIVISION AS BEARING N 00°19'35" W AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

COMMENCING AT THE SOUTHWEST CORNER OF TRACT 1 RANCH ACRES SUBDIVISION SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF GRANITE STREET, THENCE S 00°19'35" E ALONG SAID RIGHT OF WAY LINE FOR A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING; THENCE S 89°28'46" W FOR A DISTANCE OF 60.00 FEET TO A POINT ON THE EXTENSION OF THE WEST RIGHT OF WAY LINE OF GRANITE STREET INTO THE INTERSECTION OF WEST 51ST STREET; THENCE N 00°19'35" W ALONG SAID WEST RIGHT OF WAY LINE FOR A DISTANCE OF 270.22 FEET;

THENCE DEPARTING SAID WEST LINE N 89°38'27" E FOR A DISTANCE OF 360.05 FEET TO THE WEST RIGHT OF WAY LINE OF US HIGHWAY 287 PER THE PLAT OF RANCH ACRES SUBDIVISION; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE S 00°19'35" E FOR A DISTANCE OF 249.50 FEET TO THE SOUTHWEST CORNER OF SHADE TREE FIFTH ADDITION TO THE CITY OF LOVELAND; THENCE DEPARTING FROM SAID WEST RIGHT OF WAY S 89°57'03" E FOR A DISTANCE OF 101.09 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF US HIGHWAY 287 PER BOOK 1057 PAGE 402; THENCE S 00°12'37" E ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 18.71 FEET; THENCE DEPARTING FROM SAID EAST RIGHT OF WAY S 89°28'46" W FOR A DISTANCE OF 401.05 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBED TRACT CONTAINS 2.273 ACRES MORE OR LESS, TOGETHER WITH AND SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY EXISTING AND/OR OF PUBLIC RECORD.

Executed this ____ day of _____, 20__.

Owner: M. Bryan Short, as owner of Gatorwest, LLC

State of Colorado)
) ss
County of)

The foregoing certificate of ownership was acknowledged before me by and _____ this ____ day of _____, 20__.

Witness My Hand and Seal

Notary Public _____

My commission expires : _____

Mayor Certificate

This map is approved by the City Council of the City of Loveland, Larimer County, Colorado by Ordinance No. _____, passed on second reading on this ____ day of _____, 20__, for filing with the Clerk and Recorder of Larimer County.

By: _____ Mayor

Attest: _____ City Clerk

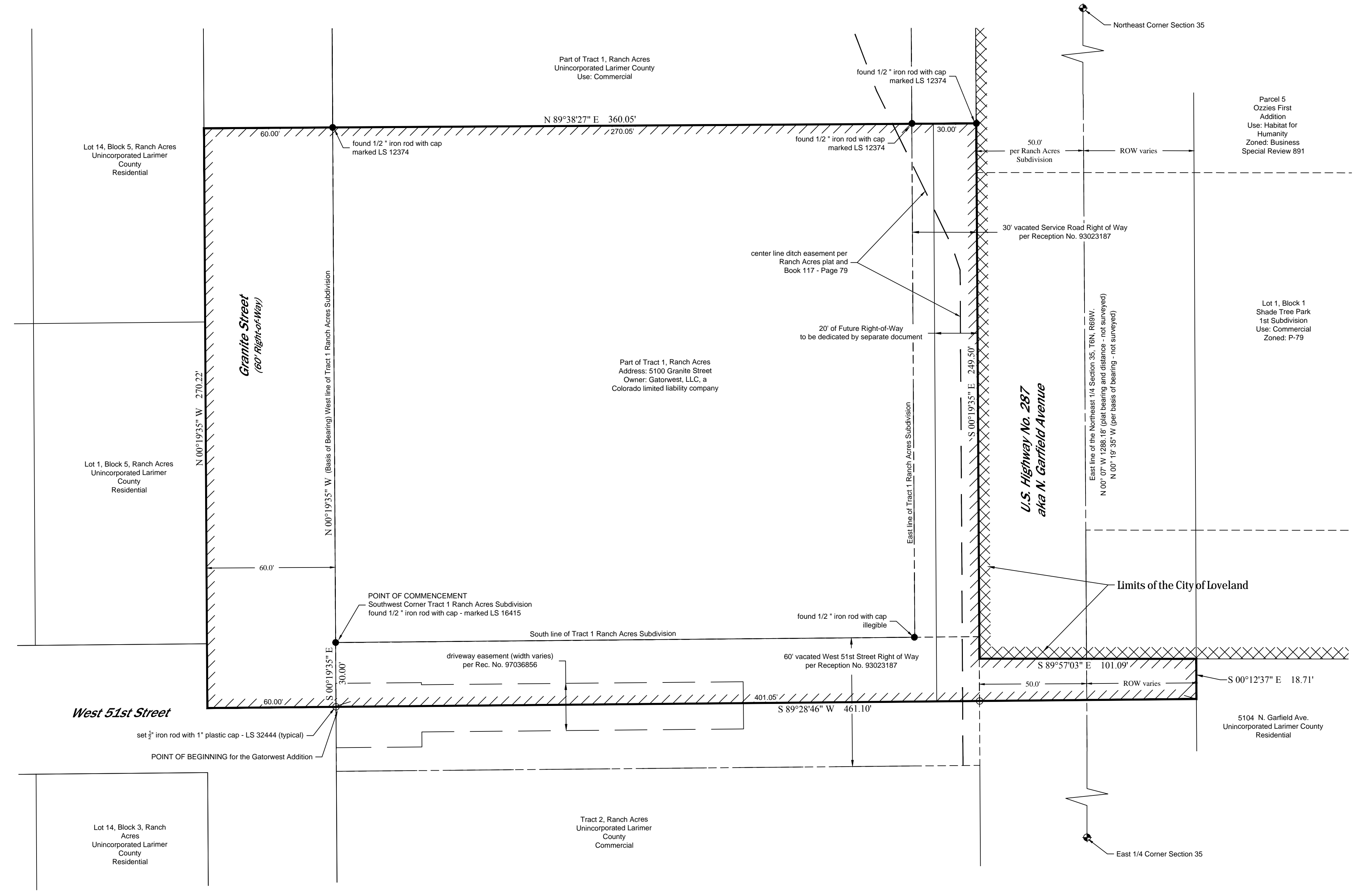
Recorder's Certificate.

This Annexation Map was filed for record in the office of the County Clerk and Recorder of Weld County at _____ o'clock, _____ M., on the ____ day of _____ A.D., 20__, in the book page, _____, map _____, reception no. _____.

Larimer County Clerk and Recorder

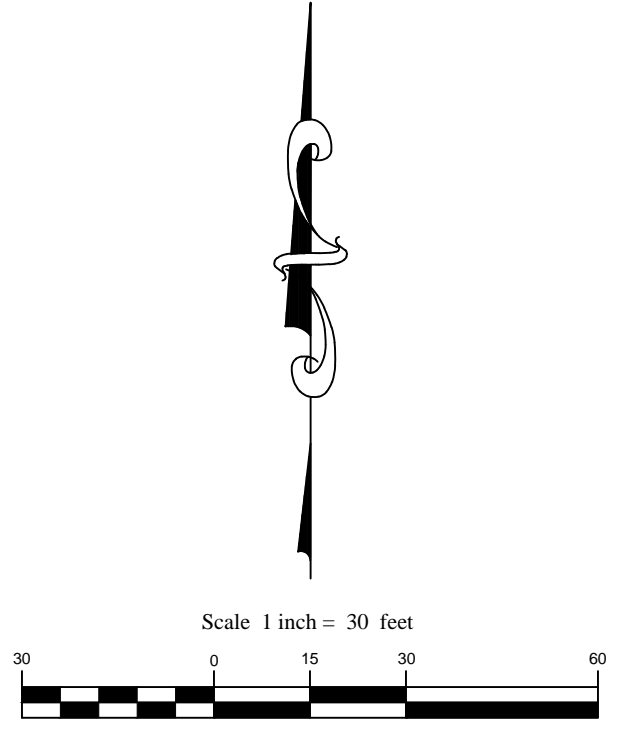
by: _____

Deputy



Gatorwest Addition Annexation:
Total Boundary: 1,460.67 l.f.
Contiguous Boundary: 350.59 l.f.
Area: 2.273 ac.
Contiguity: 1 : 4.17

- NOTES:
A. This map is based on a title commitment provided by The Group Guaranteed Title, LLLP, Order No. 203127, Effective Date: August 12, 2015, at 8:00 A.M.
B. Bearings are based NAD83 Colorado State Plane Coordinates - North Zone with the West Line of Tract 1 Ranch Acres of Unincorporated Larimer County having a bearing of N 00°19'35" W monumented as show on this plat.
C. Units are shown in U.S. Survey Foot
D. The total annexation area contains 2.273 acres, more or less.
E. Property Address: 5100 Granite Street, Loveland, CO 80538 (per title commitment)



- Legend:
● denotes found monument described as shown
○ denotes set 0.5" iron rod & 1.0" plastic cap marked "PLS 32444"
XXXXX illustrates the limits of the City of Loveland
////// illustrates the annexation boundary

Surveyor Certificate

I, M. Bryan Short, a registered Land Surveyor in the State of Colorado, do hereby certify that the annexation map shown hereon is a reasonably accurate depiction of the parcel of land legally described hereon and, to the extent described herein, that at least one sixth (1/6) of the peripheral boundary of said parcel is contiguous to the boundary of the City of Loveland, Colorado. The map was compiled using existing plats, deeds, legal descriptions, and other documents and is not based on the field survey nor should it be construed as a boundary survey.

Surveyor Signature

Printed name of Surveyor and PLS #

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____.

Witness my hand and official seal

Notary Public: _____

My commission expires: _____

Annexation Map
Gatorwest Addition
Section 35, Township 6 North, Range 69 West, 6th P. M., Larimer County, Colorado

TITLE

Gatorwest, LLC
6843 N. Franklin Ave., Loveland, CO 80538
Phone: 970.669.2100

CLIENT - OWNER

NO. OF SHEETS	1
SHEET NO.	1
PROJECT NO.	15085.001
Field Date	July 2015
Party Chief	KEB
Scale	1" = 30'
ST	n/a
PM	CLT
PLS	MBS

AGENDA ITEM: 19
MEETING DATE: 7/5/2016
TO: City Council
FROM: Water and Power
PRESENTER: Greg Dewey, Civil Engineer I

TITLE:

A Resolution Approving A Letter Of Understanding Between The Colorado Department Of Transportation And The City Of Loveland

RECOMMENDED CITY COUNCIL ACTION:

Adopt the Resolution

OPTIONS:

1. Adopt the action as recommended.
 2. Deny the action. (If the action is denied, a letter of understanding would not be executed for the temporary use by CDOT of the Idylwilde parking lot for storage, staging, and use as a field office during the reconstruction of Highway 34. This would delay the start of the Highway 34 reconstruction project.)
 3. Adopt a modified action. (specify in the motion)
 4. Refer back to staff for further development and consideration. (It is vital that City Council receive the information they need to make a decision regarding this item. Further information requests will be addressed by staff with the outcome that the execution of the letter of understanding will be delayed which may in turn delay the progress of CDOT's Highway 34 reconstruction project.)
-

SUMMARY:

A letter of understanding to establish mutual collaboration between the Colorado Department of Transportation (CDOT) and the City of Loveland (City) regarding the status and condition of the Idylwilde parking lot on completion of U.S. Highway 34 reconstruction.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The letter of understanding is intended to assure that CDOT will not create more work or expense for the City in meeting the final U.S. Forest Service requirements for reclamation.

BACKGROUND:

This is an administrative action to approve a letter of understanding between CDOT and the City of Loveland for the Idylwilde parking lot use during the Highway 34 reconstruction and post-construction parking lot reclamation. This letter will additionally function as an operating plan attached to a temporary special use permit that the U.S. Forest Service (USFS) will issue to CDOT for use of the parking lot during highway reconstruction. This letter of understanding will also help guide final negotiations between the City and the USFS on final parking lot reclamation.

The City of Loveland has a Federal Energy Regulatory Commission (FERC) license (Project P-2829) for the Idylwilde Project, including the former site of the Idylwilde Dam, Reservoir and

parking lot that was located on USFS land as authorized by a Water Facilities Easement issued by the USFS. The easement area includes the parking lot.

The City is currently in the FERC license surrender application process, which requires that the City reclaim the easement area. Reclamation and final condition of the parking lot is subject to USFS approval. As such, the City has been working together with USFS to identify USFS requirements and desired final design for the parking lot that the City will implement. The City included in its initial application to FERC a sketch map, identifying Phase I and Phase II of reconstruction of the parking lot.

CDOT has requested use of the Idylwilde parking lot for the duration of the Highway 34 reconstruction effort, to provide a location for storage and a field office that is otherwise limited to a space along the highway shoulder. This proposed use would occur prior to Phase I of the reconstruction of the parking lot.

It is the City's understanding that USFS and CDOT have met in the field to stake the limits of construction for modification of the parking lot, prior to its presumed use as a staging area for the construction contractor. Discussion may continue and the exact limits may be changed. That said the City's general objective is that any site changes for CDOT use do not create more work or expense for the City in meeting final USFS requirements for the parking lot, ultimately under USFS jurisdiction.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Resolution

Letter of Understanding (LOU)

RESOLUTION #R-50-2016**A RESOLUTION APPROVING A LETTER OF UNDERSTANDING
BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION
AND THE CITY OF LOVELAND**

WHEREAS, the Colorado Department of Transportation (hereafter “CDOT”) is reconstructing U.S. Highway 34 and desires temporary use of the Idylwilde parking lot for storage, staging, and a field office during the reconstruction; and

WHEREAS, the City of Loveland (hereafter “City”) holds a Federal Energy Regulatory Commission (hereafter “FERC”) license for the Idylwilde Project, which includes the Idylwilde dam, reservoir, and parking lot, on U.S. Forest Service land; and

WHEREAS, the City is currently in the process of surrendering the FERC license, and the City must reclaim the parking lot area, and the Letter of Understanding (Attached as Exhibit A) is intended to assure that CDOT will not create more work or expense for the City in meeting the final U.S. Forest Service requirements for reclamation; and

WHEREAS, CDOT will apply for a special use permit from U.S. Forest Service for use of the parking lot, and the Letter of Understanding will support the permit application and will inform as to the responsibilities of the parties; and

WHEREAS, Municipal Code 2.08.030 requires that all cooperative activities between the city and other governmental entities be submitted to city council for review and approval authorizing the city manager to execute the agreement; and

WHEREAS, governmental entities are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, the City Council desires to approve the Letter of Understanding on behalf of the City.

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

Section 1. That the Letter of Understanding is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Letter of Understanding in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager is hereby authorized and directed to execute the Letter of Understanding on behalf of the City.

Section 4. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

**CITY MANAGER**

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

July 5, 2016

Mr. James Usher, P.E.
Colorado Dept. of Transportation
2207 East Highway 402
Loveland, CO 80537

Sent via email: james.usher@state.co.us

Re: Letter of Understanding for Idylwilde Parking Lot Use during Highway 34 Reconstruction and Post-Construction Parking Lot Reclamation

The intent of this letter of understanding is to establish a mutual understanding between the Colorado Department of Transportation (CDOT) and the City of Loveland (City) regarding the status and condition of the Idylwilde parking lot on completion of U.S. Highway 34 reconstruction. This letter will additionally function as an operating plan attached to a temporary special use permit that the US Forest Service (USFS) will issue to CDOT for use of the parking lot during highway reconstruction. Further, this letter will help guide final negotiations between the City and the USFS on final parking lot reclamation.

This understanding is based on best known information at this time. Highway design elements pertinent to the ultimate configuration of the parking lot are not currently finalized; however communication will be maintained as designs are finalized and construction progresses and this letter of understanding will be modified in writing as needed.

It is the City's desire to maintain the highest level of efficiency with CDOT and USFS during the site's transition. A brief site background is provided for context, as it informs the necessity of the understanding and identifies the role of each party.

Site Background

The City of Loveland has a Federal Energy Regulatory Commission (FERC) license (Project P-2829) for the Idylwilde Project, including the former site of the Idylwilde Dam, Reservoir and parking lot that was located on USFS land as authorized by a Water Facilities Easement issued by the USFS. The easement area includes the parking lot.

The City is currently in the FERC license surrender application process, which requires that the City reclaim the easement area. Reclamation and final condition of the parking lot is subject to USFS approval. As such, the City has been working together with USFS to identify USFS

requirements and desired final design for the parking lot that the City will implement. The City included in its initial application to FERC a sketch map, identifying Phase I and Phase II of reconstruction of the parking lot.

CDOT has requested use of the Idylwilde parking lot for the duration of the Highway 34 reconstruction effort, to provide a location for storage and a field office that is otherwise limited to a space along the highway shoulder. This proposed use would occur prior to Phase I of the reconstruction of the parking lot.

It is the City's understanding that USFS and CDOT have met in the field to stake the limits of construction for modification of the parking lot, prior to its presumed use as a staging area for the construction contractor. Discussion may continue and the exact limits may be changed. That said the City's general objective is that any site changes for CDOT use do not create more work or expense for the City in meeting final USFS requirements for the parking lot, ultimately under USFS jurisdiction.

Basis of Understanding

USFS intends to issue CDOT a temporary special use permit for use of the parking lot area during highway reconstruction. Prior to issuing the permit, USFS is requesting a written understanding between the City and CDOT to document that the City understands that CDOT may be using the parking lot on an interim basis before the City completes final restoration of the parking lot.

USFS has completed a sketch plan for the parking lot area, dated September 24, 2015. The sketch plan includes Phase I, which identifies the reclamation efforts USFS requires the City to design and implement in order to satisfy FERC license surrender requirements. Phase II is also shown on the plan, and includes potential additional work based on possible future partnering options with other agencies. It is understood that this sketch plan may not reflect the final configuration of the parking lot and the City intends to circulate for review and comment any updated sketch plan which may be produced resulting from discussions with the USFS. The final configuration may require modification of this letter of understanding.

The City will conduct Phase I design finalization, and implement final Phase I designs from the currently existing conditions of the parking lot. It is recognized that the Phase I design may need to be changed prior to final design and construction in collaboration with the USFS. Recent discussions indicate the final parking lot may be smaller in size than the current parking lot. At this time, CDOT has not specified the final roadway elevation or location in the vicinity of the parking lot, or whether or not CDOT use of the parking lot will require a change from its existing condition. The City through its consultant OTAK will provide at least three conceptual designs to inform discussions with USFS and CDOT. These may include:

- (1) Parking lot at the current roadway elevation,
- (2) Parking lot close to the river 100-year floodplain elevation,
- (3) Parking lot at an elevation in between design (1) and design (2).

There are a number of specific design elements of the temporary configuration of the parking lot during construction of the highway which are to be determined by the USFS and CDOT. Examples of these items the City is currently aware of include: proposed limits of construction,

retaining existing trees in the parking lot area, installation of a geotextile over the existing ground surface to document current elevation, and application of herbicide prior to placement of any geotextile.

On a site visit May 12, 2016, it was observed by the City that there are a number of large boulders at the toe of the slope of the parking lot. It is understood that these boulders may need to remain in place while the parking lot is used by CDOT. At the end of CDOT's use, if not needed for the final parking lot, the City will likely make beneficial re-use of that riprap for the Idylwilde restoration. For example, select larger, rounded boulders could be used for riverine restoration, with more angular rock in the parking lot (larger pieces) or worked in along parking lot toe. This riprap will have to be moved before the temporary fill is placed if the boulders are to be used elsewhere onsite. It is the City's understanding that these rocks and any materials on site are the property of the USFS and the City will consult with the USFS prior to any movement of these materials.

Understanding

In order to address the USFS requirement of an understanding between the City and CDOT prior to USFS issuing the temporary special use permit to CDOT, the City proposes the following plan of operation/communication and items for mutual understanding:

1. CDOT, the City and USFS will maintain open communication regarding final roadway elevations and locations in the vicinity of the parking lot in order to facilitate final parking lot design. While not guaranteed, consideration will be given to a potential parking lot elevation lower than the roadway elevation to improve river overflow capacity and other natural river functions.
2. Upon completion of highway reconstruction, CDOT will leave the parking lot at the final elevation and location as agreed between the USFS, CDOT, and the City for optimal balance of roadway and river needs, and as required to implement USFS/City final parking lot designs.
3. CDOT will require the contractor using the parking lot to prevent spills of chemicals, fuel or other materials. Upon completion of highway reconstruction, CDOT will ensure that the parking lot area is free of any items related to the roadway reconstruction and chemical, fuel or other materials spills that would require clean-up prior to implementation of final parking lot construction. The USFS temporary use permit will incorporate terms to ensure that spill prevention and cleanup is a condition of temporary use permit.
4. The City will implement final Phase I parking lot designs subject to USFS approval of those designs.

Any modifications to this letter of understanding must be made in writing based on mutual consent of the City and CDOT.

Restoration with ability to influence how the site is left is the City's goal. We want CDOT to assist in restoration work, or at least not negatively impact the restoration, and work collaboratively with the City to achieve final design and concept for the parking lot.

Since before the flood of 2013, we have a history of working together. This letter reflects collaborative efforts that can be worked toward with the near goal of CDOT using the parking lot and the long term goal of making the site satisfactory to USFS.

If there are questions, please call Stephen C. Adams, Director, Department of Water and Power at (970) 962-3559 or Greg Dewey, Civil Engineer – Water Resources at (970) 962-3717. Thank you.

Sincerely,

Acting City Manager

cc: File – Idylwilde
Sue Greenley, USFS
Steve Hocking, FERC

AGENDA ITEM: 20
MEETING DATE: 7/5/2016
TO: City Council
FROM: Water and Power
PRESENTER: Lindsey Bashline, Customer Relations Specialist

TITLE:

A Resolution Approving An Intergovernmental Agreement Among The Town Of Estes Park, The City Of Fort Collins, The City Of Longmont, The City Of Loveland, And Platte River Power Authority For Demand Side Management And Distributed Energy Resource Program Partnership

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. (If the action is denied, Loveland would not be participating in Distributed Energy Resource Program Partnership opportunities with Platte River and the Municipalities.)
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. (It is vital that City Council receive the information they need to make a decision regarding this item. Further information requests will be addressed by staff with the outcome that the execution of the Intergovernmental Agreement will be delayed which may in turn delay the progress of potential Distributed Energy Resource projects.)

SUMMARY:

An Intergovernmental Agreement (IGA) for Demand Side Management (DSM) and Distributed Energy Resource (DER) Program Partnership has been mutually drafted by the staff of Platte River Power Authority (PRPA) and the Municipalities of Estes Park, Fort Collins, Longmont and Loveland. The PRPA Board of Directors unanimously adopted the IGA at the May 26, 2016 meeting and the Loveland Utilities Commission unanimously voted to recommend that Council approve the IGA at the June 15, 2016 meeting.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

DSM and DER programs are currently budgeted for in the Water and Power budget. The IGA does not necessarily increase DSM or DER program costs, but it does provide a mechanism for increasing DSM and DER programming (thereby increasing costs). No DSM or DER programs would be contracted for in excess of funds appropriated and budgeted in the Water and Power budget.

BACKGROUND:

This is an administrative action to approve an agreement under which Platte River Power Authority will contract for DSM and DER programs to be offered to Loveland's water and power customers. The IGA replaces and expands on the existing Intergovernmental Agreement for

Demand Side Management Program Partnership, which was executed by Platte River and the four Municipalities in 2014. The existing IGA is provided for your reference in Attachment 3.

Each year, Platte River contracts for DSM “common programs” to be provided to all four Municipalities. Costs for common programs are allocated between the Municipalities based upon their equity share of Platte River’s DSM budget. Common programs have been popular with Loveland’s customers and demand has continued to exceed Loveland’s allocation. The current IGA has provided a mechanism for staff to continue to offer DSM programs administered by Platte River to customers, with the direction, support, and in some cases funding, by the Municipalities. Staff supports this collaborative approach to DSM programming as a means to increase efficiencies, reduce costs, and increase contractor participation regarding DSM programming available to customers of the member cities.

The new IGA, in addition to DSM programs, facilitates collaboration on DER program administered by Platte River with direction, support, and in some cases funding, by the Municipalities.

The IGA included as part of the Resolution, refers to “Distributed energy resources” as energy resources located within or adjacent to the Municipalities’ distribution systems, which may include: 1) renewable resources such as wind or solar; 2) non-renewable generation, such as reciprocating internal combustion engines and fuel cells; 3) combined heat and power; and 4) energy storage, such as batteries or flywheels.

Like the prior IGA, the new IGA includes provisions for the equitable distribution of Platte River funds among the Municipalities and contains provisions that allow the Municipalities to provide additional funds to expand program services within each respective Municipality.

Platte River-funded DER is intended to benefit all of the Municipalities, not just the Municipality that may host a DER system. Further, the DER is not intended to alter the Municipalities purchases under Tariff 1. Therefore, the new IGA contains provisions for adjustments to Tariff 1 charges for the Municipality that hosts the DER in the event that the DER alters the Municipality’s metered wholesale load. It also provides for the allocation among the Municipalities of costs and benefits due to the operation of DER. DER programs may result in system benefits, such as increased surplus sales, reduced fuel costs, and delayed or avoided generation and transmission costs. Costs may include energy consumption (in the case of energy storage systems) or distribution system costs (which may be partially offset by distribution system savings). The overall net benefit of the DER will be determined for each DER program and allocated to the Municipalities. The allocation will be determined on a program-by- program basis. In general, the allocation would be equitably shared among the Municipalities for programs that are funded by Platte River, or in relation to each Municipality’s funding contributions to the program costs for programs that are funded by the Municipalities.

The IGA also provides for the sharing of customer data with third-party DSM or DER vendors or contractors. This provision contemplates that there may be unique situations in which vendors may need access to customer information. In these instances, no data will be shared unless the affected Municipality approves and the vendor enters an agreement with Platte River to maintain customer data as confidential.

The Platte River Board of Directors considered the proposed IGA at the May 26, 2016 meeting and unanimously adopted the IGA by way of resolution.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution
2. Intergovernmental Agreement (Exhibit A to Resolution)
3. Original Intergovernmental Agreement Dated September 10, 2014

RESOLUTION #R-51-2016**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT AMONG THE TOWN OF ESTES PARK, THE CITY OF FORT COLLINS, THE CITY OF LONGMONT, THE CITY OF LOVELAND, AND PLATTE RIVER POWER AUTHORITY FOR DEMAND SIDE MANAGEMENT AND DISTRIBUTED ENERGY RESOURCE PROGRAM PARTNERSHIP**

WHEREAS, the Town of Estes Park, the City of Fort Collins, the City of Longmont, and the City of Loveland (the “Municipalities”) contracted with one another to establish Platte River Power Authority (“Platte River”) as a separate legal entity and multi-purpose intergovernmental authority to provide the electric power and energy requirements of the Municipalities and to engage in related business activities, including demand side management (“DSM”) and renewable energy resources; and

WHEREAS, periodically Platte River develops Integrated Resource Plans that detail Platte River’s plans and programs in the areas of generation and transmission, renewable energy, and energy efficiency, including DSM; and

WHEREAS, Platte River desires to provide distributed energy resources (“DER”) to the Municipalities as an additional related business activity which may include, but is not limited to, renewable energy resources; and

WHEREAS, Platte River’s combined DSM and DER programs will include those offered to the utility customers of the Municipalities, which programs are contracted for and funded by Platte River; and

WHEREAS, Platte River seeks to maintain an equitable distribution of DSM and DER funds among the Municipalities; and

WHEREAS, Platte River and the Municipalities desire to expand the scope of Platte River’s programs to include DER programs and desire to define certain terms and conditions related to program management as set forth in the “Intergovernmental Agreement for Demand Side Management and Distributed Resources Program Partnership” attached hereto as Exhibit A and incorporated herein by reference (the “Intergovernmental Agreement”); and

WHEREAS, governmental entities are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, Council desires to approve the Intergovernmental Agreement on behalf of the City.

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

Section 1. That the Intergovernmental Agreement is hereby approved and replaces the previous IGA for Demand Side Management Program Partnership executed in 2014.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City.

Section 4. That the City Manager is hereby authorized to issue purchase orders under the Intergovernmental Agreement so long as said purchase orders do not exceed those amounts appropriated and available in the Water and Power Department budget.

Section 5. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT FOR DEMAND SIDE MANAGEMENT AND
DISTRIBUTED ENERGY RESOURCE PROGRAM PARTNERSHIP**

This Intergovernmental Agreement (“Agreement”) is made this _____ day of _____, 2016 by and between the TOWN OF ESTES PARK, a Colorado municipal corporation (“Estes Park”), the CITY OF FORT COLLINS, a Colorado municipal corporation (“Fort Collins”), the CITY OF LONGMONT, a Colorado municipal corporation (“Longmont”), the CITY OF LOVELAND, a Colorado municipal corporation (“Loveland”), and PLATTE RIVER POWER AUTHORITY, a political subdivision of the State of Colorado (“Platte River”), collectively referred to herein as the “Parties.” When specificity is not required, the municipal corporations which are parties hereto will hereinafter be individually referred to as “Municipality,” and collectively as “Municipalities.”

WHEREAS, the Municipalities contracted with one another to establish Platte River as a separate legal entity and multi-purpose intergovernmental authority to provide the electric power and energy requirements of the Municipalities and to engage in related business activities including demand side management (“DSM”) and renewable energy resources; and

WHEREAS, periodically Platte River develops Integrated Resource Plans that detail Platte River’s plans and programs in the areas of generation and transmission, renewable energy, and energy efficiency, including DSM; and

WHEREAS, Platte River desires to provide distributed energy resources (“DER”) to the Municipalities as an additional related business activity which may include, but is not limited to, renewable energy resources; and

WHEREAS, Platte River’s combined DSM and DER programs will include those offered to the utility customers of the Municipalities, which programs are contracted for and funded by Platte River; and

WHEREAS, Platte River seeks to maintain an equitable distribution of DSM and DER funds among the Municipalities; and

WHEREAS, the Parties intend to expand the scope of Platte River’s programs to include DER programs and desire to define certain terms and conditions related to program management as set forth in this Agreement; and

WHEREAS, the Parties are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.**

“Common Programs” shall mean DSM and DER programs and related services which are developed by, contracted for, and funded by Platte River. Common Programs are offered by Platte River to the utility customers of the Municipalities, up to an amount equal to each Municipality’s Equity Share of Platte River’s DSM and DER budgets.

“Directive Funding” shall mean funding that is provided by a Municipality to Platte River to procure DSM or DER services that fall outside of the Common Programs.

“Demand Side Management” shall mean energy efficiency, conservation, load management, and demand response programs or any combination of these programs.

“Distributed Energy Resource” shall mean an energy resource located within or adjacent to Platte River’s owner municipalities’ electric system and interconnected on the municipal utility’s side of the wholesale utility meter. Energy resources may include renewable generation from sources such as wind and solar; non-renewable generation from sources such as reciprocating internal combustion engines, micro-turbines, fuel cells, cogeneration and combined heat and power facilities; energy storage systems such as batteries, pumped hydro-storage, flywheels, and compressed air energy storage facilities; or any combination of these energy resources.

“Equity Share” shall mean the pro rata share that each Municipality would receive of Platte River’s assets upon dissolution as provided in Section 2.8 of the Platte River Power Authority Organic Contract.

“Fiscal Year” shall mean with reference to any Municipality, the applicable fiscal year for such Municipality, in accordance with its individual budget and accounting practices.

“Supplemental Funding” shall mean funding that is provided by a Municipality to procure Common Programs services in excess of those provided by Platte River based upon the Municipality’s Equity Share.

2. **Supplemental Funding.** During any calendar year demand for Common Program services within a Municipality may result in the full commitment of its Equity Share of Platte River’s DSM or DER budget. Upon the request of a Municipality whose Equity

Share of the DSM or DER budget has been fully committed, Platte River shall continue to offer Common Programs within that Municipality; provided, however, that before Platte River commits such additional funding, the Municipality must issue a purchase order authorizing Supplemental Funding in the necessary amount. Supplemental Funding shall be from funds that have been appropriated and are available in the Municipality's budget. Platte River shall invoice the Municipality under such purchase order when expenditures have exceeded its Equity Share of Platte River's DSM or DER budget. The Municipality shall pay Platte River within thirty days of invoice.

3. **Directive Funding.** Platte River or a Municipality may identify additional DSM and DER programs or services not contemplated within the scope of the Common Programs. Platte River and the interested Municipality may decide to collaborate in offering these programs or services when they determine that such collaboration would result in the effective delivery of the programs or services to the Municipality's utility customers. In these cases, Platte River will work closely with the Municipality's designated staff to establish a scope of work for the program or service as well as a budget containing sufficient funding to complete the scope of work. Prior to Platte River undertaking any Directive Funding activity, the Municipality must issue a purchase order authorizing an amount of expenditure from funds that have been appropriated and are available in the Municipality's budget. Platte River shall invoice the Municipality on a monthly basis, or at another agreed upon interval. The Municipality shall pay Platte River within thirty days of invoice.
4. **Scope of Agreement.** This Agreement shall apply only to DSM and DER that is procured by Platte River for the benefit of the Municipalities in accordance with the terms and conditions of this Agreement.
5. **Project Team.** Representatives of Platte River and the Municipalities will meet on an annual basis, and more often if necessary, to discuss and resolve any issues associated with implementation of this Agreement and to manage any programs undertaken through this Agreement. The nucleus of the Project Team will include a senior manager from the customer service departments of each party. Subject matter experts from each of the parties' organizations will also attend as appropriate.
6. **DER Tariff – Schedule 1: Firm Resale Power Service Adjustments.** The parties agree that DER installed under Common Programs or as a result of Directive Funding outside of Common Programs are not intended to alter the quantity of Tariff – Schedule 1: Firm Resale Power Service ("Tariff 1") furnished to a Municipality. Therefore, energy and power delivered by DER within a Municipality's distribution system, which has reduced the Municipality's purchases of Firm Resale Power (as defined in the Tariff), will be metered and added back into the Municipality's energy and demand, with appropriate

adjustment for distribution system losses, before computing Tariff 1 charges. Similarly, in the case of DER that consumes rather than provides energy or power, such as may occur due to electric storage losses or due to station service in excess of generation output from an idle generator, such energy or consumption will be metered and deducted from the Municipality's energy and demand, with adjustment for distribution system losses, before computing Tariff 1 charges. Platte River will work closely with designated Municipality staff to develop procedures for implementing the Tariff 1 adjustment for each DER program.

7. **DER Credits.** DER may provide benefits to Platte River's system, and may in some cases result in additional costs. Benefits may include increased surplus sales revenue, reduced market purchases, reduced fuel costs, avoided generation and transmission costs, avoided ancillary service costs, and avoided greenhouse gas or other emission costs. Costs may include reduced surplus sales, increased market purchases, increased fuel costs, increased ancillary services costs, and increased greenhouse gas or other emission costs. Platte River will work with Municipality staff to develop methods for tracking these costs and benefits. Costs and benefits may also include Host Utility Distribution System Costs and Benefits as defined below. The resulting net benefit (or net cost) will be allocated to each Municipality in proportion to its share of the DER providing the net benefit (or net cost). Platte River will work closely with designated Municipality staff to develop procedures for measuring DER benefits and costs, as well as for determining the allocation of benefits and costs among the Municipalities.
8. **Host Utility Distribution System Costs and Benefits.** DER installed under this Agreement may result in costs and benefits to the Municipality that hosts the DER ("Host Utility Distribution System Costs and Benefits"). Costs may include, but are not limited to, those associated with planning, design, permitting, procurement, and construction of distribution and communication system upgrades necessary for the installation and operation of the DER. Benefits may include, but are not limited to, deferred distribution costs, deferred maintenance costs, or improved reliability or resiliency.
9. **Term.** This Agreement will be effective upon execution by the Parties and will remain in effect until terminated.
10. **Termination.** A Municipality or Platte River may terminate its participation in this Agreement upon sixty (60) days written notice to the other Parties; provided, however, that any work commenced by Platte River under a purchase order issued by a Municipality prior to receipt of the written notice of termination will be completed by Platte River and reimbursed by the Municipality.

11. **Appropriation Required.** The financial obligations of the Municipalities under this Agreement are from year to year only and shall not constitute a multiple-fiscal year debt or other financial obligation or fiscal obligation of any kind payable in any Fiscal Year beyond the Fiscal Year for which funds are so appropriated for the payment of current expenditures.
12. **Designated Representatives.** The designated representatives for each of the Parties are as follows:

Platte River:	Paul Davis, Customer Services Manager Platte River Power Authority 2000 East Horsetooth Road Fort Collins, CO 80525 970-229-5370 Davisp@prpa.org
Estes Park:	Reuben Bergsten, Utility Director Estes Park Light & Power Estes Park Municipal Building P.O. Box 1200 170 MacGregor Ave Estes Park, Colorado 80517
Fort Collins:	John Phelan, Resource Conservation Manager Fort Collins Utilities 700 Wood St Fort Collins, CO 80522
Longmont:	Anne Lutz, Energy Services Manager Longmont Power & Communications 1100 S. Sherman St. Longmont, CO 80501 303-651-8727 Anne.Lutz@ci.longmont.co.us
Loveland:	Gretchen Stanford, Customer Relations Manager Loveland Water & Power 200 North Wilson Avenue Loveland, CO 80537 970-962-3550 Gretchen.Stanford@cityofloveland.org

A Municipality or Platte River must notify the other Parties in writing of any subsequent changes in appointed representative.

13. **Notices.** Any notice, demand, request, consent, approval, or communication that a Municipality or Platte River is required to give shall be in writing and either served personally or sent by first class mail, postage prepaid, or by fax or email, to the designated representative of the recipient at the address designated as set forth above, or as subsequently provided in writing.
14. **Confidential Customer Information.** To the extent required by Platte River (as an agent of the Municipalities) to perform the work required under this Agreement, a Municipality may provide Platte River with confidential utility customer information. Use of confidential customer information shall be limited to that necessary for implementation of DSM or DER programs. Platte River agrees to keep such information confidential and shall not disclose such information, including to the other Municipalities, except as required by law. Platte River shall notify the Municipality prior to any such disclosure so that the Municipality may have an opportunity to take such legal action as it deems necessary to prevent the disclosure.
15. **Third Party Agreements.** Platte River and designated Municipality staff may determine that DSM and DER programs may in some cases benefit from the use of vendors or contractors tasked with implementing portions of the programs. When this is the case, Platte River shall be responsible for engaging with vendors and contractors and ensuring agreements are fulfilled. The Parties hereto agree that Confidential Customer Data may be shared with the vendor or contractors provided that the third party enters into a form agreement with Platte River to maintain customer confidentiality; provided that the Municipalities' designated representative referenced above approves in writing the release of Customer Data and conditions associated therewith; and provided that use of Confidential Customer Information shall be limited to that necessary for the vendor's or contractor's scope of work associated with the DSM or DER program.
16. **Liability.** Each of the Parties hereto agrees to assume responsibility and liability associated with its own acts and the acts of its employees in the performance of this Agreement in accordance with Colorado law. By agreeing to this provision, neither Platte River or the Municipalities waives or intends to waive, the limitations on liability which are provided to them under the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as amended.
17. **Entire Agreement.** This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the Parties.

- 18. **No Third Party Beneficiaries.** The Parties acknowledge and agree that this Agreement is intended to only document the relative rights and obligations between the Parties to one another, and that no third party beneficiaries are intended.
- 19. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
- 20. **Authority.** The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States, and imposed upon the Municipalities by their Charter or Municipal Code, and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall the Parties exercise any power or take any action which shall be prohibited by applicable law. This Agreement may be executed in separate counterparts, and the counterparts taken together shall constitute the whole of this Agreement.
- 21. **Superseded Agreements.** This Agreement supersedes and replaces the following agreements which are hereby terminated:

“Intergovernmental Agreement for Demand Side Management Program Partnership” between the Town of Estes Park, the City of Fort Collins, the City of Longmont, and the City of Loveland, and Platte River Power Authority, dated September 10, 2014.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

PLATTE RIVER POWER AUTHORITY

ATTEST:

By: _____
Jackie Sargent, Chief Executive Officer

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
General Counsel

TOWN OF ESTES PARK, COLORADO

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

CITY OF FORT COLLINS, COLORADO

ATTEST:

By: _____
City Manager

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LOVELAND, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LONGMONT, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM AND SUBSTANCE:

By: _____
General Manager of Longmont Power & Communications

PROOFREAD:

APPROVED AS TO FORM:

Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT FOR DEMAND SIDE MANAGEMENT AND
DISTRIBUTED ENERGY RESOURCE PROGRAM PARTNERSHIP**

This Intergovernmental Agreement (“Agreement”) is made this _____ day of _____, 2016 by and between the TOWN OF ESTES PARK, a Colorado municipal corporation (“Estes Park”), the CITY OF FORT COLLINS, a Colorado municipal corporation (“Fort Collins”), the CITY OF LONGMONT, a Colorado municipal corporation (“Longmont”), the CITY OF LOVELAND, a Colorado municipal corporation (“Loveland”), and PLATTE RIVER POWER AUTHORITY, a political subdivision of the State of Colorado (“Platte River”), collectively referred to herein as the “Parties.” When specificity is not required, the municipal corporations which are parties hereto will hereinafter be individually referred to as “Municipality,” and collectively as “Municipalities.”

WHEREAS, the Municipalities contracted with one another to establish Platte River as a separate legal entity and multi-purpose intergovernmental authority to provide the electric power and energy requirements of the Municipalities and to engage in related business activities including demand side management (“DSM”) and renewable energy resources; and

WHEREAS, periodically Platte River develops Integrated Resource Plans that detail Platte River’s plans and programs in the areas of generation and transmission, renewable energy, and energy efficiency, including DSM; and

WHEREAS, Platte River desires to provide distributed energy resources (“DER”) to the Municipalities as an additional related business activity which may include, but is not limited to, renewable energy resources; and

WHEREAS, Platte River’s combined DSM and DER programs will include those offered to the utility customers of the Municipalities, which programs are contracted for and funded by Platte River; and

WHEREAS, Platte River seeks to maintain an equitable distribution of DSM and DER funds among the Municipalities; and

WHEREAS, the Parties intend to expand the scope of Platte River’s programs to include DER programs and desire to define certain terms and conditions related to program management as set forth in this Agreement; and

WHEREAS, the Parties are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.**

“Common Programs” shall mean DSM and DER programs and related services which are developed by, contracted for, and funded by Platte River. Common Programs are offered by Platte River to the utility customers of the Municipalities, up to an amount equal to each Municipality’s Equity Share of Platte River’s DSM and DER budgets.

“Directive Funding” shall mean funding that is provided by a Municipality to Platte River to procure DSM or DER services that fall outside of the Common Programs.

“Demand Side Management” shall mean energy efficiency, conservation, load management, and demand response programs or any combination of these programs.

“Distributed Energy Resource” shall mean an energy resource located within or adjacent to Platte River’s owner municipalities’ electric system and interconnected on the municipal utility’s side of the wholesale utility meter. Energy resources may include renewable generation from sources such as wind and solar; non-renewable generation from sources such as reciprocating internal combustion engines, micro-turbines, fuel cells, cogeneration and combined heat and power facilities; energy storage systems such as batteries, pumped hydro-storage, flywheels, and compressed air energy storage facilities; or any combination of these energy resources.

“Equity Share” shall mean the pro rata share that each Municipality would receive of Platte River’s assets upon dissolution as provided in Section 2.8 of the Platte River Power Authority Organic Contract.

“Fiscal Year” shall mean with reference to any Municipality, the applicable fiscal year for such Municipality, in accordance with its individual budget and accounting practices.

“Supplemental Funding” shall mean funding that is provided by a Municipality to procure Common Programs services in excess of those provided by Platte River based upon the Municipality’s Equity Share.

2. **Supplemental Funding.** During any calendar year demand for Common Program services within a Municipality may result in the full commitment of its Equity Share of Platte River’s DSM or DER budget. Upon the request of a Municipality whose Equity

Share of the DSM or DER budget has been fully committed, Platte River shall continue to offer Common Programs within that Municipality; provided, however, that before Platte River commits such additional funding, the Municipality must issue a purchase order authorizing Supplemental Funding in the necessary amount. Supplemental Funding shall be from funds that have been appropriated and are available in the Municipality's budget. Platte River shall invoice the Municipality under such purchase order when expenditures have exceeded its Equity Share of Platte River's DSM or DER budget. The Municipality shall pay Platte River within thirty days of invoice.

3. **Directive Funding.** Platte River or a Municipality may identify additional DSM and DER programs or services not contemplated within the scope of the Common Programs. Platte River and the interested Municipality may decide to collaborate in offering these programs or services when they determine that such collaboration would result in the effective delivery of the programs or services to the Municipality's utility customers. In these cases, Platte River will work closely with the Municipality's designated staff to establish a scope of work for the program or service as well as a budget containing sufficient funding to complete the scope of work. Prior to Platte River undertaking any Directive Funding activity, the Municipality must issue a purchase order authorizing an amount of expenditure from funds that have been appropriated and are available in the Municipality's budget. Platte River shall invoice the Municipality on a monthly basis, or at another agreed upon interval. The Municipality shall pay Platte River within thirty days of invoice.
4. **Scope of Agreement.** This Agreement shall apply only to DSM and DER that is procured by Platte River for the benefit of the Municipalities in accordance with the terms and conditions of this Agreement.
5. **Project Team.** Representatives of Platte River and the Municipalities will meet on an annual basis, and more often if necessary, to discuss and resolve any issues associated with implementation of this Agreement and to manage any programs undertaken through this Agreement. The nucleus of the Project Team will include a senior manager from the customer service departments of each party. Subject matter experts from each of the parties' organizations will also attend as appropriate.
6. **DER Tariff – Schedule 1: Firm Resale Power Service Adjustments.** The parties agree that DER installed under Common Programs or as a result of Directive Funding outside of Common Programs are not intended to alter the quantity of Tariff – Schedule 1: Firm Resale Power Service ("Tariff 1") furnished to a Municipality. Therefore, energy and power delivered by DER within a Municipality's distribution system, which has reduced the Municipality's purchases of Firm Resale Power (as defined in the Tariff), will be metered and added back into the Municipality's energy and demand, with appropriate

adjustment for distribution system losses, before computing Tariff 1 charges. Similarly, in the case of DER that consumes rather than provides energy or power, such as may occur due to electric storage losses or due to station service in excess of generation output from an idle generator, such energy or consumption will be metered and deducted from the Municipality's energy and demand, with adjustment for distribution system losses, before computing Tariff 1 charges. Platte River will work closely with designated Municipality staff to develop procedures for implementing the Tariff 1 adjustment for each DER program.

7. **DER Credits.** DER may provide benefits to Platte River's system, and may in some cases result in additional costs. Benefits may include increased surplus sales revenue, reduced market purchases, reduced fuel costs, avoided generation and transmission costs, avoided ancillary service costs, and avoided greenhouse gas or other emission costs. Costs may include reduced surplus sales, increased market purchases, increased fuel costs, increased ancillary services costs, and increased greenhouse gas or other emission costs. Platte River will work with Municipality staff to develop methods for tracking these costs and benefits. Costs and benefits may also include Host Utility Distribution System Costs and Benefits as defined below. The resulting net benefit (or net cost) will be allocated to each Municipality in proportion to its share of the DER providing the net benefit (or net cost). Platte River will work closely with designated Municipality staff to develop procedures for measuring DER benefits and costs, as well as for determining the allocation of benefits and costs among the Municipalities.
8. **Host Utility Distribution System Costs and Benefits.** DER installed under this Agreement may result in costs and benefits to the Municipality that hosts the DER ("Host Utility Distribution System Costs and Benefits"). Costs may include, but are not limited to, those associated with planning, design, permitting, procurement, and construction of distribution and communication system upgrades necessary for the installation and operation of the DER. Benefits may include, but are not limited to, deferred distribution costs, deferred maintenance costs, or improved reliability or resiliency.
9. **Term.** This Agreement will be effective upon execution by the Parties and will remain in effect until terminated.
10. **Termination.** A Municipality or Platte River may terminate its participation in this Agreement upon sixty (60) days written notice to the other Parties; provided, however, that any work commenced by Platte River under a purchase order issued by a Municipality prior to receipt of the written notice of termination will be completed by Platte River and reimbursed by the Municipality.

11. **Appropriation Required.** The financial obligations of the Municipalities under this Agreement are from year to year only and shall not constitute a multiple-fiscal year debt or other financial obligation or fiscal obligation of any kind payable in any Fiscal Year beyond the Fiscal Year for which funds are so appropriated for the payment of current expenditures.
12. **Designated Representatives.** The designated representatives for each of the Parties are as follows:

Platte River:	Paul Davis, Customer Services Manager Platte River Power Authority 2000 East Horsetooth Road Fort Collins, CO 80525 970-229-5370 Davisp@prpa.org
Estes Park:	Reuben Bergsten, Utility Director Estes Park Light & Power Estes Park Municipal Building P.O. Box 1200 170 MacGregor Ave Estes Park, Colorado 80517
Fort Collins:	John Phelan, Resource Conservation Manager Fort Collins Utilities 700 Wood St Fort Collins, CO 80522
Longmont:	Anne Lutz, Energy Services Manager Longmont Power & Communications 1100 S. Sherman St. Longmont, CO 80501 303-651-8727 Anne.Lutz@ci.longmont.co.us
Loveland:	Gretchen Stanford, Customer Relations Manager Loveland Water & Power 200 North Wilson Avenue Loveland, CO 80537 970-962-3550 Gretchen.Stanford@cityofloveland.org

A Municipality or Platte River must notify the other Parties in writing of any subsequent changes in appointed representative.

13. **Notices.** Any notice, demand, request, consent, approval, or communication that a Municipality or Platte River is required to give shall be in writing and either served personally or sent by first class mail, postage prepaid, or by fax or email, to the designated representative of the recipient at the address designated as set forth above, or as subsequently provided in writing.
14. **Confidential Customer Information.** To the extent required by Platte River (as an agent of the Municipalities) to perform the work required under this Agreement, a Municipality may provide Platte River with confidential utility customer information. Use of confidential customer information shall be limited to that necessary for implementation of DSM or DER programs. Platte River agrees to keep such information confidential and shall not disclose such information, including to the other Municipalities, except as required by law. Platte River shall notify the Municipality prior to any such disclosure so that the Municipality may have an opportunity to take such legal action as it deems necessary to prevent the disclosure.
15. **Third Party Agreements.** Platte River and designated Municipality staff may determine that DSM and DER programs may in some cases benefit from the use of vendors or contractors tasked with implementing portions of the programs. When this is the case, Platte River shall be responsible for engaging with vendors and contractors and ensuring agreements are fulfilled. The Parties hereto agree that Confidential Customer Data may be shared with the vendor or contractors provided that the third party enters into a form agreement with Platte River to maintain customer confidentiality; provided that the Municipalities' designated representative referenced above approves in writing the release of Customer Data and conditions associated therewith; and provided that use of Confidential Customer Information shall be limited to that necessary for the vendor's or contractor's scope of work associated with the DSM or DER program.
16. **Liability.** Each of the Parties hereto agrees to assume responsibility and liability associated with its own acts and the acts of its employees in the performance of this Agreement in accordance with Colorado law. By agreeing to this provision, neither Platte River or the Municipalities waives or intends to waive, the limitations on liability which are provided to them under the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as amended.
17. **Entire Agreement.** This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the Parties.

- 18. **No Third Party Beneficiaries.** The Parties acknowledge and agree that this Agreement is intended to only document the relative rights and obligations between the Parties to one another, and that no third party beneficiaries are intended.

- 19. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.

- 20. **Authority.** The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States, and imposed upon the Municipalities by their Charter or Municipal Code, and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall the Parties exercise any power or take any action which shall be prohibited by applicable law. This Agreement may be executed in separate counterparts, and the counterparts taken together shall constitute the whole of this Agreement.

- 21. **Superseded Agreements.** This Agreement supersedes and replaces the following agreements which are hereby terminated:

“Intergovernmental Agreement for Demand Side Management Program Partnership” between the Town of Estes Park, the City of Fort Collins, the City of Longmont, and the City of Loveland, and Platte River Power Authority, dated September 10, 2014.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

PLATTE RIVER POWER AUTHORITY

By: _____
 Jackie Sargent, Chief Executive Officer

ATTEST:

By: _____
 Secretary

APPROVED AS TO FORM:

By: _____
 General Counsel

TOWN OF ESTES PARK, COLORADO

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

CITY OF FORT COLLINS, COLORADO

ATTEST:

By: _____
City Manager

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LOVELAND, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LONGMONT, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM AND SUBSTANCE:

By: _____
General Manager of Longmont Power & Communications

PROOFREAD:

APPROVED AS TO FORM:

Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT FOR DEMAND SIDE
MANAGEMENT PROGRAM PARTNERSHIP**

This Intergovernmental Agreement ("Agreement") is made this 10th day of SEPT, 2014 by and between the TOWN OF ESTES PARK, a Colorado municipal corporation ("Estes Park"), the CITY OF FORT COLLINS, a Colorado municipal corporation ("Fort Collins"), the CITY OF LONGMONT, a Colorado municipal corporation ("Longmont"), the CITY OF LOVELAND, a Colorado municipal corporation ("Loveland"), and PLATTE RIVER POWER AUTHORITY, a political subdivision of the State of Colorado ("Platte River"), collectively referred to herein as the "Parties." When specificity is not required, the municipal corporations which are parties hereto will hereinafter be individually referred to as "Municipality," and collectively as "Municipalities."

WHEREAS, the Municipalities contracted with one another to establish Platte River as a separate legal entity and multi-purpose intergovernmental authority to provide the electric power and energy requirements of the Municipalities and to engage in related business activities including demand side management ("DSM"); and

WHEREAS, periodically Platte River develops Integrated Resource Plans that detail Platte River's plans and programs in the areas of generation and transmission, renewable energy, and energy efficiency, including DSM; and

WHEREAS, Platte River's DSM programs include those offered to the utility customers of the Municipalities, which programs are contracted for and funded by Platte River; and

WHEREAS, Platte River seeks to maintain an equitable distribution of DSM funds among the Municipalities; and

WHEREAS, the Parties intend to expand the scope of Platte River's current DSM programs, and desire to define certain terms and conditions related to program management as set forth in this Agreement; and

WHEREAS, the Parties are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.**

“Common Programs” shall mean DSM programs and related services which are developed by, contracted for, and funded by Platte River. Common Programs are offered by Platte River to the utility customers of the Municipalities, up to an amount equal to each Municipality’s Equity Share of Platte River’s DSM budget.

“Directive Funding” shall mean funding that is provided by a Municipality to procure DSM services that fall outside of those DSM services provided through the Common Programs.

“Equity Share” shall mean the pro rata share that each Municipality would receive of Platte River’s assets upon dissolution as provided in Section 2.8 of the Platte River Power Authority Organic Contract.

“Fiscal Year” shall mean with reference to any Municipality, the applicable fiscal year for such Municipality, in accordance with its individual budget and accounting practices.

“Supplemental Funding” shall mean funding that is provided by a Municipality to procure Common Programs services in excess of those provided by Platte River based upon the Municipality’s Equity Share.

2. **Supplemental Funding.** During any calendar year demand for Common Programs services within a Municipality may result in the full commitment of its Equity Share of Platte River’s DSM budget. Upon the request of a Municipality whose Equity Share of the DSM budget has been fully committed, Platte River shall continue to offer Common Programs within that Municipality; provided, however, that before Platte River commits such additional funding, the Municipality must issue a purchase order authorizing Supplemental Funding in the necessary amount. Supplemental Funding shall be from funds that have been appropriated and are available in the Municipality’s budget. Platte River shall invoice the Municipality under such purchase order when expenditures have exceeded its Equity Share of Platte River’s DSM budget. The Municipality shall pay Platte River within thirty days of invoice.
3. **Directive Funding.** Platte River or a Municipality may identify additional DSM programs or services not contemplated within the scope of the Common Programs. Platte River and the interested Municipality may decide to collaborate in offering these programs or services when they determine that such collaboration would result in the effective delivery of the programs or services to the Municipality’s utility customers. In these cases, Platte River will work closely with the Municipality’s designated staff to

establish a scope of work for the program or service as well as a budget containing sufficient funding to complete the scope of work. Prior to Platte River undertaking any Directive Funding activity, the Municipality must issue a purchase order authorizing an amount of expenditure from funds that have been appropriated and are available in the Municipality's budget. Platte River shall invoice the Municipality on a monthly basis, or at another agreed upon interval. The Municipality shall pay Platte River within thirty days of invoice.

4. **Term.** This Agreement will be effective upon execution by the Parties and will remain in effect until terminated.
5. **Termination.** A Municipality or Platte River may terminate its participation in this Agreement upon sixty (60) days written notice to the other Parties; provided, however, that any work commenced by Platte River under a purchase order issued by a Municipality prior to receipt of the written notice of termination will be completed by Platte River and reimbursed by the Municipality.
6. **Appropriation Required.** The financial obligations of the Municipalities under this Agreement are from year to year only and shall not constitute a multiple-fiscal year debt or other financial obligation or fiscal obligation of any kind payable in any Fiscal Year beyond the Fiscal Year for which funds are so appropriated for the payment of current expenditures.
7. **Designated Representatives.** The designated representatives for each of the Parties are as follows:

Platte River:

Paul Davis, Customer Services Manager
 Platte River Power Authority
 2000 East Horsetooth Road
 Fort Collins, CO 80525
 970-229-5370
 Davisp@prpa.org

Estes Park:

Reuben Bergsten, Utility Director
 Estes Park Light & Power
 Estes Park Municipal Building
 P.O. Box 1200
 170 MacGregor Ave
 Estes Park, Colorado 80517

Fort Collins: John Phelan, Energy Services Manager
 Fort Collins Utilities
 700 Wood St
 Fort Collins, CO 80522

Longmont: Energy Services Manager
 Longmont Power & Communications
 1100 S. Sherman St.
 Longmont, CO 80501
 303-651-8727
 Anne.Lutz@ci.longmont.co.us

Loveland: Gretchen Stanford, Customer Relations Manager
 Loveland Water & Power
 200 North Wilson Avenue
 Loveland, CO 80537
 970-962-3550
 Gretchen.Stanford@cityofloveland.org

A Municipality or Platte River must notify the other Parties in writing of any subsequent changes in appointed representative.

8. **Notices.** Any notice, demand, request, consent, approval, or communication that a Municipality or Platte River is required to give shall be in writing and either served personally or sent by first class mail, postage prepaid, or by fax or email, to the designated representative of the recipient at the address designated as set forth above, or as subsequently provided in writing.
9. **Confidential Customer Information.** To the extent required by Platte River (as an agent of the Municipalities) to perform the work required under this Agreement, a Municipality may provide Platte River with confidential utility customer information. Platte River agrees to keep such information confidential and shall not disclose such information, including to the other Municipalities, except as required by law. Platte River shall notify the Municipality prior to any such disclosure so that the Municipality may have an opportunity to take such legal action as it deems necessary to prevent the disclosure.
10. **Liability.** Each of the Parties hereto agrees to assume responsibility and liability associated with its own acts and the acts of its employees in the performance of this Agreement in accordance with Colorado law. By agreeing to this provision, neither

Platte River or the Municipalities waives or intends to waive, the limitations on liability which are provided to them under the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as amended.

11. **Entire Agreement.** This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the Parties.
12. **No Third Party Beneficiaries.** The Parties acknowledge and agree that this Agreement is intended to only document the relative rights and obligations between the Parties to one another, and that no third party beneficiaries are intended.
13. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
14. **Authority.** The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States, and imposed upon the Municipalities by their Charter or Municipal Code, and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall the Parties exercise any power or take any action which shall be prohibited by applicable law. This Agreement may be executed in separate counterparts, and the counterparts taken together shall constitute the whole of this Agreement.
15. **Superseded Agreements.** This Agreement supersedes and replaces the following agreements which are hereby terminated:

“Intergovernmental Agreement for Demand Side Management Program Funding” between the City of Loveland and Platte River, dated December 18, 2012.

“Intergovernmental Agreement between the City of Longmont and the Platte River Power Authority Concerning Use of Longmont’s Electric Utility Customer Data,” dated January 10, 1995.

“Intergovernmental Agreement between the City of Longmont and the Platte River Power Authority Concerning Use of Longmont’s Electric Utility Customer Data,” dated May 30, 2002.

“Agreement” between Platte River Power Authority and the City of Longmont, dated April 8, 2005.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

TOWN OF ESTES PARK, COLORADO

By: [Signature]
[Title] Mayor



ATTEST:

By: [Signature]
Town Clerk

CITY OF FORT COLLINS, COLORADO

By: [Signature]
Darin Atteberry, City Manager

ATTEST:

By: [Signature]
City Clerk / Chief Deputy



APPROVED AS TO FORM:

By: [Signature]
Assistant City Attorney

CITY OF LOVELAND, COLORADO

By: [Signature]
Acting [Title] Manager

ATTEST:

By: [Signature]
City Clerk



APPROVED AS TO FORM:

By: [Signature]
Assistant City Attorney

CITY OF LONGMONT, COLORADO

By: [Signature]
Mayor

ATTEST:

By: [Signature]
Deputy City Clerk



APPROVED AS TO FORM AND SUBSTANCE:

By: [Signature]
General Manager of Longmont Power & Communications

PROOFREAD:

K. Brunat

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

PLATTE RIVER POWER AUTHORITY

By: Jackie A. Sargent
Jackie Sargent, General Manager/CEO

ATTEST:

By: Joseph B. [Signature]
Secretary

APPROVED AS TO FORM:

By: [Signature] 8/15/14
General Counsel



AGENDA ITEM: 21
MEETING DATE: 7/5/2016
TO: City Council
FROM: Alison Hade, Community Partnership Office
PRESENTER: Alison Hade, Administrator

TITLE:

A Resolution Approving The 2016 Grant Funding Recommendation Of The Loveland Human Services Commission And The Loveland Affordable Housing Commission

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action – If the action is denied, the Human Services Commission may need to allocate \$500,000 instead of \$550,411. If CDBG is denied, the CPO would inform agencies that CDBG is no longer available.
3. Adopt a modified action (specify in the motion) – Council would need to define any modification to the allocation recommendation.
4. Refer back to staff for further development and consideration – Staff would require direction from Council.

SUMMARY:

This is an administrative action. The Human Services Commission and Affordable Housing Commission considered 51 grant requests totaling \$1.38 million, and recommended funding 42 with allocations of \$550,411 for human services and \$299,516 for affordable housing and public facilities. The attached staff report describes how the commissions made their decisions.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The resolution authorizes the allocation of the 2016 Human Services Grant and Community Development Block Grant that were appropriated in the 2016 City Budget.

BACKGROUND:

Human Services commissioners base their recommendations on proposal scores and agency presentations. In 2016, the nine lowest-ranking applications were not funded.

Affordable Housing commissioners based their recommendations on the extent to which proposals met the goals of the 2015-2020 Consolidated Plan.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Resolution
2. Staff Report

RESOLUTION #R-52-2016**A RESOLUTION APPROVING THE 2016 GRANT FUNDING RECOMMENDATIONS OF THE LOVELAND HUMAN SERVICES COMMISSION AND THE LOVELAND AFFORDABLE HOUSING COMMISSION**

WHEREAS, the City of Loveland, Colorado recognizes the valuable services provided by human services agencies in the Loveland community; and

WHEREAS, the City Council of the City of Loveland recognizes the need to provide opportunities for the well-being of less fortunate citizens; and

WHEREAS, the City has established the Human Services Grant Program to provide financial assistance to agencies meeting the human service needs in the community; and

WHEREAS, the City has budgeted \$500,000 in the 2016 City of Loveland budget for the Human Services Grant Program; and

WHEREAS, the City receives federal Community Development Block Grant (“CDBG”) Program funds through the U.S. Department of Housing and Urban Development (“HUD”) to assist in meeting the housing service needs of Loveland citizens with low incomes; and

WHEREAS, the City anticipates receiving \$336,070 in CDBG Program funds for the 2016-2017 federal fiscal year; and

WHEREAS, in addition to said funds, the City has \$1,070 in CDBG Program funds remaining from the 2015-2016 federal fiscal year and \$80,000 in CDBG Program funds that were returned, resulting in a combined total of \$417,140; and

WHEREAS, the City Council has charged the Human Services Commission with the task of reviewing all grant applications made to the City for Human Services Grant Program funds and for CDBG Public Service Program funds and making a funding recommendation to the City Council regarding such grant funds distribution; and

WHEREAS, the City Council has charged the Affordable Housing Commission with the task of reviewing all “bricks and mortar” grant applications made to the City for CDBG Program funds related to housing and public facilities and making a recommendation to the City Council regarding such grant funds distribution; and

WHEREAS, the Human Services Commission and the Affordable Housing Commission have reviewed all grant applications made to the City for Human Services Grant Program funds and CDBG Program funds, and have made a recommendation to the City Council regarding distribution of said funds; and

WHEREAS, the City Council desires to approve the grant funding recommendations of the Human Services Commission and the Affordable Housing Commission.

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

Section 1. That the 2016 grant funding recommendation of the Human Services Commission regarding the distribution of Human Services Grant Program funds are hereby approved in the following amounts to the following agencies, subject to execution of a recipient contract with the City of Loveland:

Agency	Total Grant Amount
Alternatives to Violence	\$3,748
Boys & Girls Club	\$65,594
Care-A-Van/SAINT	\$5,694
Court Appointed Special Advocates	\$13,123
Catholic Charities of Larimer County	\$10,415
Center for Adult Learning	\$30,825
Disabled Resource Services	\$11,288
Easter Seals of Colorado/WINGS	\$11,537
Elderhaus Adult Day Program	\$12,990
Ensign Skills Center	\$9,809
Food Bank for Larimer County	\$38,667
Goodwill Industries	\$10,940
Hearts and Horses	\$4,478
House of Neighborly Service	\$17,745
Loveland Rotary/Kids Pak	\$2,983
Matthews House	\$19,844
Meals on Wheels	\$24,901
Neighbor to Neighbor	\$23,719
Partners Mentoring Youth	\$3,990
Project Self-Sufficiency	\$19,993
Rehabilitation & Visiting Nurse Association	\$19,626
Respite Care	\$9,932
SummitStone Health Partners	\$27,195
Thompson Education Foundation First Steps	\$7,811
Thompson Valley Preschool	\$10,901
Turning Point Center for Youth	\$18,508
United Day Care Center/Teaching Tree	\$18,238
United Way Reading Corps	\$11,834

Voice Carry Child Advocacy Center	\$17,504
Volunteers of America	\$6,168
Model Partnership: House of Neighborly Services and Goodwill Ind.	\$4,000
Model Partnership: Murphy Center for Hope	\$6,000
Total Grant Amount	\$500,000

Section 2. That the 2016 grant funding recommendation of the Human Services Commission and the Affordable Housing Commission regarding the distribution of CDBG Program funds are hereby approved in the following amounts to the following agencies, subject to: (a) the approval of HUD and the allocation to and receipt of CDBG funds by the City of Loveland in 2016; (b) City Council budget and appropriation of such allocated federal funding; and (c) execution of a subrecipient contract with the City of Loveland:

Agency	Total Grant Amount
Alternatives to Violence	\$33,105
House of Neighborly Service	\$17,306
Easter Seals of Colorado	\$10,000
Loveland Housing Authority	\$202,000
Loveland Housing Development Corp.	\$68,000
Volunteers of America	\$19,516
City of Loveland Program Administration	\$67,213
Total Grant Amount	\$417,140

Section 3. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 5th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

MEMORANDUM

TO: City Council
FROM: Alison Hade, Community Partnership Office
DATE: July 5, 2016
RE: 2016-2017 Grant Recommendations

Summary:

The City of Loveland invests in housing and human services via the Human Services Grant (HSG) and Community Development Block Grant (CDBG) programs. The City received 46 grant applications for HSG funds and five applications for CDBG “bricks & mortar” funds. The two commissions reviewed and scored applications, heard presentations from each applicant, and formulated funding recommendations totaling **\$849,927**.

Decisions are made for **HSG funding** by the Human Services Commission (HSC) through a blind allocation process based on the overall score of the proposal and the presentation. The commission funded proposals that received 79% or higher of the total score possible, a minimum of 226 total points. Two Model Partnership applications were submitted for collaborative services to the homeless. The HSC recommended partial funding for both partnerships.

Proposal consideration for **CDBG funding** by the Affordable Housing Commission (AHC) involved prioritizing requests based on the goals of the 2015-2020 Consolidated Plan. Therefore, applicant scores were only one consideration in determining funding recommendations.

2016 Allocations

Grant Program	Revenue Source	2016 Funds Available for Grants	Funds Requested	# Requests	# Grants Recommended
Human Services Grant	City general fund, CDBG Public Svc funds	\$550,411	\$1,044,787	46	37
Community Development Block Grant	HUD Bricks & Mortar Funds	\$299,516	\$339,200	5	5
Totals		\$849,927	\$1,383,987	51	42

Funding for the two programs came from the following sources:

- **HSG: \$500,000** from the City of Loveland, **\$50,411** from HUD for public services (15% of HUD allocation),.
- **CDBG: \$218,446** from HUD for Bricks/Mortar projects (65% of HUD allocation), plus **\$1,070** not used by the Matthews House for office space rehabilitation and **\$80,000** returned by the Bohemian Foundation for the Murphy Center for Hope.
- The remaining 20% (**\$67,213**) of the HUD allocation is used to administer the program. This amount is not shown as part of the allocations.

Funding Distribution Process

Commission members receive training on the grant and allocation processes each year. In 2016, training included reviewing the grant guide that was distributed to non-profits, discussing how information is presented in an application, how score sheets correspond to the questions asked on proposals, and how scores are submitted and compiled for the allocation process.

Scoring criteria and summaries can be found below. Ranking and funding recommendations for each grant applicant are shown on subsequent pages and are followed by a brief history of HSG and CDBG funding.

HSC members spend between 35 to 50 hours reviewing proposals and about 20 hours watching presentations and completing score sheets. AHC members spent about six hours reviewing proposals and three hours in presentations.

Human Services Commission – 2016 Grant Applicant Scoring Summary

Human Services Grant				
Total Amount Requested:	\$1,044,787	Total Amount Available:	\$550,411 HSG & 15% CDBG	
# of Requests Received	46 requests	Recommended # Grants	37 grants	
Total # of Points Possible	285 points	Average Score	232 points	
Highest Score	266 points	Lowest Score	154 points	
Average Grant Amount	\$15,440	Median Score	233 points	
Lowest Grant Amount	\$2,983	Highest Grant Amount	\$30,825	
Scoring Range	Low 154-182	Low-Mid 183-210	Mid-High 211-238	High 239-266
# applicants in range	2	2	23	17

Human Services Grant Program Goals

HSG funds are used to assist in meeting the needs of Loveland citizens through projects and services that enhance stability, provide crisis intervention and prevention, and lead to self-sufficiency.

Objectives:

1. Financially support services that value diversity, foster self-reliance, treat people with dignity, build self-respect, address issues of safety, and allow people to live free of fear through the provision of food, shelter, physical and mental health care as well as services that prevent crises and assist in sustaining independent living.
2. Limit the amount of grant funds to a maximum of \$35,000 for any one request.
3. Allocate up to \$10,000 to a Model Partnership among two or more organizations.
4. Grant recipients must be an IRS-determined non-profit agency.

Human Services Commission Scoring System

Each commissioner completes a score sheet for each applicant proposal. Commissioners score the following 15 questions using a 1-5 scale with adjusted weights for each item.

Questions	Total Points Possible
How well does the program match the HSG program goal	15
Explanation of need for service(s)	20
Agency's objective for the program	25
Program benefit to Loveland residents	25
Agency provides accessible and accommodating services	10
Coordination of services with other agencies	15
Program's provision of tools for self-reliance	15
Program's use of volunteers	10
Program's client-generated revenue system or explanation for no fees	10
Funding and program sustainability	25
Program budget narrative	10
Impact of service relative to community need	35
Clarity & quality of grant proposal	25
Clarity & quality of grant presentation	35
Percent of Loveland program budget requested	10
Total Points Possible	285

Human Services Grant Applicants – Ranking & Funding Recommendations

Applicant	Rank	Request	Score	Amount Recommended	% of Request
Center for Adult Learning	1	\$35,000	266	\$30,825	88%
Boys and Girls Club - Pulliam	2	\$35,000	259	\$28,187	81%
Food Bank - Food Share	3	\$35,000	258	\$27,995	80%
SummitStone Health Partners	4	\$35,000	256	\$27,195	78%
Loveland Rotary - Kids Pak	5	\$4,000	253	\$2,983	75%
Turning Point Center for Youth	6	\$25,000	252	\$18,508	74%
United Day Care Center - Teaching Tree	7	\$25,000	251	\$18,238	73%
Meals on Wheels	8	\$35,000	249	\$24,901	71%
Food Bank - Kids Café	8	\$15,000	249	\$10,672	71%
Alternatives to Violence - Housing	10	\$30,000	246	\$20,443	68%
Live the Victory - Matthews House	10	\$29,120	246	\$19,844	68%
Neighbor to Neighbor	12	\$35,000	245	\$23,719	68%
Disabled Resource Services	13	\$16,937	244	\$11,288	67%
Project Self-Sufficiency	13	\$30,000	244	\$19,993	67%
Respite Care	15	\$15,335	242	\$9,932	65%
Elderhaus Adult Day Program	16	\$20,777	240	\$12,990	63%
Boys and Girls Club - West	17	\$35,000	239	\$21,707	62%

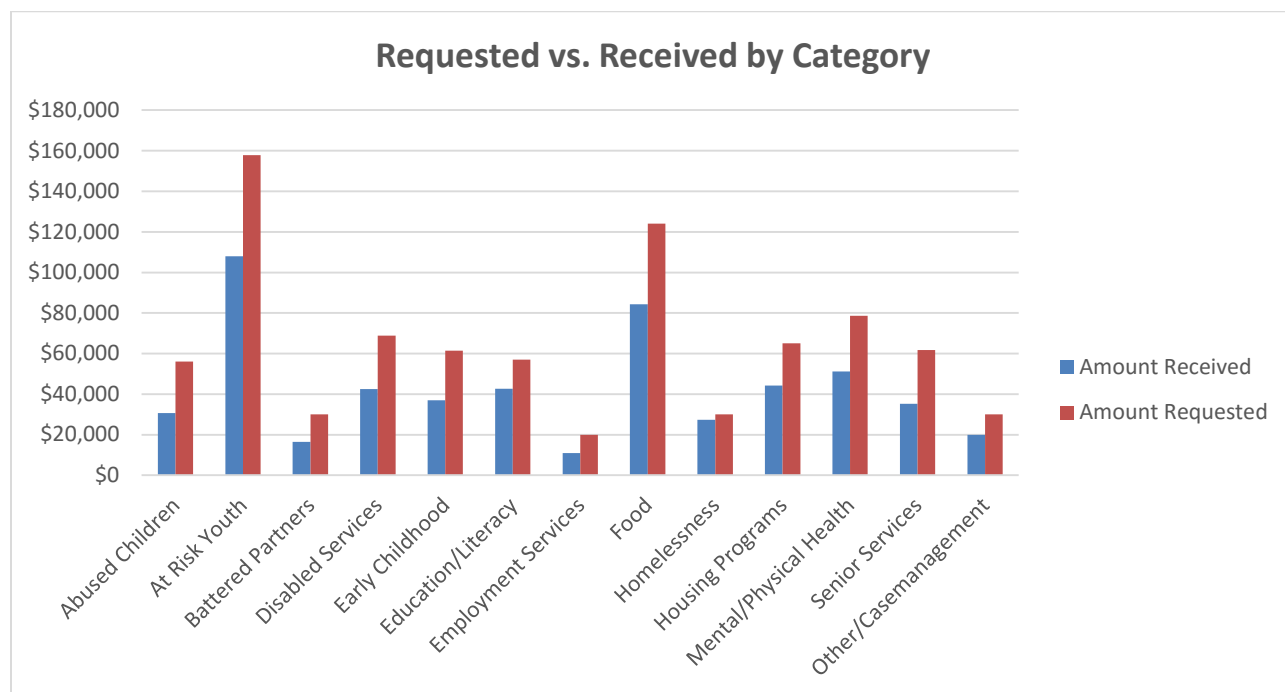
Boys and Girls Club - Summer	18	\$26,158	237	\$15,700	60%
Ensign Skills Center	19	\$16,620	236	\$9,809	59%
Easter Seals/WINGS	20	\$20,000	235	\$11,537	58%
House of Neighborly Services - 137 Connection	20	\$30,000	235	\$17,306	58%
Care-A-Van SAINT	22	\$10,000	234	\$5,694	57%
Volunteers of America - Café	23	\$11,000	233	\$6,168	56%
Rehabilitation Visiting Nurses Assoc.	23	\$35,000	233	\$19,626	56%
Voices Carry Child Advocacy Center	25	\$32,000	231	\$17,504	55%
Alternatives to Violence - Victim Services	25	\$30,000	231	\$16,410	55%
CASA - Court Appointed Special Advocates	25	\$23,991	231	\$13,123	55%
Goodwill Industries	25	\$20,000	231	\$10,940	55%
United Way Reading Corps	29	\$22,000	230	\$11,834	54%
Partners Mentoring Youth	30	\$7,500	229	\$3,990	53%
Catholic Charities - Senior Program	31	\$20,000	228	\$10,415	52%
Thompson Education Foundation - First Steps	31	\$15,000	228	\$7,811	52%
Hearts and Horses	33	\$8,640	227	\$4,478	52%
House of Neighborly Service - Food	34	\$35,000	226	\$17,745	51%
Thompson Valley Preschool	35	\$21,500	226	\$10,901	51%
Model Partnership: HNS and Goodwill Ind.		\$10,000		\$4,000	
Model Partnership: The Murphy Center		\$10,000		\$6,000	

Human Services Grant Applicants – Ranking & Scores for Applications Not Funded

Applicant	Rank	Request	Score
Colorado Health Network - No Colorado AIDS Proj	36	\$10,000	224
McKee Medical Center - Stepping Stones	37	\$18,720	222
House of Neighborly Service - Basic Needs	38	\$35,000	219
CASA - Harmony House	39	\$23,989	218
Alliance for Suicide Prevention	40	\$20,000	215
Audio Information Network	41	\$1,500	203
Center for Family Outreach	42	\$10,000	194
Loveland Housing Development Corp - Mirasol	43	\$30,000	155
Team Wellness & Prevention	44	\$35,000	154

2016 Human Services Commission – Requested & Received by Category

The following chart represents the primary populations served or primary service offered by category. Some categories shown below overlap.



Human Services Grant Program History							
Comparison Facts	2016	2015	2014	2013	2012	2011	2010
# of Applications	46	45	46	44	48	46	48
Total Requested	1,044,787	\$946,450	\$915,113	\$883,207	\$933,081	\$866,471	\$888,428
HSG Funds Available	500,000	\$500,000	\$518,669	\$450,000	\$450,000	\$450,000	\$450,000
CDBG Funds Available	50,411	\$48,370	\$45,247	\$43,754	\$43,235	\$41,276	\$49,000
Total Funds Available	550,411	\$548,370	\$563,915	\$493,754	\$493,235	\$491,276	\$499,000
# Requests Funded	37	32	36	42	33	38	35
% Requests Funded	80%	71%	78%	95%	69%	83%	73%

Affordable Housing Commission – 2016 Grant Applicant Scoring Summary Bricks & Mortar

Community Development Block Grant			
Total Amount Requested:	\$339,200	Total Amount Available:	\$299,516
# of Requests Received	5 requests	Recommended # Grants	5 grants
Total # of Points Possible	33 points	Average Score	25.98 points
Highest Score	29.375 points	Lowest Score	21.875 points
Average Grant Amount	\$53,074	Highest Grant Amount	\$175,000
Lowest Grant Amount	\$10,000		

**** Note that the above data, with the exception of the requested and available amounts, include an allocation to the Elderhaus Adult Day Center for \$18,930.**

Affordable Housing Grant Program Goals

The 2015-2020 Consolidated Plan includes the following goals:

Provide Decent Affordable Housing:

- Increase the supply of affordable owner-occupied housing by 75 units.
- Increase the supply of affordable rental units by 300.
- Increase housing for the homeless by 30 units.
- Rehabilitate 600 units of owner-occupied housing.
- Rehabilitate 200 units of rental housing.

Create a Suitable Living Environment:

- Provide public service activities for 5,000 low to moderate income persons/households.
- Assist two organizations with public facility needs.

Affordable Housing Commission Scoring System

Each commissioner completes a score sheet for each applicant. Commissioners score the following 11 items using a 1-3 scale (1 = Does not meet criteria, 2 = Meets criteria, 3 = Exceeds criteria).

Questions
1. Conformity to CDBG goals.
2. Meets CDBG priority goals.
3. Experience providing services or housing to persons with low income.
4. Marketing efforts to reach people who are historically the least likely to apply.
5. Experience managing a CDBG project.
6. Capacity to manage and complete a project: site control, wide funding base.
7. Can the project start immediately and is the timeline reasonable.
8. Sound financial structure in place.
9. Overall cost to create housing. How will it be affordable? How many people will benefit.
10. Project development and operating costs. Sustainability.
11. Clarity of application and presentation.

2016 Affordable Housing Commission – Grant Applicants & Funding Recommendations

The information below includes each applicant's request, a brief description of the program, and the funding recommendation of the AHC for \$299,516 in CDBG Bricks & Mortar funds.

Grant Applicant	Program / Request Description	Amount of Request	Grant \$ Recommended
Easter Seals of Colorado	WINGS Center: Create internal entry to connect two spaces to better support activities of day center.	\$10,000	\$10,000
Housing Authority	Larimer Home Improvement Project: Low interest loans for health and safety rehabilitation. Small grants for emergency repairs.	\$70,000	\$68,000
Housing Authority	Meadows Apartments: Replace existing fire sprinkler heads at the request of LFRA.	\$30,500	\$27,000
Housing Authority	Silver Leaf 1: Install fire sprinkler system in all residential units.	\$209,200	\$175,000
Volunteers of America	Handyman Program: Minor home repairs and rehabilitation for seniors and people with disabilities.	\$19,500	\$19,516
Totals		\$339,200	\$299,516

Community Development Block Grant Program History							
Comparison Facts	2016	2015	2014	2013	2012	2011	2010
# of Applications	6	5	5	6	7	11	10
Total Requested	\$371,480	\$410,223	\$289,800	\$306,300	\$190,380	\$380,875	\$305,807
CDBG Funds Available	\$318,446	\$209,607	\$196,342	\$207,540	\$187,357	\$189,915	\$215,000
# Requests Funded	6	4	4	6	7	8	8
% of Requests Funded	100%	80%	80%	100%	100%	73%	80%

** 2016 data includes an allocation to Elderhaus Adult Day Center.

Next Steps

Upon City Council approval of the allocation of funds, the Community Partnership Office will draft a contract agreement between each grant recipient and the City. Additionally, and as required by HUD, staff will complete the 2016 Annual Action Plan providing detailed information regarding the City's plans for expending CDBG funds. The plans will be presented to the City Council for approval in August, 2016. The approved plans will then be submitted to HUD for release of 2016-2017 CDBG funding.

AGENDA ITEM: 22
MEETING DATE: 7/5/2016
TO: City Council
FROM: Theresa Wilson, Budget Manager
PRESENTER: Brent Worthington, Finance Director

TITLE:
May 2016 Financial Report

RECOMMENDED CITY COUNCIL ACTION:

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

SUMMARY:

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

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible
-

BACKGROUND:

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 May 31, 2016. Citywide Revenue (excluding internal transfers) of \$113,937,927 is 89.1%¹ of year to date (YTD) budget or \$13,985,173 under the budget.

Sales Tax collections are 98.8% of the YTD budget, which is higher than the April variance (98.4% of budget). Several retail sectors are contributing to this softening:

- Department/Clothing stores (following a national trend)
- Office Supplies
- Broadcast/Telecommunication
- Utilities

Staff continues to closely monitor these sectors. Sales tax continues to grow year over year.

Building Material Use Tax is 117.3% of YTD budget, or \$142,315 over budget. Sales and Use Tax collections combined were 102.4% of YTD budget or \$468,536 over 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 2.2% or \$419,714.

Citywide total expenditures of \$107,822,105² (excluding internal transfers) are 61.4% of the YTD budget or \$67,788,219 under the budget.

¹) Primarily due to timing of anticipated grant revenues for capital projects.

²) Primarily due to timing of capital projects (May's report includes 2015 capital projects re-appropriated at the Council meeting on April 19th, 2016).

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. May Snapshot Presentation
2. Snapshot report for May 2016

Snapshot

159



May
2016

Brent Worthington
Finance Director

Presented
July 5, 2016

May 2016 Snapshot

- Citywide Revenue
 - 113.9 million, excluding transfers
 - 10.9% below budget projections

- Citywide Expenditures
 - \$107.8 million, excluding transfers
 - 38.6% below budget projections

- Citywide revenues exceed expenditures by \$6.1 million.

May 2016 Snapshot

- General Fund Revenue
 - \$38.1 million YTD, excluding transfers
 - 1.7% above YTD Budget
 - 2.3% above same period last year

- Sales and Use Tax Revenue
 - \$19.7 million YTD
 - 2.4% above budget projections
 - 2.2% above same period as last year

- Sales Tax only
 - \$17.2 million YTD
 - 1.2% below budget projections
 - 2.0% above same period last year

May 2016 Snapshot

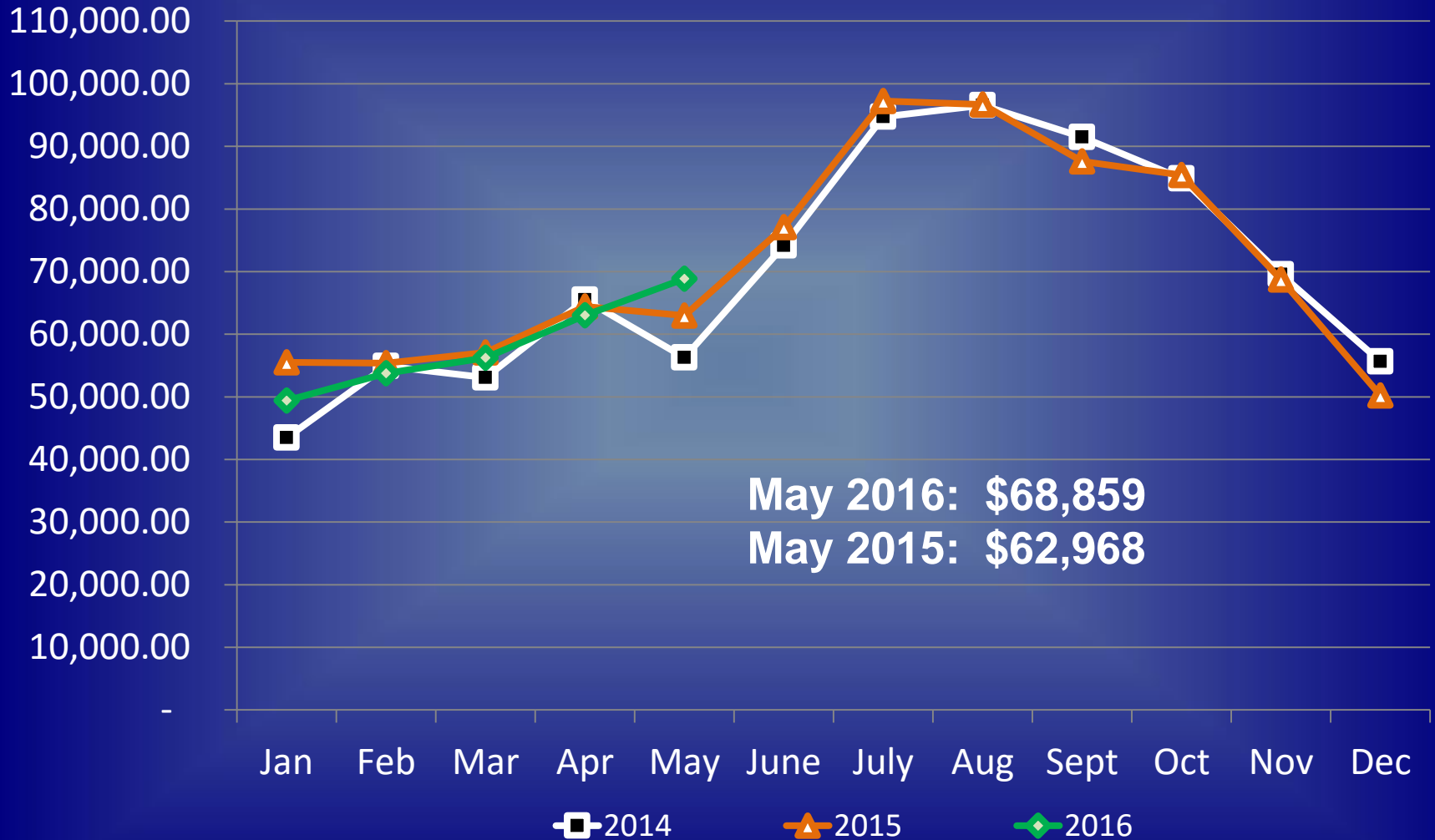
- General Fund Expenditures
 - \$31.2 million YTD, excluding transfers
 - 12.9% below budget projections

- General Fund Expenditures Exceed Revenues by \$2.0 million

- Health Claims
 - May Claims \$845 thousand
 - 2016 YTD decreased slightly by 0.9%.

May 2016 Snapshot

Lodging Tax



➤ Lodging tax YTD is \$291,259 (1.4% lower than 2015 YTD).



Flood Report

Cost Estimates

Emergency Response	\$ 2,000,000
Business Assistance	600,000
Capital	27,906,129
Total	\$30,506,129

Actual Expenditures

	<u>May</u>	<u>To Date</u>
Total	\$ 160,572	\$ 22,830,243

Reimbursements Applied For

	<u>May</u>	<u>To Date</u>
FEMA	\$ -	\$ 11,592,821
CIRSA	-	7,119,891
Other	216,602	1,247,127
Total	\$ 216,602	\$ 19,959,839

Reimbursements Received

	<u>May</u>	<u>To Date</u>
FEMA	\$ 50,635	\$ 8,612,103
CIRSA	-	7,119,891
Other	216,602	1,247,127
Total	\$ 267,237	\$ 16,979,121

May 2016 Snapshot

165



Questions?

Brent Worthington
Finance Director

Presented
July 5, 2016

SnapShot



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, \$113.9 million (10.9% below budget projections)
- ◆ Sales & Use Tax Collection, \$19.7 million (2.4% above budget projections)
- ◆ Citywide Expenditures, excluding transfers between funds, \$107.8 million (38.6% below budget projections)
- ◆ Citywide Revenues exceed Expenditures by \$6.1 million; Citywide Operating Revenues exceed Operating Expenditures by 22.8 million.
- ◆ General Fund Revenue, excluding transfers between funds, \$38.1 million (1.7% above budget projections)
- ◆ General Fund Expenditures, excluding transfers between funds, \$31.2 million, (12.9% below budget projections)
- ◆ General Fund Expenditures (including transfers) exceed Revenues by \$2.0 million; General Fund YTD Operating Revenues (excluding transfers) exceed Fund YTD Operating Expenditures (excluding transfer and capital by \$6.8 million.



Sales / Use Tax Basics

May 2016	Sales Tax	Motor Vehicle Use Tax	Building Materials Use Tax	Combined
Budget 2016	\$ 17,423,459	\$ 943,221	\$ 823,706	\$ 19,190,386
Actual 2016	17,206,133	1,486,768	966,021	19,658,922
% of Budget	98.8%	157.6%	117.3%	102.4%
Actual 2015	\$ 16,865,096	\$ 1,327,203	\$ 1,046,908	\$ 19,239,208
Change from prior yr	2.0%	12.0%	-7.7%	2.2%

Citywide Revenues & Expenditures

Combined Statement of Revenues and Expenditures May 2016				
REVENUE	Current Month	YTD Actual	YTD Revised Budget	% of Budget
General Governmental				
1 General Fund	\$ 8,388,612	\$ 38,071,578	\$ 37,444,392	101.7%
2 Special Revenue	676,604	3,360,080	3,811,687	88.2% ¹
3 Other Entities	5,627,617	16,701,970	14,438,014	115.7%
4 Internal Service	1,693,108	8,194,908	7,884,130	103.9%
5 <i>Subtotal General Gov't Operations</i>	<i>16,385,941</i>	<i>66,328,535</i>	<i>63,578,222</i>	<i>104.3%</i>
6 Capital Projects	1,612,775	5,034,406	3,666,641	137.3%
Enterprise Fund				
7 Water & Power	6,949,365	35,997,507	48,488,235	74.2%
8 Stormwater	539,419	2,568,889	2,423,396	106.0%
9 Golf	426,974	1,363,135	1,386,714	98.3%
10 Solid Waste	588,359	2,645,455	2,734,828	96.7%
11 <i>Subtotal Enterprise</i>	<i>8,504,117</i>	<i>42,574,985</i>	<i>55,033,173</i>	<i>77.4%</i>
12 Total Revenue	\$ 26,502,833	\$ 113,937,927	\$ 122,278,036	93.2%
		<i>Prior Year External Revenue</i>		
		<i>107,401,038</i>		
		<i>Increase (Decrease) From Prior Year</i>		<i>6.1%</i>
13 Internal Transfers	5,344,392	10,064,148	29,718,032	33.9%
14 Grand Total Revenues	\$ 31,847,226	\$ 124,002,075	\$ 151,996,068	81.6%
EXPENDITURES				
General Governmental				
15 General Fund	5,478,646	30,679,328	32,604,531	94.1%
16 Special Revenue	1,004,875	4,309,942	5,397,309	79.9%
17 Other Entities	6,416,597	14,662,215	14,260,740	102.8%
18 Internal Services	812,337	5,717,349	8,979,221	63.7%
19 <i>Subtotal General Gov't Operations</i>	<i>13,712,455</i>	<i>55,368,833</i>	<i>61,241,801</i>	<i>90.4%</i>
20 Capital	6,088,392	21,677,350	74,317,700	29.2%
Enterprise Fund				
21 Water & Power	4,979,303	26,432,544	34,695,628	76.2%
22 Stormwater	227,584	1,094,583	1,709,789	64.0%
23 Golf	308,653	1,144,314	1,311,658	87.2%
24 Solid Waste	567,363	2,104,479	2,333,748	90.2%
25 <i>Subtotal Enterprise</i>	<i>6,082,904</i>	<i>30,775,921</i>	<i>40,050,823</i>	<i>76.8%</i>
26 Total Expenditures	\$ 25,883,751	\$ 107,822,105	\$ 175,610,324	61.4%
		<i>Prior Year External Expenditures</i>		
		<i>100,206,362</i>		
		<i>Increase (Decrease) From Prior Year</i>		<i>7.6%</i>
27 Internal Transfers	5,344,392	10,064,148	28,534,390	35.3%
28 Grand Total Expenditures	\$ 31,228,143	\$ 117,886,253	\$ 204,144,714	57.7%

¹ Revenue is lower than projected due to timing of when capital projects are done, and federal grants are drawn on those projects.

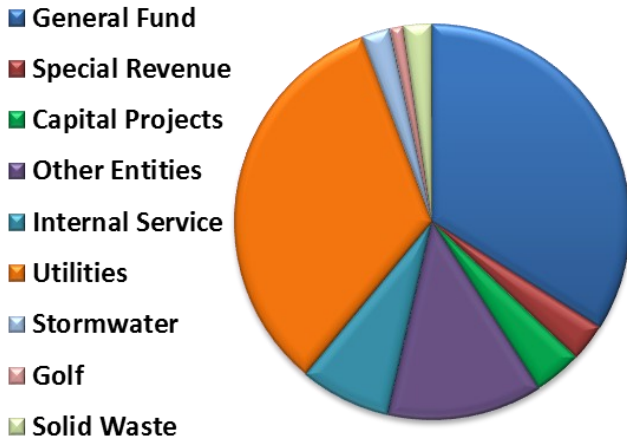
² Revenue is lower than projected due to timing of when capital projects are done, and federal grants are drawn on those projects.

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

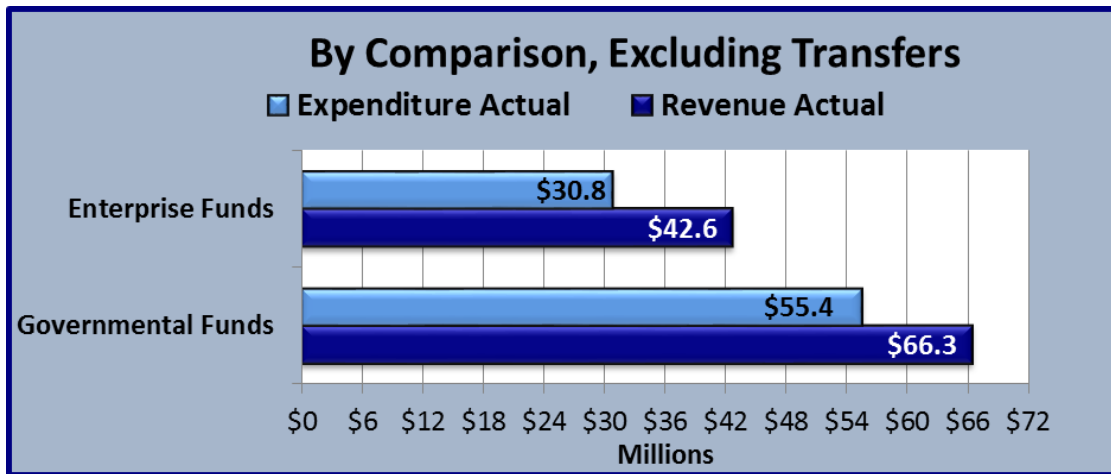
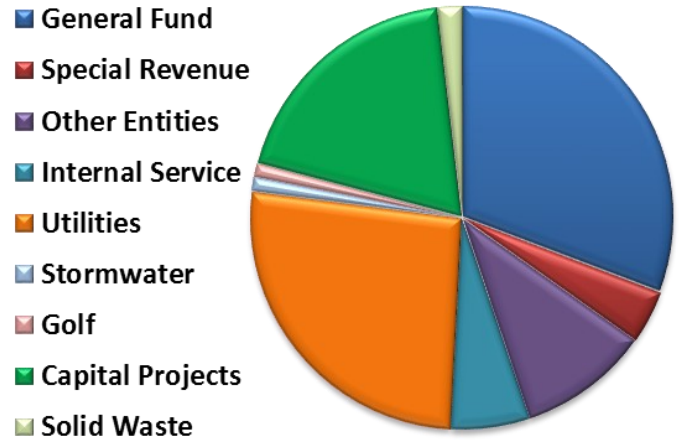
Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority, Loveland Fire and Rescue Authority.

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

YTD Operating Revenues of \$113.9 Million



YTD Operating Expenditures of \$107.8 Million



- ◆ General Fund Revenue, excluding capital and transfers between funds, \$38.1 million (1.7% above budget projections)
 - * 2.3% above 2015 YTD
- ◆ General Fund Expenditures, excluding capital and transfers between funds, \$30.7 million (5.9% below budget projections)
 - * 9.2% above 2015 YTD
- ◆ Water & Power Revenue, excluding transfers between funds, \$36 million (25.8% below budget projections)
 - * 1.9% above 2015 YTD
- ◆ Water & Power Expenditures, excluding transfers between funds, \$26.4 million (23.8% below budget projections)
 - * 1.5% below 2015 YTD
- ◆ Other Entities Fund Revenue, excluding transfers between funds, \$16.7 million (15.7% above budget projections)
 - * 30.4% above 2015 YTD
- ◆ Other Entities Expenditures, excluding capital and transfers between funds, \$14.7 million (2.8% above budget projections)
 - * 18.3% above 2015 YTD

General Fund Revenues & Expenditures

169

General Fund Revenue & Expenditures May 2016				
REVENUES	Current Month	YTD Actual	YTD Revised Budget	% of Budget
1 Taxes				
2 Property tax	\$ 1,764,532	\$ 5,395,343	\$ 5,434,638	99.3%
3 Sales tax	3,221,324	17,206,133	17,423,459	98.8%
4 Building use tax	174,935	966,021	823,706	117.3%
5 Auto use tax	303,384	1,486,768	943,221	157.6%
6 Other taxes	369,915	1,295,623	1,310,750	98.8%
7 Intergovernmental	56,575	259,632	128,735	201.7%
8 License & Permits				
9 Building Permits	239,150	978,567	1,228,000	79.7% ¹
10 Other Permits	33,234	133,076	71,050	187.3%
11 Charges for Services	1,450,818	6,695,782	6,534,405	102.5%
12 Fines & Forfeitures	76,314	412,062	382,690	107.7%
13 Interest Income	66,512	189,844	136,850	138.7%
14 Miscellaneous	631,919	3,052,727	3,026,888	100.9%
15 Subtotal	8,388,612	38,071,578	37,444,392	101.7%
16 Interfund Transfers	6,850	59,250	59,250	100.0%
17 Total Revenue	\$ 8,395,462	\$ 38,130,828	\$ 37,503,642	101.7%
EXPENDITURES				
Operating Expenditures				
18 Legislative	9,277	68,464	59,010	116.0% ²
19 Executive & Legal	187,593	1,000,782	1,012,481	98.8%
20 City Clerk & Court Admin	126,729	286,597	362,688	79.0%
21 Economic Development	164,923	956,687	2,789,684	34.3%
22 Cultural Services	142,545	793,696	844,897	93.9%
23 Development Services	377,231	1,569,828	2,173,230	72.2%
24 Finance	438,529	2,064,997	2,130,009	96.9%
25 Fire & Rescue	-	-	-	0.0%
26 Human Resources	87,334	489,981	515,928	95.0%
27 Information Technology	239,488	1,674,894	2,325,567	72.0%
28 Library	255,140	1,354,441	1,428,581	94.8%
29 Parks & Recreation	759,401	3,810,164	5,269,437	72.3%
30 Police	1,627,492	9,018,700	9,219,010	97.8%
31 Public Works	436,937	2,193,896	2,396,038	91.6%
32 Water/ Waste Operations	-	-	-	0.0%
33 Non-Departmental	707,864	5,961,895	5,347,599	111.5% ³
34 Subtotal Operating	5,560,485	31,245,021	35,874,157	87.1%
35 Internal Transfers	4,869,463	6,684,017	16,954,776	39.4%
36 Total Expenditures	\$ 10,429,948	\$ 37,929,038	\$ 52,828,933	71.8%

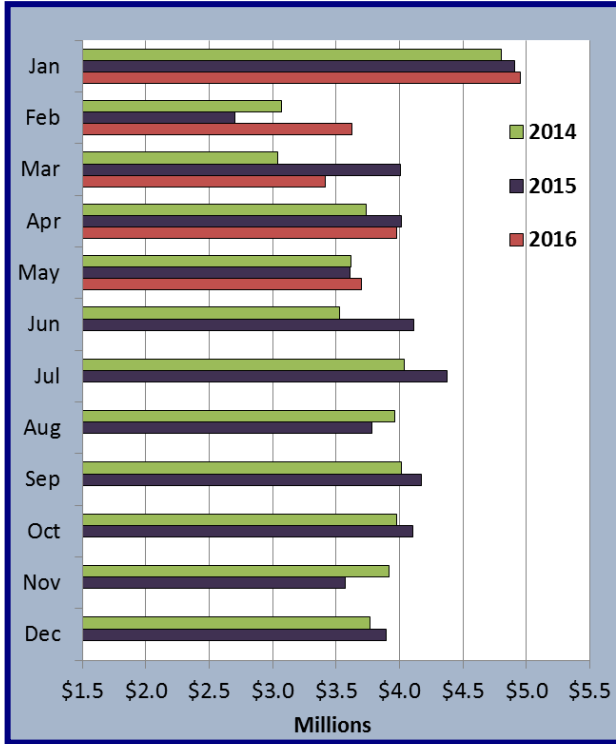
¹ Revenue is lower than projected due to less Multi-Family construction and commercial improvements.

² Expenditures are higher than anticipated due to expenses related to the City Council Workshop and new City Council Portrait.

³ Expenditures are higher than projected due to timing of transfers.

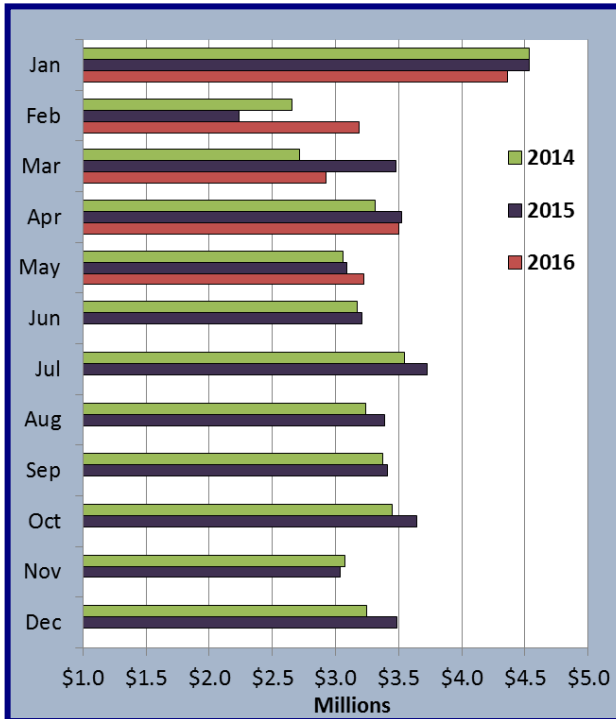
Capital Projects \$500,000+

Project Title	2016 Budget	2016 Expenditures	Remaining 2016	% of 2016 Budget
Water Capital				
WTP Phase II Expansion (38 MGD)	\$ 6,672,691	\$ 3,381,798	\$ 3,290,893	50.68%
2015 Water Line Replacement	859,633	8,938	850,695	1.04%
2016 Water Line Replacement	622,800	130,511	492,289	20.96%
Raw Water Capital				
Windy Gap Firming Project	2,406,660	1,118,956	1,287,704	46.49%
Wastewater Utility Capital				
WWTP Expansion	27,101,493	65,043	27,036,450	0.24%
Lakeside Terrace & Boedecker Lift Station Improvements	534,912	206,982	327,930	38.69%
Southside Lift Station	1,716,631	385,217	1,331,414	22.44%
Power Capital				
Phase 2 of Canyon Voltage Conversion - Glade Rd to WTP	754,250	462,718	291,532	61.35%
OH to UG conversion Circuit 411	555,660	-	555,660	0.00%
OH to UG conversion 29th St - Madison to Hwy 287	750,000	26,401	723,599	3.52%
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	2,463	1,397,537	0.18%
Land purchase for new substation	1,700,000	-	1,700,000	0.00%
Transfer load from 1012-621 - Crossroads to Fairgrounds	950,000	424	949,576	0.04%
Install 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%
Stormwater Capital				
Benson Park Culvert Improvements	1,000,509	509	1,000,000	0.05%
Airport Basin North Outfall	1,505,773	8,496	1,497,277	0.56%
Streets Transportation Program				
Boise & 37th Intersection	1,864,844	-	1,864,844	0.00%
Boyd Lake Avenue @ Grlv-LvInD	1,632,000	-	1,632,000	0.00%
Taft Avenue @ Big Barnes Ditch	2,227,031	114,795	2,112,236	5.15%
CR 3 ABC (N Larimer Cty Rd 3 Aggregate Base Course	850,000	-	850,000	0.00%
Railroad Avenue Flood Repairs FHWA@20038ER1	7,144,215	127,594	7,016,621	1.79%
All Other				
Replace General Spartan Engine	652,300	-	652,300	0.00%
Viestenz-Smith Mountain Park Redevelopment	2,865,610	30,082	2,835,528	1.05%
Museum Collections Storage Building	2,400,000	2,079,779	320,222	86.66%
Open Lands Acquisition & Restoration	5,899,433	3,643,637	2,255,796	61.76%
Neighborhood Park East	1,900,000	300,000	1,600,000	15.79%
Wilson Pedestrian Bridge & Flood Trail Reconstruction	600,000	2,726	597,274	0.45%
Fire Administration Building (FAB) Remodel	1,884,036	400,832	1,483,204	21.28%
Mariana Butte Flood River & Bridge Enhancements	564,091	167,566	396,525	29.71%
Airport - Snow Removal Equipment Building	1,252,549	407,305	845,244	32.52%
Maintenance & Operation Center (MOC) Remodel	\$ 934,660	\$ 284,370	\$ 45,102	30.42%



Sales & Use Tax

	2014	2015	2016	2016 Budget	+ / - Budget
Jan	\$ 4,801,433	\$ 4,908,517	\$ 4,950,022	\$ 5,026,356	-1.5%
Feb	3,066,965	2,700,204	3,622,959	3,115,503	16.3%
Mar	3,037,688	4,007,386	3,411,932	3,410,801	0.0%
Apr	3,737,255	4,011,633	3,974,366	3,950,876	0.6%
May	3,614,459	3,611,468	3,699,643	3,686,850	0.3%
Jun	3,525,536	4,116,214		3,636,050	
Jul	4,038,555	4,375,627		4,286,198	
Aug	3,962,915	3,783,694		4,104,437	
Sep	4,014,321	4,170,066		4,103,238	
Oct	3,974,590	4,102,720		4,138,714	
Nov	3,919,205	3,572,713		3,898,651	
Dec	3,763,933	3,894,616		3,933,615	
	\$ 45,456,855	\$ 47,254,859	\$ 49,658,922	\$ 47,291,289	
YTD	\$ 18,257,800	\$ 19,239,208	\$ 19,658,922	\$ 19,190,386	2.4%

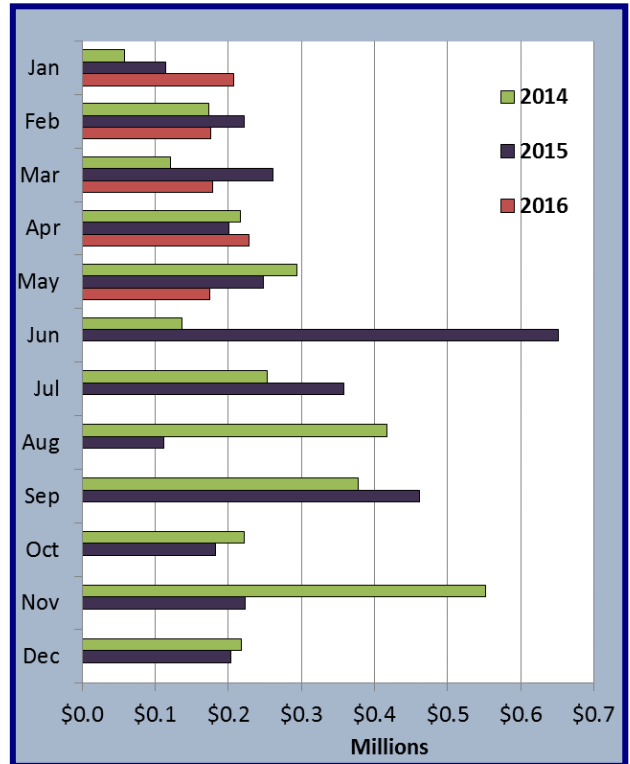


Retail Sales Tax

	2014	2015	2016	2016 Budget	+ / - Budget
Jan	\$ 4,531,650	\$ 4,535,554	\$ 4,365,416	\$ 4,697,419	-7.1%
Feb	2,658,798	2,235,775	3,190,005	2,770,381	15.1%
Mar	2,719,254	3,480,164	2,924,575	3,141,451	-6.9%
Apr	3,317,905	3,521,350	3,504,812	3,596,856	-2.6%
May	3,059,076	3,092,253	3,221,324	3,217,352	0.1%
Jun	3,170,467	3,208,195		3,335,420	
Jul	3,546,945	3,727,389		3,870,943	
Aug	3,241,521	3,389,010		3,495,655	
Sep	3,374,248	3,408,259		3,563,123	
Oct	3,448,473	3,642,285		3,693,841	
Nov	3,077,404	3,034,997		3,289,036	
Dec	3,246,097	3,486,297		3,495,655	
	\$ 39,391,838	\$ 40,761,528	\$ 42,206,133	\$ 42,167,132	
YTD	\$ 16,286,683	\$ 16,865,096	\$ 17,206,133	\$ 17,423,459	-1.2%

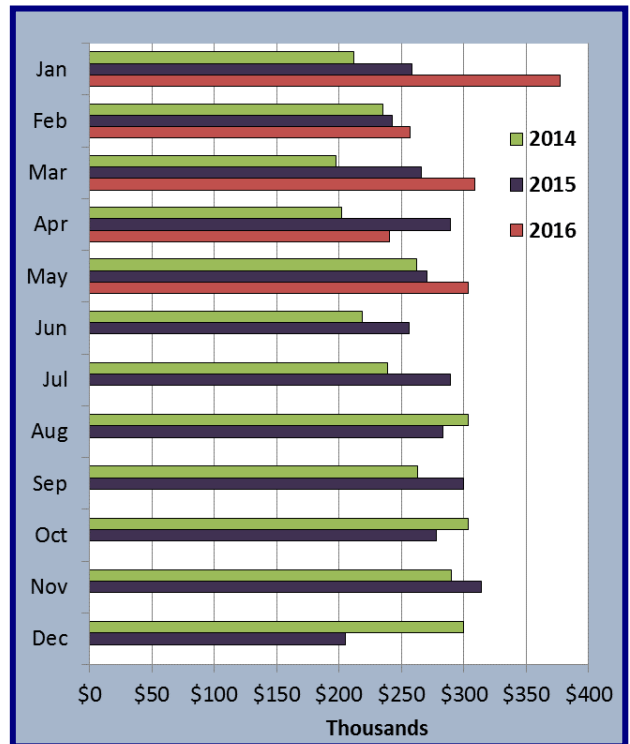
Building Materials Use Tax

	2014	2015	2016	2016 Budget	+ / - Budget
Jan	\$ 57,942	\$ 114,444	\$ 207,531	\$ 148,689	39.6%
Feb	173,295	221,517	175,706	145,302	20.9%
Mar	120,768	261,500	178,825	101,202	76.7%
Apr	217,134	200,708	229,024	182,010	25.8%
May	293,543	248,738	174,935	246,503	-29.0%
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	\$ 966,021	\$ 2,549,157	
YTD	\$ 862,682	\$1,046,908	\$ 966,021	\$ 823,706	17.3%

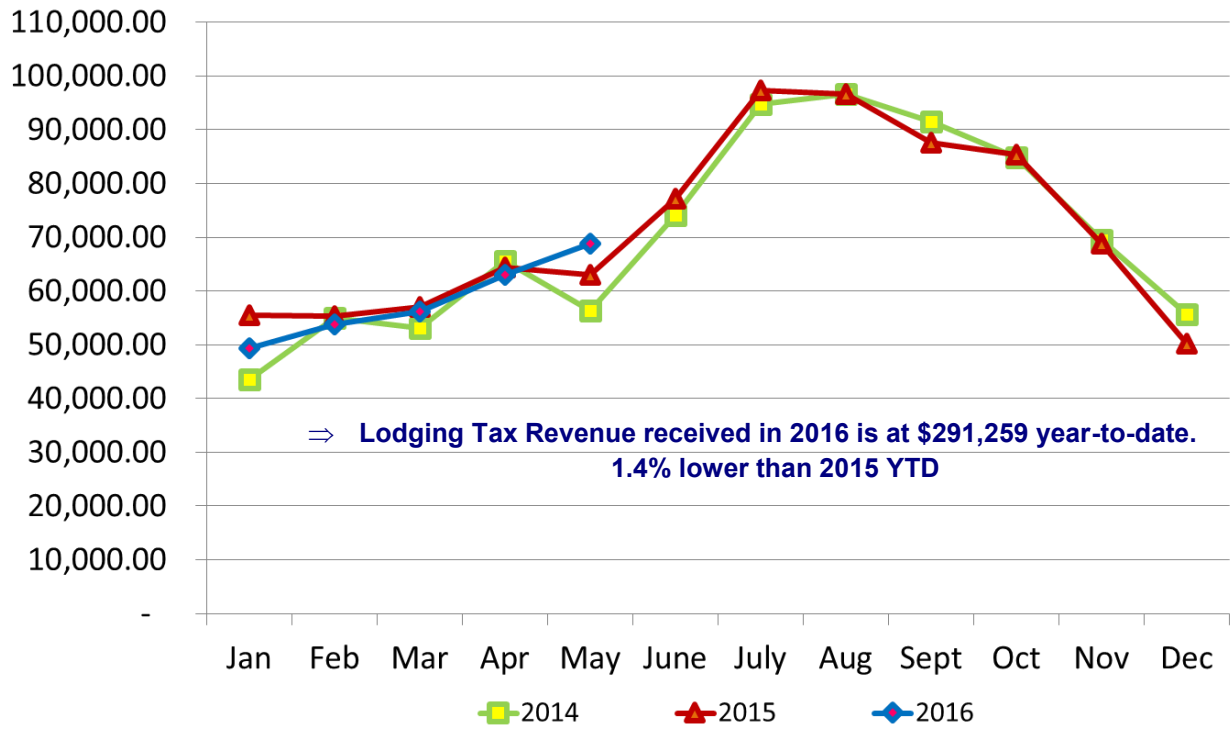


Motor Vehicle Use Tax

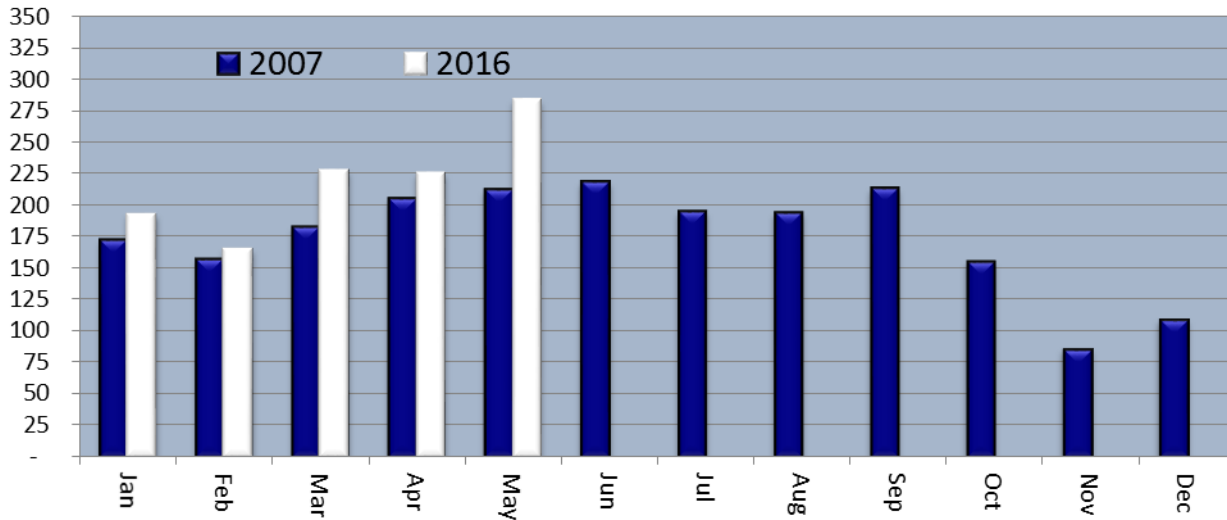
	2014	2015	2016	2016 Budget	+ / - Budget
Jan	\$ 211,841	\$ 258,519	\$ 377,075	\$ 180,248	109.2%
Feb	234,872	242,911	257,248	199,820	28.7%
Mar	197,666	265,721	308,532	168,148	83.5%
Apr	202,216	289,575	240,529	172,010	39.8%
May	261,840	270,477	303,384	222,995	36.0%
Jun	218,637	256,170		186,173	
Jul	238,533	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	\$1,486,768	\$2,575,000	
YTD	\$1,108,435	\$1,327,203	\$1,486,768	\$ 943,221	57.6%



Lodging Tax



Building Permit Comparison History



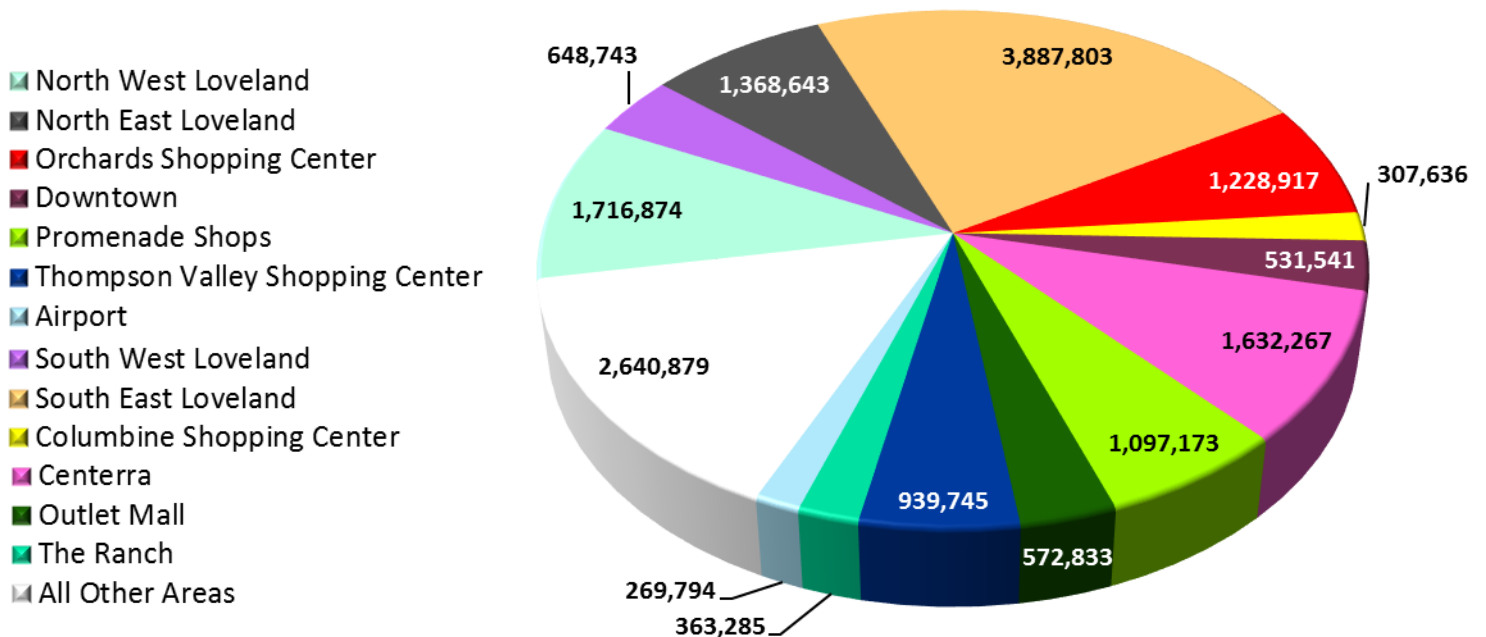
Cost Estimates			
Emergency Response		\$ 2,000,000	
Business Assistance		600,000	
Capital		27,906,129	
Total		\$ 30,506,129	
Actual Expenditures			
		May	To Date
Total	\$	160,572	\$ 22,830,243
Reimbursements Applied For			
		May	To Date
FEMA	\$	-	\$ 11,592,821
CIRSA		-	7,119,891
Other		216,602	1,247,127
Total	\$	216,602	\$ 19,959,839
Reimbursements Received			
		May	To Date
FEMA	\$	50,635	\$ 8,612,103
CIRSA		-	7,119,891
Other		216,602	1,247,127
Total	\$	267,237	\$ 16,979,121



Geographical Codes

Geographical Area	YTD 2016	YTD 2015	Change
South East Loveland	\$ 3,887,803	\$ 3,865,507	0.6%
North West Loveland	1,716,874	1,688,769	1.7%
Centerra	1,632,267	1,622,017	0.6%
North East Loveland	1,368,643	1,329,323	3.0%
Orchards Shopping Center	1,228,917	1,123,091	9.4%
Promenade Shops	1,097,173	1,188,064	-7.7%
Thompson Valley Shopping Center	939,745	900,364	4.4%
South West Loveland	648,743	598,382	8.4%
Outlet Mall	572,833	602,106	-4.9%
Downtown	531,541	512,821	3.7%
The Ranch	363,285	350,523	3.6%
Columbine Shopping Center	307,636	295,097	4.2%
Airport	269,794	186,214	44.9%
All Other Areas (1)	2,640,879	2,602,818	1.5%
Total	\$17,206,133	\$16,865,096	2.0%

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



Map →

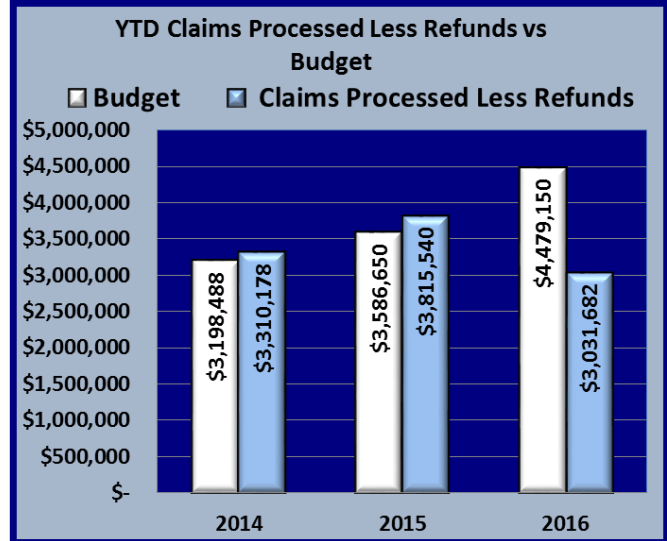
Sales Tax Collections

Description	YTD 2016	YTD 2015	\$ Change	% Change	% of Total	Total %
Department Stores & General Merchandise	\$ 3,197,359	\$ 3,266,018	\$ (68,659)	-2.1%	18.6%	18.6%
Restaurants & Bars	2,240,648	2,185,533	55,115	2.5%	13.0%	31.6%
Grocery Stores & Specialty Foods	1,970,572	1,856,341	114,231	6.2%	11.5%	43.1%
Motor Vehicle Dealers, Auto Parts & Leasing	1,287,098	1,232,337	54,761	4.4%	7.5%	50.5%
Building Material & Lawn & Garden Supplies	1,281,702	1,178,337	103,365	8.8%	7.4%	58.0%
Clothing & Clothing Accessories Stores	1,119,888	1,225,919	(106,031)	-8.6%	6.5%	64.5%
Utilities	890,068	926,070	(36,002)	-3.9%	5.2%	69.7%
Sporting Goods, Hobby, Book & Music Stores	751,734	742,532	9,202	1.2%	4.4%	74.0%
Used Merchandise Stores	643,369	593,796	49,573	8.3%	3.7%	77.8%
Broadcasting & Telecommunications	493,951	577,647	(83,696)	-14.5%	2.9%	80.6%
Consumer Goods & Commercial Equipment Rental	430,449	360,327	70,122	19.5%	2.5%	83.1%
Beer, Wine & Liquor Stores	427,887	397,909	29,978	7.5%	2.5%	85.6%
Hotels, Motels & Other Accommodations	363,409	361,205	2,204	0.6%	2.1%	87.7%
Electronics & Appliance Stores	351,117	286,836	64,281	22.4%	2.0%	89.8%
Health & Personal Care Stores	308,900	302,343	6,557	2.2%	1.8%	91.6%
Electronic Shopping & Mail-Order Houses	287,925	271,682	16,243	6.0%	1.7%	93.3%
Furniture & Home Furnishing Stores	245,428	225,518	19,910	8.8%	1.4%	94.7%
Gasoline Stations with Convenience Stores	167,799	171,558	(3,759)	-2.2%	1.0%	95.7%
Office Supplies, Stationery & Gift Stores	118,967	142,332	(23,365)	-16.4%	0.7%	96.4%
All Other Categories	627,863	560,856	67,007	11.9%	3.6%	100.0%
Total	\$17,206,133	\$ 16,865,096	\$ 341,037	2.0%	100.0%	

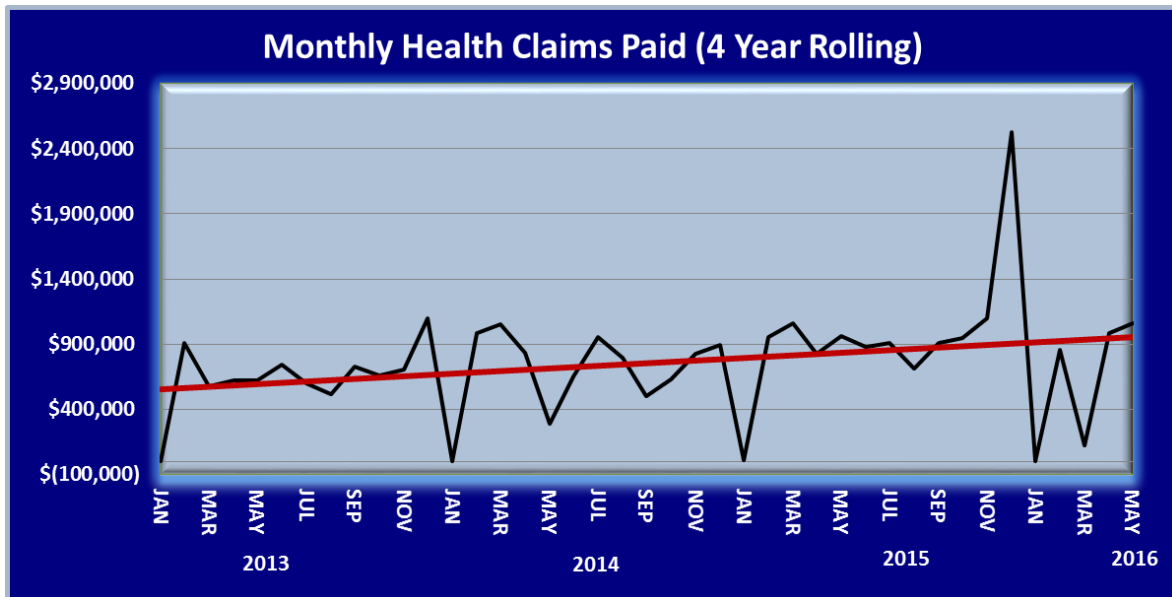
Claims Incurred

		OAP	HRA	Total
2016	May	654,463	190,848	845,311
	YTD	3,908,411	824,993	4,733,404
2015	May	679,376	198,792	878,168
	YTD	3,645,496	1,130,808	4,776,305
Change	May	(24,913)	(7,944)	(32,857)
	May	-3.7%	-4.0%	-3.7%
	YTD	262,915	(305,816)	(42,901)
	% YTD	7.2%	-27.0%	-0.9%

⇒ 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.



May	2013	2014	2015	2016
# of claims	24	32	33	33
YTD Cost of high claims	\$1,418,438	\$2,733,874	\$2,676,660	\$267,312

⇒ **2016 # of StopLoss claims: 2**
 ⇒ **Projected YTD Reimbursements: \$39,655**
 (claims over \$175k paid by StopLoss Carrier)

Activity Measures

179

Measures	May 2014	May 2015	May 2016	2014 YTD	2015 YTD	2016 YTD
# of Building Permits	218	236	283	869	984	1,092
Building Permit Valuations	\$20,889,147	\$16,710,886	\$20,002,522	\$76,870,019	\$70,566,464	\$80,075,852
# of Certified Occupancies	25	34	76	82	145	317
Net # of Sales Tax Licenses	(18)	(10)	(16)	(148)	(46)	(48)
New Residential Electric Meter Sets	21	26	23	154	334	215
# of Utility Bills Sent	36,936	37,627	38,284	183,962	187,072	191,281
Rounds of Golf	14,144	11,108	13,580	28,554	32,097	29,463
\$ Average Health Claim Costs/Emp.	\$1,001	\$1,244	\$1,095	\$ 1,030	\$ 1,418	\$ 1,390
KWH Demand (kH)	109,410	83,472	84,878	482,807	458,422	438,546
KWH Purchased (kwh)	59,422,714	57,448,043	55,183,093	239,730,839	295,624,931	285,433,719
Gallons of Water Sold	275,264,273	196,948,696	146,472,598	875,369,147	828,492,733	732,328,579
# of Workers' Comp Claims 2015	16	8	7	35	40	35
\$ of Workers' Comp Claims Paid 2015	\$35,841	\$67,406	\$22,346	\$282,108	\$261,671	\$151,016
# of Total Open Claims	26	14	17	<i>Not Cumulative</i>		
\$ of Total Open Claims	\$496,078	\$411,043	\$463,391	<i>Not Cumulative</i>		
\$ of Lodging Tax Collected	\$56,290	\$63,527	\$68,859	\$273,264	\$295,990	\$291,259



**Financial Sustainability
Strategies Can Be
Found At:
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 or 970-962-3319

SnapShot

May 2016



For more information regarding this report contact:

Brent Worthington

Finance Director

970.962.2300 or

brent.worthington@cityofloveland.org



AGENDA ITEM: 23
MEETING DATE: 7/5/2016
TO: City Council
FROM: Alan Krcmarik
PRESENTER: Alan Krcmarik, Executive Fiscal Advisor

TITLE:
Investment Report for May 2016

RECOMMENDED CITY COUNCIL ACTION:

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

SUMMARY:

This is an information only item. The budget projection for investment earnings for 2016 is \$2,199,328. On the portfolio's 2016 beginning balance this equates to an annual interest rate of 1.02%. Based on the May monthly report, the estimated yield on the fixed income securities held by USBank was at 1.26%, for total assets the yield was 1.11%. For the year-to-date, total earnings of \$861,530 have been posted to City fund accounts. U.S. short-term Treasury interest rates rose again in May; the portfolio's change in unrealized gain for the year-to-date was down to \$1.42 million. The end of May portfolio market value is estimated to be \$217.8 million. The total market value of the portfolio is now higher than the end of 2015 by about \$400,000. The peak amount for the portfolio was reached before the 2013 flood when it had an estimated market value of \$226.3 million.

BACKGROUND:

At the end of May, the City's portfolio had an estimated market value of \$217.8 million, about \$100,000 less than a month ago. Of this amount, USBank held \$193.5 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. Despite rising in April and May, rates were still down sharply from the end of 2015. 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 nearly \$2.2 million annually.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Investment Focus May 2016

Investment Focus

Monthly Investment Report

May 2016

What's in here?

Focal Points /	1
Signs of Slowdown	
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 = **\$2,199,328**.
- * **City investments are in high-quality, low-risk securities to comply with Colorado law and the City's investment policy.**
- * **Interest earnings posted for the month totaled \$310,438. Year-to-date earnings total \$861,530.**
- * **Each 1% of market value amounts to nearly \$2.2 million.**
- * **The month-end market value shows the unrealized gain is estimated to be \$665,242 at the end of May.**

More Economic Signs Point to a Slowdown

" gyrations in financial markets early in the year helped summon the specter of a new recession. Now, warning signs are coming mostly from the U.S. economy itself.

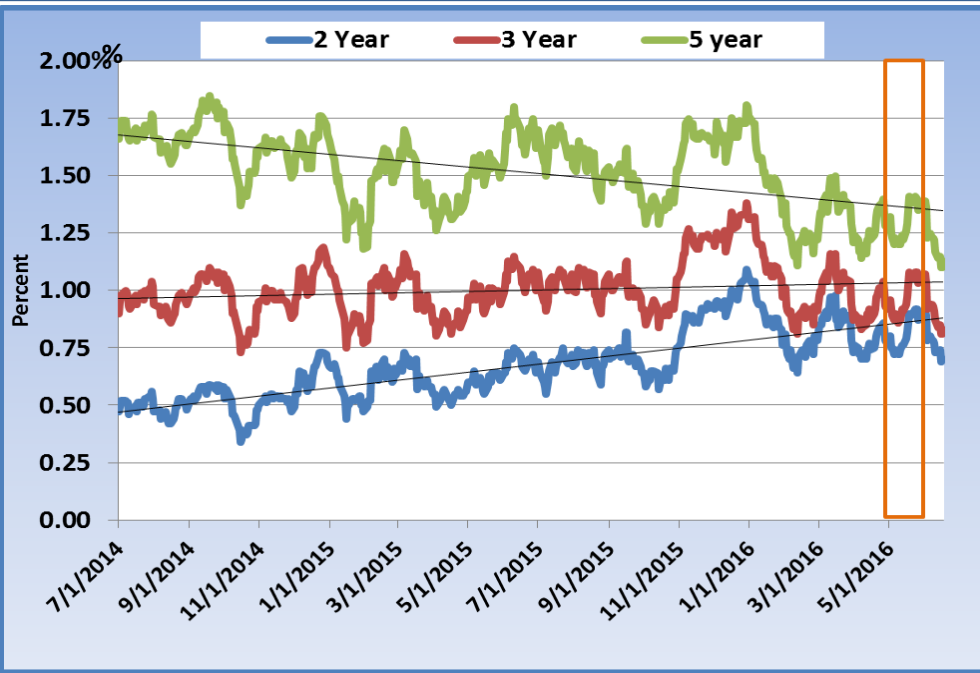
Hiring is slowing, auto sales are slipping and business investment is dropping. America's factories remain weak and corporate profits are under pressure. All are classic signs of an economic downturn. . . In a Wall Street Journal survey, economists pegged the probability of a recession with the next year at 21%, up from just 10% a year earlier."

continued on page 2

Type of Investment	Purchase Price	Market Price	Unrealized Gain/Loss
Checking Accounts	\$ 19,196,017	\$ 19,196,017	-
Investment Pools	\$ 5,041,871	\$ 5,041,871	-
Money Markets	\$ 32,781,655	\$ 32,781,655	-
Subtotal	\$ 57,019,543	\$ 57,019,543	-
Notes, Bonds, and CDs	\$ 160,087,697	\$ 160,752,939	\$ 665,242
Total Portfolio	\$ 217,107,240	\$ 217,772,482	\$ 665,242
Data sources	(Morgan Stanley)	(US Bank)	5/31/2016

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

Treasury Rate Trends / Signs of Slowdown



Interest rates on U.S. Treasury notes rose in May. The 2-year note was up 10 basis points, the 3-year note rose 11 basis points, and the 5-year Treasury was up 9 basis points.

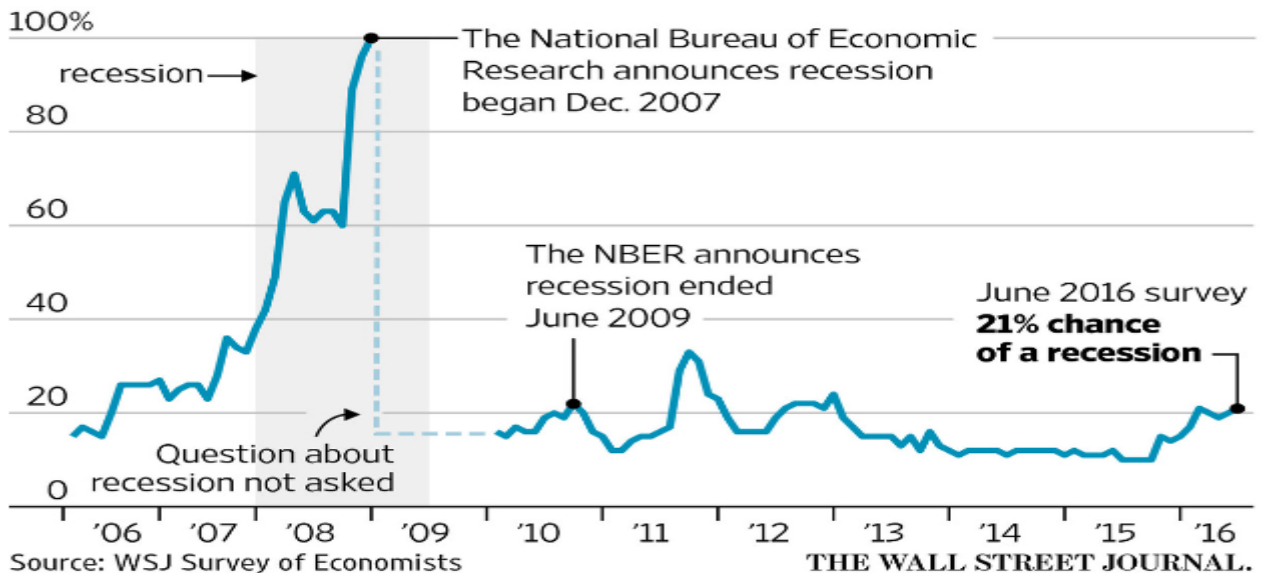
When rates moved higher, the price of securities held in the portfolio decreased, resulting in a lower unrealized gain at month end.

Continued from Page 1.

Recession Fears Rising

The odds of an imminent recession, as gauged by private-sector economists, have climbed to roughly one in five. That echoes the rising concern headed into the 2007-2009 recession, but it could be just a false alarm amid years of sluggish but surprisingly durable economic growth.

Average probability of a recession within 12 months (survey results)



(Source: "More Economic Signs Point to a Slowdown" by Ben Leubsdorf in the **THE WALL STREET JOURNAL**, June 20, 2016.)

Bottom Line: Plus 0.7% to Beginning Balance

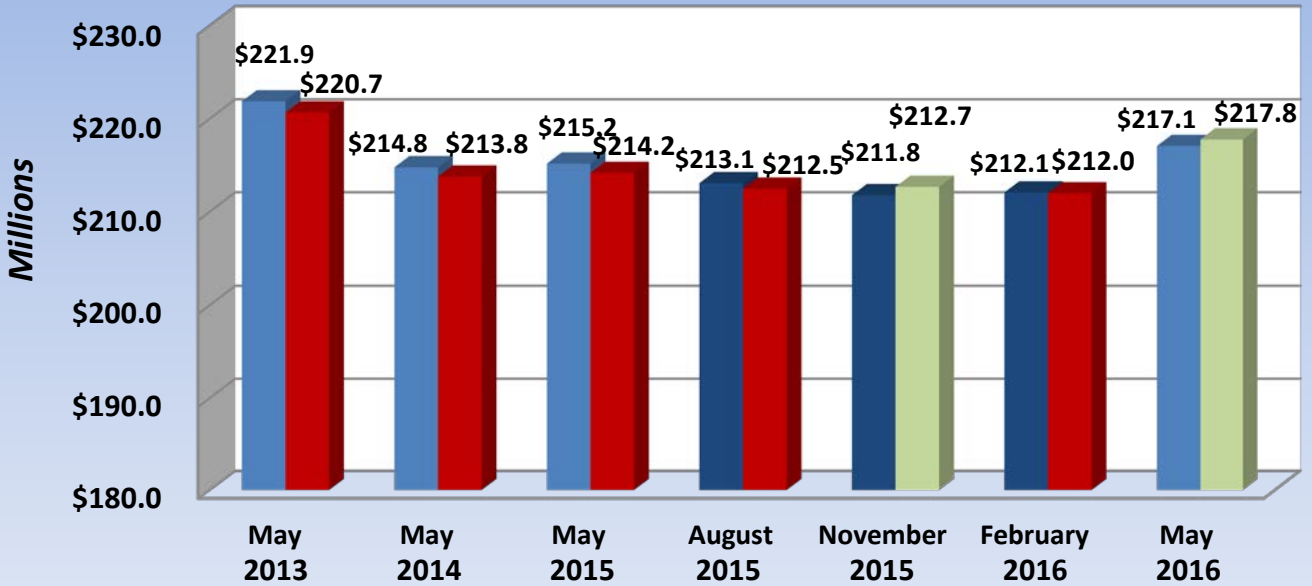
		2016 Beginning	YTD Activity	Month End Total
	Restricted Reserves			
1	Capital Expansion Fees	\$ 30,529,948	\$ 813,317	\$ 31,343,265
2	Water System Improvement Fees	3,463,847	(1,271,145)	2,192,703
3	Raw Water Revenue - Windy Gap	21,258,069	(1,412,022)	19,846,048
4	Wastewater System Imp. Fees	8,190,570	144,424	8,334,993
5	Storm Drainage System Imp. Fees	2,029,191	153,826	2,183,017
6	Power Plant Investment Fees	2,882,209	399,672	3,281,881
7	Cemetery Perpetual Care	2,765,890	(272)	2,765,618
8	Other Restricted	31,401,906	(5,366,996)	26,034,909
9	Total Restricted	\$ 102,521,630	\$ (6,539,196)	\$ 95,982,435
	Committed / Assigned			
10	General Fund	\$ 11,224,908	\$ 1,537	\$ 11,226,445
11	Enterprise Funds	6,693,603	121,626	6,815,229
12	Internal Service Funds	12,313,489	6,905,080	19,218,569
13	Total Committed / Assigned	\$ 30,232,000	\$ 7,028,243	\$ 37,260,243
14	Total Restricted/Committed/Assigned	\$ 132,753,630	\$ 489,047	\$ 133,242,677
	Unassigned Balance			
15	General Fund	\$ 34,406,367	\$ 58,624	\$ 34,464,992
16	Airport	1,830,922	(409,562)	1,421,360
17	Internal Service - Vehicle Maint.	5,670	79,006	84,676
18	Enterprise Funds	46,105,905	1,357,708	47,463,613
19	Total Unassigned	\$ 82,348,864	\$ 1,085,776	\$ 83,434,640
20	TOTAL FUND BALANCE	\$ 215,102,494	\$ 1,574,824	\$ 216,677,318

Source: City of Loveland Budget Office

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

Portfolio Growth Trend / Types of Investments

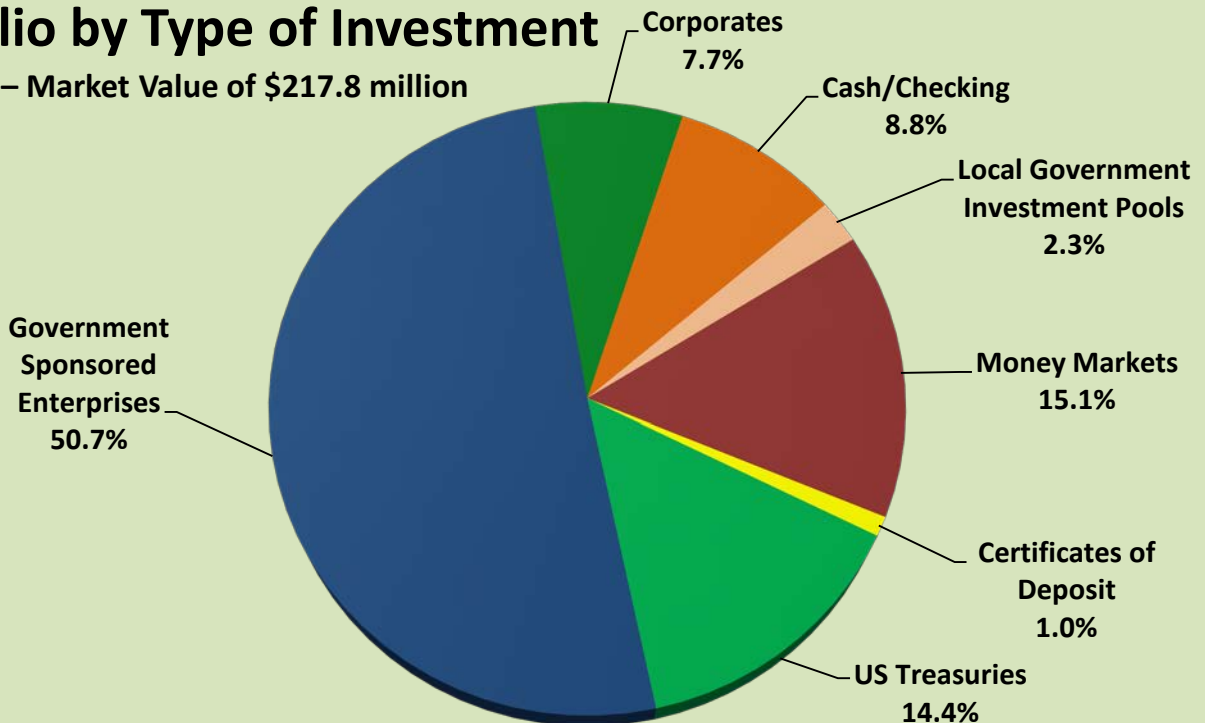
Portfolio Size Since May 2013



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

Portfolio by Type of Investment

May 2016 – Market Value of \$217.8 million



Transactions / Portfolio by Maturity

	Maturity Date	Face Value \$	Purchase \$	Rate
Purchases				
Federal Home Loan Mort. Corp.	5/26/2021	\$ 5,000,000.00	\$ 5,000,000.00	1.850%
Federal National Mort.	5/06/2021	<u>5,000,000.00</u>	<u>5,000,000.00</u>	1.250%
		\$ 10,000,000.00	\$ 10,000,000.00	
Matured				
General Electric Cap Corp Note	05/09/2016	\$ 3,000,000.00	\$ 3,143,300.00	2.950%
Called				
			<u>Call Value \$</u>	
Federal National Mort. Assn.	11/15/2017	\$ 5,000,000.00	\$ 5,000,000.00	1.000%
Federal National Mort. Assn.	11/21/2017	5,000,000.00	5,000,000.00	1.000%
Federal Farm Credit Bank	05/19/2020	<u>5,000,000.00</u>	<u>5,000,000.00</u>	1.900%
		\$ 15,000,000.00	\$15,000,000.00	
Sales			<u>Gain/(Loss) \$</u>	
None this month				

Portfolio by Estimated Maturity Term
(in millions - Total = \$217.8 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.

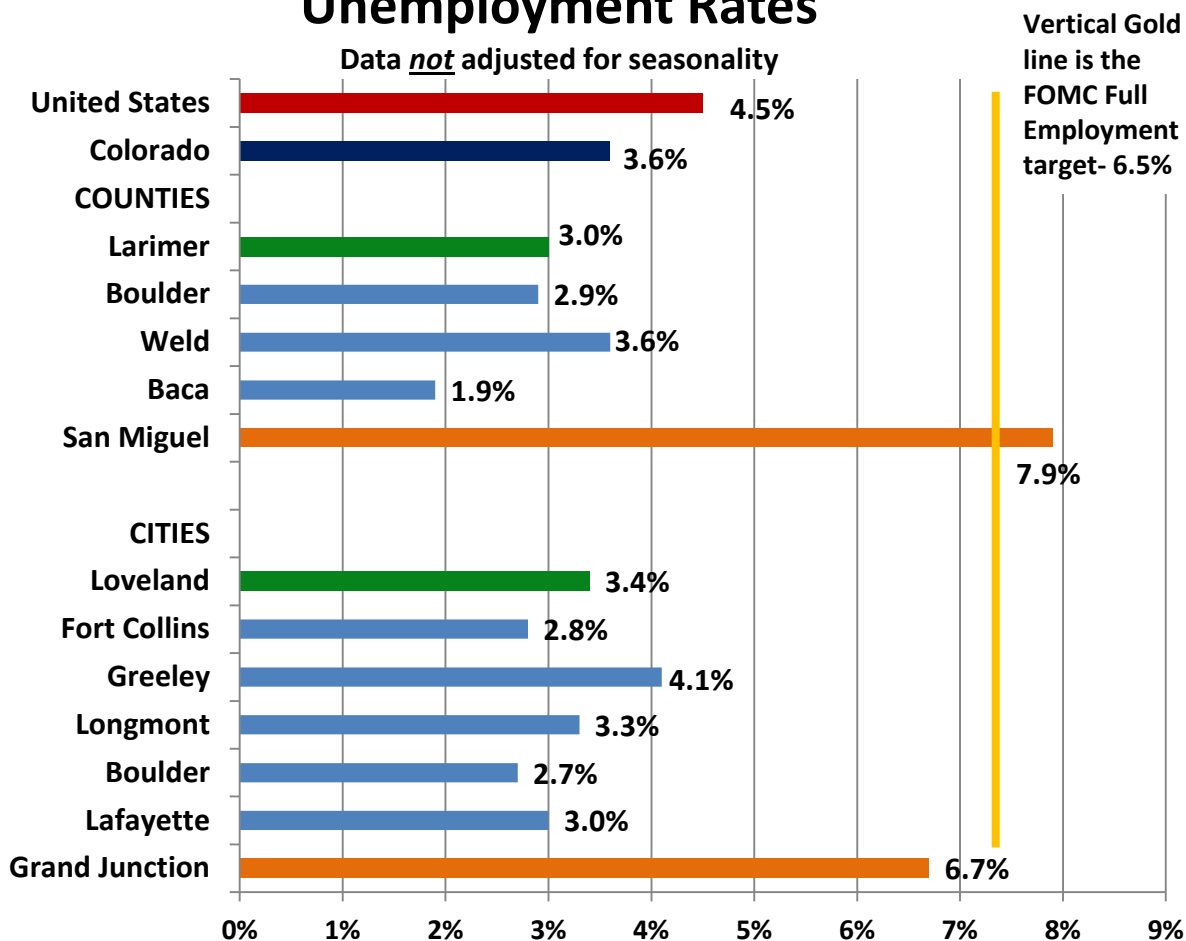
Blue bars show the stated term; red bars show possible calls.

- ❑ Loveland’s employed workforce expanded in May, **up 515** jobs from April.
- ❑ Compared to May of 2015, there are **1,282 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

Data not adjusted for seasonality



Current “missing worker” estimates at a glance

Updated June 3, 2016, based on most current data available.

Total missing workers,
May 2016:
3,020,000

Unemployment rate if
missing workers were
looking for work:
6.5%

Official
unemployment rate:
4.7%





Future Scan: Fed Pauses, Headlines, Colorado Employment, Recession Data

❖ June 15, 2016: The Fed Decided to Pause Again

- “The central bank, led by Chair Janet Yellen, decided not to raise interest rates Wednesday at the end of its two-day meeting. The decision was in line with expectations after a brutal May jobs report. The Fed cut its forecast for U.S. economic growth in 2016 to 2%, down from 2.2% earlier.”
- “Yellen pointed to ‘headwinds blowing on the economy’ as a factor in this reduced outlook.” “This is the second time this year that the Fed is reducing its expectations for U.S. economic growth -- the projection in December was 2.4%. The Fed also slightly decreased its projection for economic growth in 2017.”
- “The Fed says it ‘expects that economic conditions will evolve in a manner that will warrant only gradual increases in the federal funds rate.’ Michael Arone, chief investment strategist at State Street Global Advisors, echoed the statement: ‘It’s this environment of underwhelming [economic] growth.’”
(Source: *“No Rate hike. Fed pares economic outlook”* by Patrick Gillespie in CNN Money online, June 15, 2016.)

❖ Key Indicator headlines for mid-June

- **Housing starts** hurt by weakness in multi-family units. Reuters, June 17, 2016.
- “The pace of improvement in the **labor market** appears to have slowed more recently, suggesting that our cautious approach [to federal funds] remains appropriate.” Janet Yellen quoted by Reuters June 21, 2016.
- A year-long pullback in U.S. **business inventories** will likely continue through the rest of 2016 as retailers and manufacturers remain cautious ... Wall Street Journal, June 21, 2016.
- Since the end of the Great Recession, **Retail and Food service sales** have been underperforming the long-term exponential regression line. Doug Short in Advisor Perspectives, June 14, 2016
- **Oil inventories** down in anticipation of slower growth. Market Realist, June 20, 2016.

- ❖ **The May 2016 Colorado Employment Situation** was released June 17th. Total nonfarm payroll jobs increased by 300 from April to May. Over the last 12 months, nonfarm payroll jobs increased by 62,000. The latest household survey data show Loveland’s unemployment rate to be 3.4%, the same as April. Other cities and counties showed similar consistency in their rates. The chart is on page 6. (Next Update July 22, 2016.)
(Source: Colorado Department of Labor and Employment *May 2016 Colorado Employment Situation*, June 17, 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 May data, Employment was **up just 0.03%**, Industrial Production was down **0.42%** and Real Retail Sales were up **0.23%**. April Real Income was up just **0.13%**. “The US economy has been slow in recovering from the Great Recession, and the overall picture has been a mixed bag for well over a year and counting. Employment and Income have been relatively strong. Real Retail Sales growth has been below trend since July 2014, and Industrial Production has essentially been in a recession since the end of 2014.” Based on the most recent data, the average of the Big Four Indicators was negative.
(Source: *Advisor Perspectives*, Doug Short, June 16, 2016.)

For more information about this report please contact:

Alan Krcmarik, Executive Fiscal Advisor 970 962-2625 Alan.Krcmarik@cityofloveland.org

AGENDA ITEM: 24
MEETING DATE: 7/5/2016
TO: City Council
FROM: The Youth Advisory Commission
PRESENTER: Youth Advisory Commission Representatives

TITLE:

Option 1. An Ordinance Amending Chapter 7.40 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Indoor Areas Within City Owned Facilities (Council Directed Ordinance)

Option 2. An Ordinance Amending Sections 7.40.020 And 7.40.030 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Public Places (Youth Advisory Commission Ordinance)

RECOMMENDED CITY COUNCIL ACTION:

Hold a public hearing and adopt an ordinance on first reading.

OPTIONS:

1. Adopt the Council Directed Ordinance only prohibiting emissions from electronic smoking devices in City buildings and deny the Youth Advisory Commission Ordinance which would treat all emissions from electronic smoking devices the same as conventional tobacco smoke.
2. Adopt the Youth Advisory Commission Ordinance which would treat all emissions from electronic smoking devices the same as conventional tobacco smoke and deny the Council Directed Ordinance only prohibiting emissions from electronic smoking devices in City buildings.
3. Deny the action in total. (Electronic smoking devices are not regulated by City ordinance).
4. Adopt a modified action.
5. Refer back to staff for further development and consideration. (No timing issues or impacts if referred back to staff other than the ordinary departure of Youth Advisory Commission Members.)

SUMMARY:

This is a legislative item providing two alternative and mutually exclusive ordinances to prohibit the use of electronic smoking devices in public places. The Youth Advisory Commission Ordinance seeks to treat all emissions from electronic smoking devices the same as conventional tobacco smoke and the Council Directed Ordinance seeks to prohibit emissions from electronic smoking devices only within City buildings.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

BACKGROUND:

The Youth Advisory Commission ("YAC") participated in a study session on April 12th, 2016 and made several recommendations to City Council. The YAC is bringing forth a proposed ordinance to treat the smoke or aerosol from electronic smoking devices in the same manner as conventional tobacco smoke. The proposed Council Directed Ordinance stems from guidance the City Council

provided during new business on May 3rd, 2016 to prohibit the smoking of electronic smoking devices inside City buildings notwithstanding action from the YAC.

Electronic Smoking Devices:

Electronic smoking devices are not currently regulated within the city. The Youth Advisory proposal adds electronic smoking devices to the smoking ordinance banning their use from all areas where conventional smoking is prohibited. This includes bars, restaurants, workplaces, outdoor dining areas, bar patios, and transit facilities. The Food and Drug Administration (FDA) recently promulgated sweeping new rules and for the first time to extend federal regulatory authority to electronic smoking devices and accessories. These rules affect the manufacturing rather than the use of products. Manufacturers have up to 3 years to come into compliance so the ruling will not have an immediate effect on producers or retailers. Local governments continue to have authority to add these products to local smoking ordinances. These new rules are highlighted as follows:

- Retailers of electronic smoking devices and accessories are prohibited from selling to minors. Retailers are also required to check photo identification if the purchaser appears to be below the age of twenty six years of age.
- Producers of electronic smoking devices and accessories must place health warnings on certain items manufactured by producers.
- Producers of electronic smoking devices and accessories will be subject to inspection from the FDA, will be prohibited from providing free samples, and will be prohibited from marketing products as “light” or “mild” without FDA permission.
- Producers of electronic smoking devices and accessories must register with the FDA, provide the FDA with a detailed accounting of the product ingredients, and disclose their manufacturing process.

Electronic cigarettes or vaporizers are devices that vaporize and deliver to the lungs of the user a chemical mixture composed of nicotine, propylene glycol and other chemicals. Some e-devices are offered without nicotine, and some are offered in candy or fruit flavors that can be attractive to youth. A recent testing of vape shop e-juice samples in Utah showed that among products advertised as having no nicotine in them, 61% had nicotine levels over the 10% variance the American E-Liquids Manufacturing Association has set. These variances and trace amounts of nicotine were also found in other studies that tested e-liquids. Colorado Department of Health and Environment is conducting similar tests on e-liquids, but results are not yet available. When users inhale, a battery operated vaporizer heats a liquid solution into a vapor. E-devices are also being used with highly concentrated marijuana oil or wax, and may provide a discreet way of using marijuana in public settings. While vapor from electronic devices likely contain fewer toxins and carcinogens than those found in traditional tobacco smoke, this alone does not mean that breathing e-cigarette vapor is “safe.”

Preliminary studies on secondhand emissions are showing that users not only ingest but also emit toxins and harmful ultrafine and fine particles, posing potential health risks to those nearby. Although the long-term effects of electronic smoking devices require further study, the FDA has found that some devices contain toxins and carcinogens and has expressed concerns about their safety. Use of electronic devices and vaporizers, particularly in places where conventional smoking is prohibited, may interfere with smokers’ attempts to quit by making it easier for them to maintain their nicotine addiction. Children and youth who experiment with electronic devices may become addicted to nicotine and ultimately switch to smoking cigarettes. Even small amounts of liquid nicotine used in refillable devices can be poisonous to children.

The use of electronic smoking devices may be visually similar to the smoking of cigarettes, and has already been observed in locations where smoking is prohibited, creating concern and confusion. The use of electronic smoking devices where smoking is prohibited may increase the

social acceptability and appeal of smoking, particularly for youth. Several state and local governments have decided to regulate the use of electronic smoking devices:

- Connecticut, Delaware, Hawaii, Maine, Oregon, Utah, New Jersey, and North Dakota - passed legislation prohibiting e-cigarettes wherever regular smoking is banned.
- 10 States (including Colorado) - passed legislation regulating e-cigarette use in certain places such as school property and State workplaces.
- Nationally, at least 470 municipalities (including large metropolitan cities like New York and Chicago) include e-cigarettes in their local smoking ordinances.
- In Colorado 12 municipalities have included e-cigarettes in local smoking ordinances (see Policy Brief).

At least 10 national public health organizations, including the American Medical Association, have recommended that electronic smoking devices be added to local smoking ordinances.

The Larimer County Department of Health and Environment worked with the City of Loveland to distribute a survey to Loveland residents to ask whether they supported restricted use of electronic smoking devices in public places. The survey was open from January to April and there were 377 responses. 83% of non-users of electronic smoking devices were supportive of the YAC policy and 62% of all those taking the survey supported the policy. In addition a YAC business owner survey was completed by 34 businesses and 79% of these showed support. By combining the results of these two surveys, 66% of all surveyed were supportive of the YAC ordinance proposal.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Ordinance – Option 1 City Owned Facilities
2. Ordinance – Option 2 Public Places
3. Attachment A: YAC Power Point Presentation.
Attachment B: Business Opinion Survey.
Attachment C: Policy Brief.
Attachment D: Library Board Letter of Support.
Attachment E: Parks and Recreation Letter of Support.
Attachment F: Cultural Services Board Letter of Support.
Attachment G: Larimer County Board of Health Letter of Support.
Attachment H: CanDo (UCHealth) Letter of Support.
Attachment I: Healthy Hearts (UCHealth) Letter of Support.
Attachment J: Summitstone Health Partners Letter of Support.
Attachment K: Colorado Tobacco Free Alliance Letter of Support.
Attachment L: Americans for Nonsmokers' Rights Letter of Support.

FIRST READING: June 7, 2016

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 7.40 OF THE LOVELAND MUNICIPAL CODE TO ADDRESS THE USE OF ELECTRONIC SMOKING DEVICES IN INDOOR AREAS WITHIN CITY OWNED FACILITIES

WHEREAS, Chapter 7.40 of the Loveland Municipal Code prohibits conventional smoking for indoor areas owned by the City of Loveland; and

WHEREAS, electronic smoking devices are not regulated within the Loveland Municipal Code; and

WHEREAS, although electronic smoking devices do not contain conventional tobacco, users of such devices inhale vaporized or aerosolized liquid nicotine or other liquids created by heat through an electronic ignition system and exhaled in a manner that simulates conventional smoking; and

WHEREAS, the City Council previously found and determined by adoption of Ordinance No. 5161 in 2006 that smoking in areas which are used by, or open to the public, may adversely affect the public's health, safety, and welfare; and

WHEREAS, City Council determines that it is in the best interest of Loveland residents with respect to their health, safety, and welfare that Chapter 7.40 be amended as set forth below.

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

Section 1. That Chapter 7.40 of the Loveland Municipal Code is hereby amended as follows:

7.40.035 Specific Smoking Restrictions for City Owned Property.

In order to reduce the levels of exposure to environmental tobacco smoke, smoke or aerosol generated from electronic smoking devices, and second hand smoke, smoking shall not be permitted and no person shall smoke in any indoor area of any property belonging to the City of Loveland or within fifteen (15) feet from any entry way of any property belonging to the City of Loveland. For purposes of this section, "smoking" shall mean the act of burning, heating, or activation of any device, including, but not limited to, a cigarette, cigar, pipe, hookah, or electronic smoking device, electronic cigarette, vape pen, e-hookah or similar device by any other product name or descriptor, that results in the release of smoke, vapors or aerosol when the apparent or usual purpose of the burning, heating or activation of the device is human inhalation.

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. 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 _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

FIRST READING: June 7, 2016

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 7.40.020 AND 7.40.030 OF THE LOVELAND MUNICIPAL CODE TO ADDRESS THE USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PLACES

WHEREAS, Chapter 7.40 of the Loveland Municipal Code prohibits conventional smoking in public places; and

WHEREAS, electronic smoking devices are not regulated within the Loveland Municipal Code; and

WHEREAS, although electronic smoking devices do not contain conventional tobacco, users of such devices inhale vaporized or aerosolized liquid nicotine or other liquids created by heat through an electronic ignition system and exhaled in a manner that simulates conventional smoking; and

WHEREAS, the United States Food and Drug Administration conducted laboratory tests on numerous brands of electronic smoking devices and found that, in addition to nicotine, they contain toxic chemicals and carcinogens; and

WHEREAS, the City Council previously found and determined by adoption of Ordinance No. 5161 in 2006 that smoking in areas which are used by, or open to the public, may adversely affect the public's health, safety, and welfare; and

WHEREAS, concerns regarding the health impacts of secondhand and thirdhand smoke continues to rise among the citizens of Loveland; and

WHEREAS, the use of electronic smoking devices in public places and in places of employment complicates enforcement of the laws governing conventional smoking in public places; and

WHEREAS, City Council determines that it is in the best interest of Loveland residents with respect to their health, safety, and welfare that Sections 7.40.020 and 7.40.030 be amended as set forth below.

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

Section 1. That Sections 7.40.020 and 7.40.030 of the Loveland Municipal Code are hereby amended as follows:

7.40.020 Definitions.

As used in this chapter, the following words and terms shall be defined as follows, unless the context requires otherwise:

- A. “Airport smoking concession” means a bar or restaurant, or both, in a public airport with regularly scheduled domestic and international commercial passenger flights, in which bar or restaurant smoking is allowed in a fully enclosed and independently ventilated area by the terms of the concession.
- B. “Auditorium” means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.
- C. “Bar” means any indoor area that is operated and licensed under article 47 of title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.
- D. “Cigar-tobacco bar” means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors shall not be defined as a “cigar-tobacco bar” and shall not thereafter be included in the definition regardless of sales figures.

EF-F. “Electronic Smoking Device” means any device that can be used to deliver nicotine or any other substance to the person inhaling from such device, including, but not limited to, e-cigarettes, e-cigars, e-pipes, vape pens, e-hookahs or any other similar product by any other name or descriptor. An electronic smoking device includes any component, part or accessory of such device whether or not sold separately, regardless of nicotine content or any other substance intended to be vaporized or aerosolized during the use of the device.

- EF. 1. “Employees” means any person who:
- a. performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or
 - b. provides uncompensated work or services to a business or nonprofit entity.
2. “Employee” includes every person described in paragraph (1) of this subsection E, regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

GF. “Employer” means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. “Employer” includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

HG. “Entryway” means the outside of the front or main doorway leading into a building or facility that is not exempted from this chapter under Section 7.40.040. “Entryway” also includes the area of public or private property within a fifteen (15) foot radius outside of the doorway.

IH. “Environmental tobacco smoke,” “ETS,” or “secondhand smoke” means the complex mixture formed from the escaping smoke of a burning tobacco product or electronic

smoking device, also known as “sidestream smoke,” and smoke or aerosol exhaled by the smoker.

J. “Food service establishment” means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

K. “Indoor area” means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

L. “Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate.

M. “Person” means any individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity.

N. “Place of employment” means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

O. “Public building” means any building owned or operated by:

1. the state, including the legislative, executive, and judicial branches of state government;
2. any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or
3. any other separate corporate instrumentality or unit of state or local government.

P. “Public meeting” means any meeting open to the public pursuant to part 4 of article 6 of title 24, C.R.S., or any other law of this state.

Q. “Smoke-free work area” means an indoor area in a place of employment where smoking is prohibited under this chapter.

~~**R.** “Smoking” means “Smoke” means the release of gasses, particles, vapors or aerosols into the air from burning, heating, or activation of any device, including, but not limited to, a cigarette, electronic smoking device, e-cigarette, e-hookahs or any other product by name or descriptor when the apparent or usual purpose of burning, heating, or activation of the device is human inhalation.~~

~~the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco including, without limitation, marijuana-~~

S. “Smoking” means the act of burning, heating, activation, or carrying of any device, including, but not limited to, a cigarette, cigar, pipe, hookah, or electronic smoking device, electronic cigarette, vape pen, e-hookah or similar device by any other product name or descriptor, that results in the release of smoke, vapors or aerosol when the apparent or usual purpose of the burning, heating or activation of the device is human inhalation.

T. “Tobacco” means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse

scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, [electronic smoking device](#) or otherwise, or both for chewing and smoking. “Tobacco” also includes cloves, marijuana, and any other plant matter or product that is packaged for smoking.

US. “Tobacco business” means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

VF. “Work area” means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer. (Ord. 5839 § 2, 2013)

7.40.030 General Smoking Restrictions.

A. Except as provided in Section 7.40.040 and in order to reduce the levels of exposure to environmental tobacco smoke, [smoke or aerosol generated from electronic smoking devices, and second-hand smoke](#), smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

1. Public meeting places;
2. Elevators;
3. Government-owned or -operated means of mass transportation, including, but not limited to, buses, vans, and trains;
4. Taxicabs and limousines;
5. Grocery stores;
6. Gymnasiums;
7. Jury waiting and deliberation rooms;
8. Courtrooms;
9. Child day care facilities;
10. Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;
11.
 - a. Any place of employment that is not exempted.
 - b. In the case of employers who own facilities otherwise exempted from this chapter, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
12. Food service establishments;
13. Bars;
14. Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
15. Indoor sports arenas;
16. Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;

- 17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;
 - 18. Bowling alleys;
 - 19. Billiard or pool halls;
 - 20. Facilities in which games of chance are conducted;
 - 21. The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
 - 22. Public buildings;
 - 23. Auditoria;
 - 24. Theaters;
 - 25. Museums;
 - 26. Libraries;
 - 27. To the extent not otherwise provided in C.R.S. § 25-14-103.5, public and nonpublic schools;
 - 28. Other educational and vocational institutions; and
 - 29. The entryways of all buildings and facilities listed in paragraphs (1) to (28) of this subsection A.
- B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children under eighteen years of age must be accompanied by a parent or guardian."

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. 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 _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney

E-cigarettes/Vaporizers in Public Places



Megan Valliere & Michael Selbert

Recap

During the April 12, 2016 Study Session, the Youth Advisory Commission recommended that electronic smoking devices (ESDs) be added to the current smoking ordinance. This would prohibit the use of ESDs where traditional cigarettes are not allowed.

Since April 12th

- “On May 5, 2016 the FDA announced that it would be extending its authority to all tobacco products including e-cigarettes, cigars, hookah tobacco and pipe tobacco.” - FDA News Release
- YAC held an open house on May 2nd to gather opinions from the public and to educate the community.



Council Comments to Address

- Research
- Non-nicotine products and other ingredients
- Balancing rights (users, non-users, businesses etc.)
- Unintended consequences

Advertising and Cessation

- E-cigarettes are often advertised on TV, social media, and radio as a healthy alternative to cigarettes or as a cessation method.¹
- “E-cigarette users were no more likely to have quit 1 year later than nonusers.”²
- “No significant change in the number of conventional cigarettes smoked per day between those who did and did not use e-cigarettes.”²

Dual Use

- “...dual use will have much smaller beneficial effects on overall survival compared with quitting smoking completely.”³
- “...use of ENDS will not significantly decrease smoking-attributable disease and mortality even if the full theoretical risk reduction potential of ENDS were to be realized.”³



ASHRAE Study Methodology - Harmful Aerosol

- Three trials of 150 puffs per device
- Results show mass emitted per 150 puffs
- Worst-case exposure scenario
- Hazard quotient calculated with California health guidelines

ASHRAE Study Results - Harmful Aerosol

- Four chemicals above hazard quotient for cancer related health effects for users
- Three chemicals above hazard quotient for non-cancer related health effects for users
- Two chemicals above hazard quotient for non-cancer related health effects for non-users
- Even with lowest possible emission rates, two chemicals above hazard quotient

Harmful Aerosol

- Presence of heavy metals and carcinogens in e-cigarette aerosol^{2,3,4,5,6}
- Short-term exposure to ENDS aerosol³
- Relevance to Loveland businesses and buildings



UK Review Article

- UK Review claims that e-cigarette usage is 95% safer than traditional tobacco.
 - Criticism of review by Center for Tobacco Control Research and Education
- The lack of evidence gathered in the report makes it difficult to validate the findings.

Other Countries, States, and Municipalities

- 39 countries have implemented “comprehensive advertising, promotion and sponsorship bans on ENDS”³
- 30 countries prohibit indoor use of ENDS³
- 19 countries require premarket review on ENDS³
- 3 states prohibit the use of ENDS in smoke-free, indoor environments²
- 524 municipalities regulate ENDS in some form⁷

Vape-free Policies in CO



Source: CBS News 4 Denver, Americans for Nonsmokers' Rights

Non-nicotine devices

- Not Regulated = no quality control for conclusive evidence
- Utah study found discrepancies in actual nicotine levels versus reported levels
- Other ingredients (safe for eating but not studied for inhaling)
- Burning of flavorings
- Other drugs such as marijuana
 - Devices may be indistinguishable
- Perception to youth



Balancing Rights

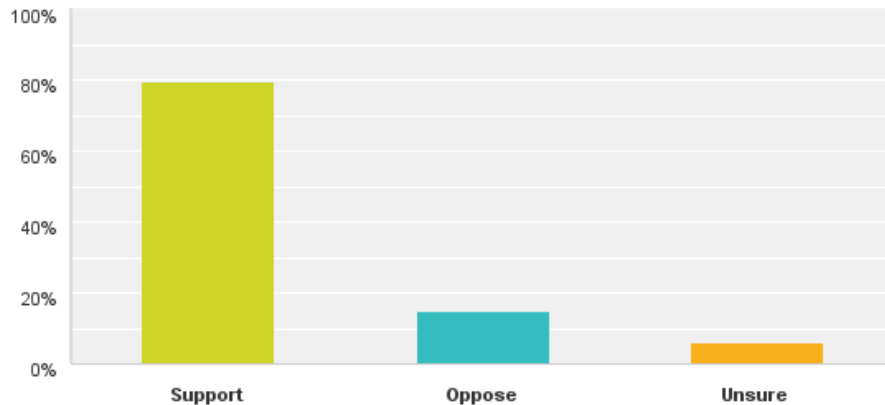
- Not a full ban on devices, just on their use in indoor public spaces
- Clean air rights vs. choice to use product
- 5% of the public are e-cigarette users⁸
- 85% of surveyed non-users support this policy⁸
- 79% of local business owners and managers support the prohibition of e-cigarettes in all indoor areas open to the public



Survey of Local Business Owners and Managers

Q3 Would you support or oppose a city ordinance prohibiting the use of e-cigarette/vaporizer in all indoor areas open to the public similar to the way traditional smoking is prohibited in Loveland?

Answered: 34 Skipped: 0



Why a City Wide Policy?

- More clear to public, especially youth
- Protect employees
- Provide law for business to refer to
- Signage and education
- Protecting standard for clean air
 - May be “safer”, but not safe



Unintended Consequences

- Users wanting to quit
 - Can still do so but limited where
 - 7 Approved FDA quit methods that have been clinically studied for safety
 - Research is insufficient to recommend ESDs for quitting
- Vape Shops
 - Excluded in ordinance draft language
 - Quit aids are intended to reduce use rates over time
- Enforcement of different products
 - Stronger if ALL product use is prohibited regardless of exact contents
 - As clean of air as possible

Letters of Support

- Library Board
- Parks and Recreation Commission
- Cultural Services Board
- Larimer County Board of Health
- CanDo
- Healthy Hearts
- SummitStone Health System
- Colorado Tobacco Free Alliance
- Americans for Nonsmokers' Rights

References

- 1) *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012. Web.
- 2) Grana, Rachel, PhD, MPH; Neal Benowitz, MD; and Stanton A. Glantz, PhD. "Contemporary Reviews in Cardiovascular Medicine E-Cigarettes A Scientific Review." *American Heart Association Journals*. American Heart Association, 2014. Web. 19 May 2016.
- 3) World Health Organization. "Electronic Nicotine Delivery Systems." Conference of the Parties to the WHO Framework Convention on Tobacco Control 6 (2014): 1-13. <http://apps.who.int/gb/ctc/PDF/cop6/FCTC_COP6_10-en.pdf>.
- 4) Offermann, Francis J., P.E., CIH. "The Hazards of E-Cigarettes." *ASHRAE Journal* (2014). *ASHRAE.org*. ASHRAE Journal, June 2014. Web. 19 May 2016.
- 5) Soule, Erik K., Sarah F. Maloney, Tory R. Spindle, Alyssa K. Rudy, Marzena M. Hiler, and Caroline O. Cobb. "Electronic Cigarette Use and Indoor Air Quality in a Natural Setting." *TobaccoControl.BMJ.com*. Tobacco Control, 15 Feb. 2015. Web. 19 May 2016.
- 6) Durmowicz, Elizabeth L., Susan F. Rudy, and Li-lun Chen. "Electronic Cigarettes: Analysis of FDA Adverse Experience Reports in Non-users." *TobaccoControl.BMJ.com*. Group.bmj.com, 23 Apr. 2015. Web. 19 May 2016.
- 7) CBS News 4 Denver; American for Nonsmokers' Rights
- 8) Previous TobacNo Survey

Question & Answer

Please welcome YAC members Billie Anna Runions, Oliver Byles, and Mark McKenna for the question and answer period.

THANK YOU!

Business Opinion Survey²²⁰

Loveland Colorado

E-cigarettes and Vaporizers

This survey is in response to City Council's concern about the Loveland business community's support for adding e-cigarettes and vaporizers to Loveland's smoking ordinance. The City of Loveland Youth Advisory Commission (YAC) and Larimer County Department of Health and Environment (LCDHE) in partnership with Loveland Chamber of Commerce and Loveland Downtown Partnership distributed an online, voluntary, and anonymous survey of Loveland business owners/managers. 34 businesses responded.

79%
Support

Business Support for Policy

Responses

- Support 27
- Oppose 5
- Unsure 2

Type of Business

- Restaurants 4
- Bars 3
- Office Space 10
- Retail 8
- Other 11



4 out of 5

Businesses Support
the Policy



"Let's do it yesterday!"

"...this is a very valuable issue. We applaud the Youth Advisor Commission for initiating this action.

- 2 Loveland Business Opinion
Survey Respondents



Electronic Cigarettes and Vaporizers in Public Places

March 2016

Loveland Policy Brief

E-cigarettes and vaping devices are battery-operated products that can deliver nicotine, flavor or other chemicals through an aerosol inhaled by the user and exhaled into the environment.

(See factsheets from the Center for Disease Control (CDC) and the American Academy of Pediatrics (AAP) for details.)

Electronic Smoking Devices - A Problem In Public Places

Secondhand Exposure & Health

Exhaled aerosol from Electronic Smoking Devices (ESDs) may contain nicotine, toxins and cancer causing chemicals that are released into the air and can cause respiratory issues.¹ Many e-liquid flavorings, while approved for ingestion, have not been studied for harmful effects on the lungs or upper airway tissue. Safe when ingested in normal doses does not mean safe when inhaled.² There is **no safe level of nicotine** exposure for pregnant women, infants, children or adolescents.³ Exposure to nicotine is harmful to adolescent brain development and may increase vulnerability to addiction.¹

Smoking Enforcement Concerns

The use of ESDs may make it difficult for employers, business owners and officials to enforce existing smoke-free air laws under the Colorado Clean Indoor Air Act (CCIAA). ESDs used for marijuana and nicotine are indistinguishable and may be discretely used in public areas.

Social Norms

According to the CDC, designated smoke-free public areas are proven strategy for reducing tobacco use rates. In Larimer County adult smoking rates have decreased from 19% in 1995 to 11% in 2013.⁴ Additionally, only 9% for youth in Larimer County are current smokers.⁵ However, use of electronic products is increasing and public use creates a norm that tobacco and nicotine use is acceptable.⁶



"Using electronic products in clean air environments may result in population harm if use of the product enforces the act of smoking as socially acceptable, and if use undermines the effects of smoke-free policies on quitting smoking."

Grana, R.; Benowitz, N.; Glantz, S. "Background Paper on E-cigarettes," Center for Tobacco Control Research and Education, University of California, San Francisco and WHO Collaborating Center on Tobacco Control, December 2013

1. "Electronic Nicotine Delivery Systems". SECTION ON TOBACCO CONTROL. American Academy of Pediatrics. Nov 2015. 136 (5) 1018-1026; DOI: 10.1542/peds.2015-3222

2. "E-cigarettes and Electronic Nicotine Delivery Systems." American Academy of Pediatrics; Julius B. Richmond Center for Excellence, n.d. Print.

3. "Electronic Nicotine Delivery Systems: Key Facts." Center for Disease Control and Prevention. Office on Smoking and Health, n.d. Print.

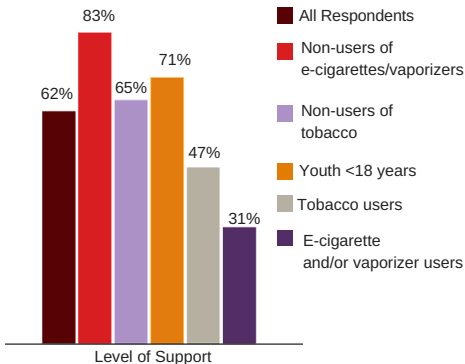
4. Health District of Northern Larimer County. Community Health Survey. 2013. Raw data. Larimer County.

5. Colorado Health and Environmental Data (CHED). Health Kids Colorado Survey. 2013. Web. 29 Mar. 2016.

6. "Electronic Nicotine Delivery Systems Key Facts Info-graphic | Open Data | Centers for Disease Control and Prevention." Socrata. N.p., n.d. Web. 29 Mar. 2016.

From 2016 Loveland Public Opinion Survey

Do you support or oppose prohibiting the use of e-cigarettes/vaporizers inside places like restaurants, bars, workplaces or other buildings open to the public?



National Health Organizations that support restrictions on ESDs

- American Medical Association (AMA)
- American Heart Association (AHA)
- American Lung Association (ALA)
- National Association of City and County Health Officials (NACCHO)
- American Association for Cancer Research
- American Society of Clinical Oncology
- Campaign for Tobacco Free Kids
- American Academy of Pediatrics
- American Public Health Association
- National Institute for Occupational Safety and Health (NIOSH)

“Vapor devices/e-cigarettes emit harmful chemicals into the air and need to be regulated in the same manner as tobacco smoking.”

American Society of Heating Refrigeration and Air Conditioning Engineers, 2014 Annual Report

CO Vape-free Communities



Source Credit: CBS News 4 Denver

Local Policy Recommendations

The current Smoking In Public Places policy in Loveland meets the minimum standards of the Colorado Clean Indoor Act. These standards are: No smoking in workplaces, bars and restaurants, public buildings, and no smoking 15 feet from main entryways. To strengthen Loveland’s current policy:

Restrict use of ESDs in **ALL** public settings in Loveland where traditional smoking is prohibited.

**LOVELAND PUBLIC LIBRARY**

Civic Center • 300 N Adams • Loveland, Colorado 80537
(970) 962-2665 • FAX (970) 962-2905
www.lovelandpubliclibrary.org

April 26, 2016

Loveland City Council
500 E. Third Street
Loveland, CO 80537

Dear City of Loveland Mayor, Council Members and Manager:


The Loveland Library Board supports the Loveland Youth Commission's (YAC) recent recommendation of adding electronic smoking devices to the City of Loveland smoking ordinance.

In the most recent update of library policies approved by the City Council in September 2015, the Library added e-cigarettes and vaping to the list of banned tobacco use and smoking in the library. This decision was based on problems with vaping in the library, concern for the public (especially youth) being exposed nicotine and other chemicals in the aerosol, and the desire to maintain a healthy environment during library use. We also wanted to prevent potential marijuana vaping in the library.

To protect the health of the public and to maintain a non-smoking norm for youth, we agree that there should be no use of electronic smoking devices (e-cigarettes and vaporizers) in ALL buildings and businesses open to the public in Loveland. The YAC has expressed concern about this issue and has presented additional information to the Council about why restricting these products in public places is important. Their research has shown that there are too many potentially harmful impacts of these devices on users and bystanders to allow them in areas accessed by the public.

Thank you for considering the input of the Library Board as you deliberate the use of electronic smoking devices in the City of Loveland.

Sincerely,



Sandy Darby
Library Board Chairperson

May 14, 2016

City of Loveland
Youth Advisory Commission
500 E. 3rd Street
Loveland, CO 80537

To the members of the Youth Advisory Commission,

The Parks and Recreation Commission supports the Youth Advisory Commission's efforts to add Electronic Smoking Devices to Loveland's existing Smoking in Public Places Policy.

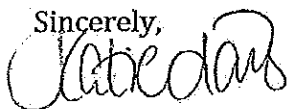
At our monthly meeting on Thursday, May 12, 2016, Loveland Assistant City Attorney Vincent Junglas and Christa Timmerman of the Larimer County Department of Health and Environment gave a presentation pertaining to the use of Electronic Cigarettes and Vaporizers. Secondhand exposure to electronic smoking and the possibility of negative health consequences were discussed.

Included in the discussion was input by the Parks & Recreation (P&R) staff regarding the issues of e-smokers at various P&R facilities. This included use of e-cigarettes and vaporizers at the Chilson Recreation Center. The P&R staff has witnessed e-smoking inside the Recreation Center.

After a question and answer session, a vote was taken and the motion to support the YAC's attempt to restrict the use of Electronic Smoking Devices in all public settings in Loveland where traditional smoking is prohibited was approved 6-1.

We appreciate the Youth Advisory Commission for asking the Parks and Recreation Commission for our input. We wish you well in your endeavor.

Sincerely,



Katie Davis
Vice-Chair, Parks & Recreation Commission

*Cultural Services Board
City of Loveland*

April 28, 2016

*City of Loveland
Youth Advisory Commission
500 E 3rd Street
Loveland, Colorado 80537*

Members of the Youth Advisory Commission (YAC):

The Cultural Services Board (CSB) wishes to thank Loveland City Assistant Attorney Vincent Junglas and Christa Timmerman of the Larimer County Department of Health and Environment for their presentation at our April 26th board meeting and also for the opportunity to ask questions about the YAC's proposal to add electronic cigarettes and vaporizers to existing city policy concerning smoking in public places.

Having listened to the April 26th presentation, and having reviewed literature from the American Academy of Pediatrics, the CSB concurs with the concerns expressed by the YAC in their presentation to Loveland City Council on April 12, 2016. There is documented evidence in support of banning electronic cigarettes and vaporizers from public places. Adding these devices to the existing city policy will promote the health and safety of our citizens.

Last but not least, kudos to the YAC for taking a stand on an issue important to health and safety in Loveland. Mayor Gutierrez said of you that the future of Loveland "is in good hands". The Cultural Services Board agrees.

Sincerely,

A handwritten signature in black ink that reads "Juanita Cisneros". The signature is written in a cursive, flowing style.

Juanita Cisneros, Chairperson of the City of Loveland Cultural Services Board

Larimer County Board of Health
Resolution on use of Electronic Smoking Devices

- Whereas, nicotine poses dangers to pregnant women and fetuses, children and adolescents and youth use of nicotine in any form, including Electronic Smoking Devices (ENDs) is unsafe
- Whereas most adult ENDS users also smoke conventional cigarettes, which is referred to as “dual use”
- Whereas, youth use of ENDS continues to rise rapidly in the U.S
- Whereas, ENDS aerosol is not harmless water vapor and is not as safe as clean air
- Whereas, given the currently available evidence on ENDS, several policy levels are appropriate to protect public health

Therefore, The Larimer County Board of Health:

--encourages elected officials of the City of Loveland to prohibit the use of ENDS in the same indoor areas where traditional cigarettes are prohibited under the Colorado Clean Indoor Air Act (workplaces, bars & restaurants, other business, and 15 feet from major entryways)

Dated this 21th day of April, 2016 on behalf of the Larimer County Board of Health

N. Mark Richards, M.D., M.P.H, Board of Health President



UCHealth

CanDo

May 2, 2016

Loveland City Council

500 E. Third Street

Loveland, CO 80537

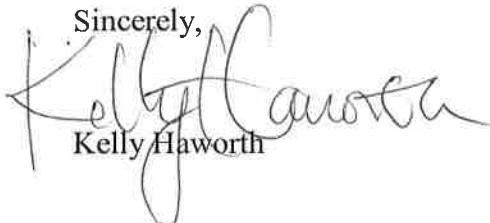
Dear Loveland City Council and City Manager,

On behalf of CanDo I am writing you to support the Loveland Youth Advisory Commission's (YAC) recommendation to add electronic smoking devices (ESD) to the current ordinance regarding smoking in indoor public places. CanDo supports measures that promote healthy communities and the physical environments in which we live, work, and play hold a significant role in shaping our health. Clean air environments reduce the risk of chronic conditions and create a social norm that tobacco/nicotine use and secondhand exposure is not acceptable.

Although electronic smoking devices do not produce the same chemicals as traditional cigarette smoking, the aerosol is not harmless to the user or to bystanders and may contain varying levels of nicotine and other chemicals.¹ We are especially concerned about secondhand exposure to youth, pregnant women, and people with chronic respiratory issues like asthma and chronic obstructive pulmonary disease (COPD) who may be effected by the exhaled aerosol.

Given the potential threat to lung health and the health of at-risk populations, CanDo supports the YAC recommendation to prohibit use of ESD's in all indoor areas open to the public and places of employment.

Sincerely,



Kelly Haworth

Reference:

1. <http://www.cdc.gov/tobacco/stateandcommunity/pdfs/ends-key-facts2015.pdf>



HEALTHY HEARTS

May 2, 2016

Loveland City Council:

Healthy Hearts is an education and cholesterol screening program for elementary, middle and high school students sponsored by UCHealth. Our purpose is to educate students and their families about cardiac health and heart disease and to promote heart-healthy lifestyles.

Heart disease will take more lives than any other cause of death in the United States. Smoking/nicotine products are the number one risk factor for heart disease. The negative effects of involuntary second- and third-hand nicotine, ENDS solution and aerosol exposure are well-documented by the American Academy of Pediatrics and the American Heart Association. In addition, the rate of young people using ENDS products has increased substantially over the past few years, is highly addictive and often leads to traditional cigarette use.

Healthy Hearts data collected on e-cigarettes in Larimer County since 2012 show:

- e-cigarette use is rising among middle and high school students which is consistent with national trends
- more high school students report using e-cigarettes (9.6%) than cigarettes (7.4%)
- out of the 16.9% of high school students that use marijuana, 12.4% use it in an e-cigarette
- 32% of high school, 24% of middle school, and 18% of elementary students are exposed to 2nd hand smoke
- average age to try an e-cigarette has dropped from 14.7 to 13.9
- users on average consistently engage in 2 less healthy behaviors than non-users which can set back our efforts of creating a healthier community

A disturbing trend that Healthy Hearts has observed in the past couple years is that elementary students often cannot differentiate between cigarettes and e-cigarettes in advertisements and now report that e-cigarettes must be “good for you” since they are seen everywhere.

Elementary, middle and high school students state that e-cigarettes must be healthy since it is “just a vapor” and not “real smoke”. Our educators spend time dispelling myths on what is the vapor (a non-regulated aerosol which is the suspension of fine particles in gas) and what are the potential dangers of an e-cigarette (short term increased heart rate and blood pressure which can ultimately increase your risk for heart disease, and increased particulate inhalation that can cause respiratory conditions such as asthma).

Healthy Hearts agrees with the American Academy of Pediatrics and the American Heart Association when they state that 50 years of anti-smoking efforts are disappearing as young children are exposed to e-cigarettes in public and in marketing campaigns. The normalization of smoking is demonstrated in the stories shared. One elementary child reported how much fun she has picking out her mother's e-cigarette flavors. Another child reported that he would never smoke but, of course, would try an e-cigarette "maybe once a week" when he was in high school since it was considered healthy.

As a result of our local data, reputable national recommendations, and student feedback, Healthy Hearts supports programs and policies that aim to reduce the exposure of youth to ENDS including measures to limit use in public places. Healthy hearts mission is to reduce heart disease and believes that e-cigarettes are dangerous because they:

- target young people
- can keep people hooked on nicotine
- threaten to 're-normalize' tobacco use
- produce an aerosol that may contain harmful chemicals including nicotine and heavy metals

I sincerely hope you consider supporting efforts to protect the public's health.



NaNet Puccetti, MPH, MHSA

Supervisor – Healthy Hearts Program | Research

UCHealth Northern Colorado

2500 Rocky Mountain Ave., SMOB Ste. 360

Loveland, CO 80538

p: 970.624.5298

nanet.puccetti@uchealth.org

uchealth.org



May 23, 2016

Loveland City Council
500 East Third Street, Suite 330
Loveland, CO 80537

Dear Mayor and Council,

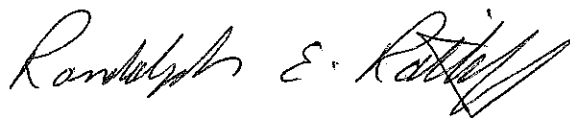
I am contacting you to support the proposal from the Loveland Youth Advisory Commission to add indoor e-cigarette use and vaping to the City of Loveland's smoking ordinance.

As one of the major health systems in Loveland, we feel that use of these products is unsafe for many reasons:

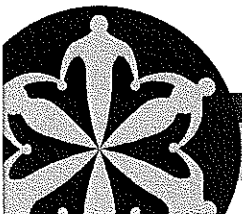
- Nicotine use and nicotine exposure are not safe for children or pregnant women; nicotine in any form is hazardous to brain development
- Secondhand aerosols from the devices can be inhaled by others and we do not have enough research to show that the aerosol is safe
- The use of e-cigarettes and vaping is rising rapidly among youth
- These devices may contain marijuana as well as nicotine
- Many users of electronic smoking devices still use conventional cigarettes and they are not a proven method for quitting
- Several national organizations including the American Medical Association and the American Academy of Pediatrics recommend that electronic devices be included in smoking ordinances.

SummitStone Health Partners encourages elected officials of the City of Loveland to prohibit the use of Electronic Smoking Devices in the same areas where traditional cigarettes are prohibited under the Colorado Clean Indoor Air Act, including workplaces, bars, restaurants, and other businesses, and within 15 feet of major entryways. Thank you for receiving input from SummitStone Health Partners on this health related proposal.

Sincerely,



Randolph E. Ratliff
Chief Executive Officer



COLORADO TOBACCO FREE ALLIANCE

**Americans for
Nonsmokers' Rights**



May 17, 2016

Dear Mayor and City Council,

We are writing to support your proposed ordinance that would prohibit the use of electronic smoking devices in indoor places that are smoke-free under state law. We represent the Colorado Tobacco Free Alliance, a coalition of statewide health organizations that includes the American Cancer Society: Cancer Action Network, American Lung Association in Colorado, Campaign for Tobacco Free Kids, American Heart Association, Americans for Nonsmokers' Rights, and the Group to Alleviate Smoking Pollution. We have been working on smoke-free policies in Colorado for several decades as a means of protecting public health.

**American Cancer
Society: Cancer Action
Network**



**American Heart
Association**



We would urge you to include all indoor public places, including tobacco retailers and vapor shops, in your smoke and aerosol free proposal to protect all employees, and those who visit such establishments from breathing toxic air particles. All employees deserve the right to breathe clean indoor air.

Communities throughout the state have been working to include electronic smoking devices in their smoke-free law and several have expanded their laws to address additional public places like parks, playgrounds, and open space.

**American Lung
Association in Colorado**



Smoke-free policies have been proven to protect the health of workers and others, help reduce youth and adult tobacco use, and do not cause negative economic harm to a community. Studies from both Greeley and Pueblo Colorado found heart attack admissions dropped 27% and 41% respectively following the passage of their smoke-free laws. In addition to the health benefits, comprehensive smoke-free laws provide a level playing field for all businesses and facilitate enforcement by removing any confusion as to who is supposed to comply with the law.

**Campaign for Tobacco
Free Kids**



E-cigarettes and vaporization devices are not approved smoking cessation devices. Nicotine and other toxic substances have been found in exhaled e-cigarette aerosol. And we know some products also can contain tobacco and conceal marijuana use. Your policy will complement the recently announced FDA regulations of e-cigarettes, which do not address their use in public places.

**Group to Alleviate
Smoking Pollution**



We support your proposed ordinance and appreciate your work to improve the health of Loveland residents, workers and visitors.

Respectfully,

Healthier Colorado



Jodi Radke

Jodi Radke

Regional Director, Campaign for Tobacco-Free Kids

Loveland resident and a member of the leadership of the Colorado Tobacco Free Alliance

jradke@tobaccofreekids.org

ANR AMERICANS FOR NONSMOKERS' RIGHTS

Defending your right to breathe smokefree air since 1976

May 10, 2016

Loveland City Council
500 East Third Street, Suite 330
Loveland, CO 80537

Cc: Loveland Youth Commission

Dear Honorable Loveland City Council Members,

On behalf of our members, Americans for Nonsmokers' Rights encourages the Loveland City Council to support the current policy proposal from the Youth Advisory Commission to add electronic smoking devices to the smokefree ordinance. The proposed policy would prohibit the use of electronic smoking devices (ESDs) in smokefree venues, where people may be exposed to the secondhand aerosol they emit.

E-cigarette industry proponents, including tobacco companies, often lobby to allow use of their products inside smokefree environments. Their goal is not public health, but rather to maximize profits by enabling product consumption inside otherwise smokefree environments. E-cigarette proponents may claim that the chemical aerosol emitted by these products is completely harmless and only contains "water vapor" but it's worth noting that water typically isn't an ingredient in these products.

More than 470 localities and 8 states now specifically prohibit the use of e-cigarettes and other vaping devices in all smokefree spaces, and it is now a standard component of smokefree indoor air laws.

Research shows that e-cigarettes and vaping devices can produce high levels of harmful ultra-fine particles that can irritate or damage the respiratory system. These products produce a dense visible aerosol of liquid sub-micron droplets consisting of glycols, nicotine, volatile organic compounds, and carcinogens (e.g., formaldehyde, metals like cadmium, lead, & nickel, and nitrosamines). So while some may believe the product is "safer" than a conventional cigarette, the use of and exposure to e-cigarettes certainly isn't harmless or risk-free (see attached fact sheet). Even substances that might be safe for eating have not been tested for safety as a heated, inhaled aerosol.

While FDA now has the authority to regulate marketing and ingredients in e-cigs, it does not have the authority to regulate where these products can be used; therefore, it is critical that Loveland City Council adopts rules about including ESD's in Loveland's smokefree law to protect the public from exposure to the secondhand aerosol.

Regardless of the debate of whether these products serve a role in cessation, there is simply no need to use them inside shared air spaces (such as workplaces and public places) where others are then subject to the hazardous secondhand emissions. Just like traditional cigarettes, e-cigarettes should be used in ways that don't impact the health of others.

Loveland should follow the recommendations of experts such as the National Institute for Occupational Safety and Health (NIOSH); the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE); the World Health Organization (WHO); the American Industrial Hygiene Association; and other health and safety organizations that **recommend that electronic smoking devices should not be used inside smokefree spaces.**

Non-users exposed to secondhand emissions from e-cigarettes show levels of cotinine (a biomarker for nicotine exposure) in their system. There is also evidence of third-hand exposure from the residue the aerosol leaves behind on surfaces in an area where these products have been used.

Loveland has the opportunity to protect public health from exposure to secondhand smoke and secondhand aerosol. We have enough science to make an intelligent decision that secondhand aerosol is not harmless and that it is a new source of air pollution that contains ultrafine particles, toxicants, and carcinogens.

Given these facts, Americans for Nonsmokers' Rights urges the Loveland City Council to support the current proposal to prohibit the use of electronic smoking devices in all public places and workplaces, at all times, without exception.

Thank you for your leadership and desire to make Loveland the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 if you have any questions, comments, or feedback.

Sincerely,



Cynthia Hallett, MPH
Executive Director

Attachments: Electronic Cigarettes and Secondhand Aerosol fact sheet
List of Cities and States with e-cigarette laws

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

Electronic Smoking Devices and Secondhand Aerosol

Electronic smoking devices (or ESDs), which are often called **e-cigarettes**, heat and vaporize a solution that typically contains nicotine. The devices are metal or plastic tubes that contain a cartridge filled with a liquid that is vaporized by a battery-powered heating element. The aerosol is inhaled by the user when they draw on the device, as they would a regular tobacco cigarette, and the user exhales the aerosol into the environment.

"If you are around somebody who is using e-cigarettes, you are breathing an aerosol of exhaled nicotine, ultra-fine particles, volatile organic compounds, and other toxins." Dr. Stanton Glantz, Director for the Center for Tobacco Control Research and Education at the University of California, San Francisco.

Current Legislative Landscape

- As of April 2, 2015, **354 municipalities and three states include electronic smoking devices** as products that are prohibited from use in smokefree environments.

Constituents of Secondhand Aerosol

Electronic smoking devices (ESDs) do not just emit "harmless water vapor." **Secondhand aerosol (incorrectly called vapor by the industry) from ESDs contains nicotine, ultrafine particles and low levels of toxins** that are known to cause cancer.

- ESD aerosol is made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.¹
- Exposure to fine and ultrafine particles may exacerbate respiratory ailments like asthma, and constrict arteries which could trigger a heart attack.²
- ESD aerosol particles are smaller than 1000 nanometers, which is a similar size to tobacco smoke and diesel engine smoke, and bystanders can be exposed to this aerosol. "The exact size distribution depends on the chemical composition of the electronic cigarette liquid, the e-cigarette device operation, and user vaping preferences."³
- At least 10 chemicals identified in ESD aerosol are on California's Proposition 65 list of carcinogens and reproductive toxins, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986. The compounds that have already been identified in mainstream (MS) or secondhand (SS) ESD aerosol include: **Acetaldehyde (MS), Benzene (SS), Cadmium (MS), Formaldehyde (MS,SS), Isoprene (SS), Lead (MS), Nickel (MS), Nicotine (MS, SS), N-Nitrosornicotine (MS, SS), Toluene (MS, SS)**.^{4,5}
- **ESDs contain and emit propylene glycol**, a chemical that is used as a base in ESD solution and is one of the primary components in the aerosol emitted by ESDs.
 - Short term exposure causes eye, throat, and airway irritation.⁶
- Long term inhalation exposure can result in children developing asthma.⁷ Even though propylene glycol is FDA approved for use in some products, the inhalation of vaporized nicotine in propylene glycol is not. Some studies show that heating propylene glycol changes its chemical composition, producing small amounts of propylene oxide, a known carcinogen.⁸

- There are **metals in ESD aerosol, including chromium, nickel, and tin nanoparticles**.⁹
- FDA scientists found detectable levels of carcinogenic tobacco-specific nitrosamines in ESD aerosol.¹⁰
- People exposed to ESD aerosol absorb nicotine (measured as cotinine), with one study showing levels comparable to passive smokers.¹¹
- **Diethylene Glycol**, a poisonous organic compound, was also detected in ESD aerosol.¹²
- **Exhaled ESD aerosol contained propylene glycol, glycerol, flavorings, and nicotine, along with acetone, formaldehyde, acetaldehyde, propanal, diacetyl, and triacetyl**.¹³
- Many of the elements identified in the aerosol are known to **cause respiratory distress and disease**. The aerosol contained particles >1 µm comprised of tin, silver, iron, nickel, aluminum, and silicate and nanoparticles (<100 nm) of tin, chromium and nickel. The concentrations of nine of eleven elements in ESD aerosol were higher than or equal to the corresponding concentrations in conventional cigarette smoke.¹⁴
- ESDs cause exposure to different chemicals than found in conventional cigarettes and there is a need for risk evaluation for both primary and passive exposure to the aerosol in smokers and nonsmokers.¹⁵
- Short term use of ESD has been shown to increase respiratory resistance and impair lung function, which may result in difficulty breathing.¹⁶
- The first study to look at exposure to aerosol from ESDs in real-use conditions found that non-smokers who were exposed to conventional cigarette smoke and ESD aerosol absorbed similar levels of nicotine.¹⁷
- The “E-cigarettes do not produce a vapor (gas), but rather a dense visible aerosol of liquid sub-micron droplets consisting of glycols, nicotine, and other chemicals, some of which are carcinogenic (e.g., formaldehyde, metals like cadmium, lead, & nickel, and nitrosamines).” ASHRAE concluded that ESDs emit harmful chemicals into the air and need to be regulated in the same manner as tobacco smoking.¹⁸
- ESD aerosol is a source of high doses of particles being deposited in the human respiratory system.¹⁹
- ESD exposure damages lung tissues. Human lung cells that are exposed to ESD aerosol and flavorings—especially cinnamon—are show increased oxidative stress and inflammatory responses.²⁰
- Concentrations of formaldehyde are higher than concentrations of nicotine in some samples of ESD aerosol. Formaldehyde is created when propylene glycol and glycerol are heated to temperatures reached by commercially available ESDs operating at high voltage.²¹
- Flavorings are a largely unrecognized potential hazard of ESDs. Diacetyl and acetyl propionyl are present in many sweet-flavored ESDs, and are approved by the FDA for food use (ingestion), but are not evaluated and approved for heating and inhalation, and are associated with respiratory disease when inhaled.²² High doses of diacetyl, used to flavor buttered popcorn, have been shown to cause acute-onset bronchiolitis obliterans, a severe and irreversible obstructive lung disease when inhaled by workers exposed to particulate aerosolized flavorings containing diacetyl.²³ Therefore, these chemicals cannot be deemed “generally recognized as safe” for inhalation.

- There is a risk of thirdhand exposure to nicotine released from ESD aerosol that deposits on indoor surfaces.²⁴
- Overall, ESDs are a new source of **Volatile Organic Compounds (VOCs) and ultrafine/fine particles in the indoor environment**, thus resulting in “passive vaping.”²⁵
- The World Health Organization (WHO) recommends that ESDs not be used indoors, especially in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws.²⁶
- The American Industrial Hygiene Association (AIHA) also recommends that ESDs be included in smokefree laws: **“Because e-cigarettes are a potential source of pollutants (such as airborne nicotine, flavorings, and thermal degradation products), their use in the indoor environment should be restricted, consistent with current smoking bans, until and unless research documents that they will not significantly increase the risk of adverse health effects to room occupants.”**²⁷
- The American Public Health Association adopted a resolution, “Supporting Regulation of Electronic Cigarettes,” that outlines seven action steps including, “States and municipalities [should] enact and enforce laws...prohibiting the use of e-cigarettes in all enclosed areas of public access and places of employment. These standards should be incorporated into existing clean indoor air laws.”²⁸
- The American Association for Cancer Research and the American Society of Clinical Oncology supports prohibiting the use of ESDs in smokefree spaces until the safety of second- and thirdhand aerosol exposure is established.²⁹

ESD aerosol is a new source of pollution and toxins being emitted into the environment. We do not know the long-term health effects of ESD use and although the industry marketing of the product implies that these products are harmless, the aerosol that ESD emit is not purely water vapor.

May be reprinted with appropriate attribution to Americans for Nonsmokers' Rights, © 2015

1505 [FS-39]

REFERENCES

-
- ¹ Fuoco, F.C.; Buonanno, G.; Stabile, L.; Vigo, P., "Influential parameters on particle concentration and size distribution in the mainstream of e-cigarettes." *Environmental Pollution* 184: 523-529, January 2014.
 - ² Grana, R; Benowitz, N; Glantz, S. "Background Paper on E-cigarettes." Center for Tobacco Control Research and Education, University of California, San Francisco and WHO Collaborating Center on Tobacco Control. December 2013.
 - ³ Thornburg, J.; Malloy, Q.; Cho, S.; Studabaker, W.; Lee, Y.O., "Exhaled electronic cigarette emissions: what's your secondhand exposure?" *RTI Press Research Brief*: 1-4, March 2015.
 - ⁴ Goniewicz, M.L.; Knysak, J.; Gawron, M.; Kosmider, L.; Sobczak, A.; Kurek, J.; Prokopowicz, A.; Jablonska-Czapla, M.; Rosik-Dulewska, C.; Havel, C.; Jacob, P.; Benowitz, N., "Levels of selected carcinogens and toxicants in vapour from electronic cigarettes." *Tobacco Control* [Epub ahead of print], March 6, 2013.
 - ⁵ Williams, M.; Villarreal, A.; Bozhilov, K.; Lin, S.; Talbot, P., "Metal and silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid and aerosol." *PLoS ONE* 8(3): e57987, March 20, 2013.
 - ⁶ Wieslander, G; Norbäck, D; Lindgren, T. "Experimental exposure to propylene glycol mist in aviation emergency training: acute ocular and respiratory effects." *Occupational and Environmental Medicine* 58:10 649-655, 2001.
 - ⁷ Choi, H; Schmidbauer, N; Spengler, J; Bornehag, C., "Sources of Propylene Glycol and Glycol Ethers in Air at Home." *International Journal of Environmental Research and Public Health* 7(12): 4213-4237, December 2010.

- ⁸ Henderson, TR; Clark, CR; Marshall, TC; Hanson, RL; & Hobbs, CH. "Heat degradation studies of solar heat transfer fluids," *Solar Energy*, 27, 121-128. 1981.
- ⁹ Williams, M.; Villarreal, A.; Bozhilov, K.; Lin, S.; Talbot, P., "Metal and silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid and aerosol," *PLoS ONE* 8(3): e57987, March 20, 2013.
- ¹⁰ Westenberg, B.J., "Evaluation of e-cigarettes," St. Louis, MO: U.S. Department of Health and Human Services (DHHS), Food and Drug Administration (FDA), Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis, May 4, 2009.
- ¹¹ Flouris, A.D.; Chorti, M.S.; Poulaniti, K.P.; Jamurtas, A.Z.; Kostikas, K.; Tzatzarakis, M.N.; Wallace, H.A.; Tsatsaki, A.M.; Koutedakis, Y., "Acute impact of active and passive electronic cigarette smoking on serum cotinine and lung function," *Inhalation Toxicology* 25(2): 91-101, February 2013.
- ¹² Westenberg, B.J., "Evaluation of e-cigarettes," St. Louis, MO: U.S. Department of Health and Human Services (DHHS), Food and Drug Administration (FDA), Center for Drug Evaluation and Research, Division of Pharmaceutical Analysis, May 4, 2009.
- ¹³ Schripp, T.; Markewitz, D.; Uhde, E.; Salthammer, T., "Does e-cigarette consumption cause passive vaping?," *Indoor Air* 23(1): 25-31, February 2013.
- ¹⁴ Williams, M.; Villarreal, A.; Bozhilov, K.; Lin, S.; Talbot, P., "Metal and silicate particles including nanoparticles are present in electronic cigarette cartomizer fluid and aerosol," *PLoS ONE* 8(3): e57987, March 20, 2013.
- ¹⁵ Pellegrino, R.M.; Tinghino, B.; Mangiaracina, G.; Marani, A.; Vitali, M.; Protano, C.; Osborn, J.F.; Cattaruzza, M.S., "Electronic cigarettes: an evaluation of exposure to chemicals and fine particulate matter (PM)," *Annali Di Igiene* 24(4):279-88, July-August 2012.
- ¹⁶ Vardavas, C.I.; Anagnostopoulos, N.; Kougias, M.; Evangelopoulou, V.; Connolly, G.N.; Behrakis, P.K., "Short-term pulmonary effects of using an electronic cigarette: impact on respiratory flow resistance, impedance, and exhaled nitric oxide," *Chest* 141(6): 1400-1406, June 2012.
- ¹⁷ "Cigarettes vs. e-cigarettes: Passive exposure at home measured by means of airborne marker and biomarkers." *Environmental Research*, Volume 135, November 2014.
<http://www.sciencedirect.com/science/article/pii/S0013935114003089>
- ¹⁸ Offermann, Bud. "The Hazards of E-Cigarettes." *ASHRAE Journal*, June 2014.
http://bookstore.ashrae.biz/journal/download.php?file=2014June_038-047_IAQ_Offerman_rev.pdf
- ¹⁹ Manigrasso, M.; Buonanno, G.; Fuoco, F.C.; Stabile, L.; Avino, P., "Aerosol deposition doses in the human respiratory tree of electronic cigarette smokers," *Environmental Pollution* 196: 257-267, January 2015.
- ²⁰ Lerner CA, Sundar IK, Yao H, Gerloff J, Ossip DJ, McIntosh S, et al. "Vapors Produced by Electronic Cigarettes and E-Juices with Flavorings Induce Toxicity, Oxidative Stress, and Inflammatory Response in Lung Epithelial Cells and in Mouse Lung," *PLoS ONE* 10(2): e0116732, February 6, 2015.
- ²¹ Jensen, R.P.; Luo, W.; Pankow, J.F.; Strongin, R.M.; Peyton, D.H., "Hidden formaldehyde in e-cigarette aerosols," *New England Journal of Medicine* 372: 392-394, January 22, 2015.
- ²² Konstantinos E. Farsalinos, KE; Kistler, KA; Gilman, G; Voudris, V. "Evaluation of Electronic Cigarette Liquids and Aerosol for the Presence of Selected Inhalation Toxins." *Nicotine and Tobacco Research* [Epub ahead of print], September 1, 2014.
- ²³ "Preventing Lung Disease in Workers: Who Use or Make Flavorings," National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication Number 2004-110, December 2003.
- ²⁴ Goniewicz, M.L.; Lee, L., "Electronic cigarettes are a source of thirdhand exposure to nicotine," *Nicotine and Tobacco Research* [Epub ahead of print], August 30, 2014.
- ²⁵ Schripp, T.; Markewitz, D.; Uhde, E.; Salthammer, T., "Does e-cigarette consumption cause passive vaping?," *Indoor Air* 23(1): 25-31, February 2013.
- ²⁶ World Health Organization (WHO), "Electronic nicotine delivery systems," *World Health Organization (WHO)*, 2014.
http://apps.who.int/gb/fctc/PDF/cop6/FCTC_COP6_10-en.pdf
- ²⁷ White Paper: *Electronic Cigarettes in the Indoor Environment*, American Industrial Hygiene Association, October 19, 2014.
https://www.ahia.org/government-affairs/Documents/Electronic%20Cig%20Document_Final.pdf
- ²⁸ American Public Health Association. "Supporting regulation of electronic cigarettes," APHA Policy Statement Number 20149, November 18, 2014. <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2015/01/05/12/58/supporting-regulation-of-electronic-cigarettes>
- ²⁹ Brandon, T.H.; Goniewicz, M.L.; Hanna, N.H.; Hatsukami, D.K.; Herbst, R.S.; Hobin, J.A.; Ostroff, J.S.; Shields, P.G.; Toll, B.A.; Tyne, C.A.; Viswanath, K.; Warren, G.W., "Electronic nicotine delivery systems: a policy statement from the American Association for Cancer Research and the American Society of Clinical Oncology," *Journal of Clinical Oncology* [Epub ahead of print], January 8, 2015.

AGENDA ITEM: 25
MEETING DATE: 7/5/2016
TO: City Council
FROM: Tami Yellico, City Attorney
PRESENTER: Brent Worthington, Director of Finance

TITLE:

An Ordinance Amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code Creating a New Sales Tax Exemption Regarding Prescriptions for Animals.

RECOMMENDED CITY COUNCIL ACTION:

Hold a public hearing and consider the ordinance on first reading.

OPTIONS:

1. Adopt the Ordinance.
2. Deny the Ordinance. (The City will not enforce the sales tax on Prescriptions for Animals until all sales and use tax definitions and exemptions are considered by Council later this year).
3. Adopt modified action.
4. Refer back to staff for further development and consideration. (None).

SUMMARY:

This is a legislative action to consider amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code to specifically exempt Prescriptions for Animals from the City's sales tax.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

BACKGROUND:

Four City Council members directed staff to bring forth a proposed ordinance that would exempt Prescriptions for Animals from the City's sales tax.

The proposed sales tax exemption covers prescription drugs for animals and any other tangible personal property that is accompanied by a written prescription from a licensed veterinarian that identifies the animal on the label of the prescription drug. Any other medication that is purchased over the counter without a prescription is subject to the sales tax.

The Colorado Municipal League ("CML") has worked on a standard set of sales and use definitions as part of a statewide initiative to assist Colorado's business community. Staff is preparing an ordinance for Council's consideration later this year which will propose the adoption of the standard sales and use tax definitions, codifying the City's exemptions (including the exemption proposed in this ordinance), and other proposed changes to Chapter 3.16 of the Loveland Municipal Code. The proposed changes coming to Council later this year are focused on revenue neutrality under Article X of the Colorado Constitution (TABOR). The Council may desire to consider all proposed changes to Chapter 3.16 at the same time to preserve the City's tax base.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Ordinance

First Reading: July 5, 2016

Second Reading: _____

ORDINANCE NO: _____

AN ORDINANCE AMENDING SECTIONS 3.16.010 AND 3.16.020 OF THE LOVELAND MUNICIPAL CODE CREATING A NEW SALES TAX EXEMPTION REGARDING PRESCRIPTIONS FOR ANIMALS

WHEREAS, the City of Loveland, a home rule municipality, (the “City”) adopted the state of Colorado’s sales tax exemptions as they existed in 1998 except food for home consumption, machine tools, and electricity, coal, wood, gas, fuel oil, or coke sold to occupants of residences and the aforementioned were made expressly taxable by Section 3.16.020; and

WHEREAS, C.R.S. 39-26-114(1)(a)(V), as it existed in 1998, did not specifically exempt “Prescription Drugs for Animals” and was tangible personal property not subject to an exemption and therefore subject to the sales tax; and

WHEREAS, the City did not actively enforce the collection of sales tax on “Prescription Drugs for Animals” pursuant to C.R.S. 39-26-114(1)(a)(V) since the City adopted the state of Colorado’s sales tax exemptions in 1998; and

WHEREAS, Council has determined that the addition of “Prescription Drugs for Animals”, and other tangible personal property prescribed by a veterinarian, to the list of the City’s sales tax exemptions is fair and reasonable given the lack of historical enforcement.

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

Section 1. That Section 3.16.010 of the Loveland Municipal Code is hereby amended to read as follows:

3.16.010 Sales tax definitions.

A. For the purposes of this Chapter 3.16, the words contained herein shall have the meanings set forth in Section 39-26-102, Colorado Revised Statutes, as it currently exists or may hereafter be amended, and the definitions are incorporated in this chapter by this specific reference.

B. Notwithstanding subsection A of this Section, “Prescription Drugs for Animals” means drugs dispensed in accordance with any order by a licensed veterinarian, not including drugs available over the counter, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Section 2. That Section 3.16.020 of the Loveland Municipal Code is hereby amended to add a new sub-section (A)(1)(a) to read as follows:

1. In addition to those exemptions that existed in the 1998 version of § 39-26-114, Colorado Revised Statutes, unless otherwise made expressly taxable by Section 3.16.020(A), the following shall also be exempt from the sales tax:

a. "Prescription Drugs for Animals" and any other tangible personal property that is dispensed in accordance with any order by a licensed veterinarian, specifying the animal for which the tangible personal property is offered and directions, if any, to be placed on the label.

Section 3. 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 4. 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 _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 26
MEETING DATE: 7/5/2016
TO: City Council
FROM: Leah Browder, Public Works
PRESENTERS: Leah Browder, Public Works; Tim Brown, Loveland Police Department; Steve Southard, Parks and Recreation

TITLE:

An Ordinance To Amend The Loveland Municipal Code With Respect To The Authorization And Regulation Of Golf Cars On Certain Public Streets Within The City Of Loveland

RECOMMENDED CITY COUNCIL ACTION:

Take public comment and adopt the ordinance on first reading.

OPTIONS:

1. Adopt the recommendation.
2. Refer back to staff for development of a permit system so that road worthiness, insurance coverage and permission to travel upon private streets, if applicable, is verified.
3. Deny the action keeping with the current Municipal Code prohibition of golf cart travel on public streets and prohibit use of private golf carts on City of Loveland municipal courses to eliminate the need for golf cart travel on public roadways.
4. Refer back to staff for development of an Ordinance that allows golf car travel upon all public streets. This is not recommended due to the growth projections for Loveland and the already challenged transportation network.
5. Refer back to staff for development of an alternative approach.

SUMMARY:

This is a legislative action item. During the City Council Meeting on March 15, 2016 it was requested that bollards within a City emergency access path be adjusted to allow privately-owned golf carts to travel to The Olde Course. In order to implement the City Council's preferred approach as interpreted by staff, as simple an amendment as possible to the Municipal Code to allow golf car travel to Loveland's municipal golf courses is recommended.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

Estimated costs to adjust bollard locations are \$5,000. These funds will be identified within the Public Works Project Engineering budget. Should funding be required to secure an alternate entry point to replace the currently used private Vista Verde gate access, a supplemental appropriation may be necessary.

BACKGROUND:

In 2008, as directed by City Council, heavy duty steel bollards were installed at a cost of \$40,000 in the City's emergency access easement between Glenhaven Drive and 37th Street to prevent non-emergency vehicles from using this route to gain access between subdivisions. This trespass was occurring regularly and causing property damage to abutting residential lots and City property as well as creating concerns for public safety.

As a result of this access change, golf carts that had been using the emergency access pathway to travel to The Olde Course began using a privately-owned vacant lot in the area as an alternative. With the recent sale of that lot, golf cart users requested that the bollards be adjusted to allow for travel along the emergency access.

Relocating the bollards for this stated purpose without addressing the issue of golf cart travel upon City streets (currently not permitted per the City of Loveland Municipal Code) would create enforcement and risk management issues. Therefore, staff from Public Works, Parks and Recreation, Police and City Attorney collaborated with directly involved parties and other residents that came forward to try to address the array of issues this request raises.

The resulting recommendation includes a proposed as-simple-as-possible amendment to the City's Municipal Code. This change would authorize "golf car" (as identified in the Vehicle Code) travel upon City streets for a distance of up to one mile during daylight hours for the purpose of traveling to a municipal golf course. Per the current State Vehicle Code, golf cars cannot be operated upon Colorado State Highways in any circumstance; therefore this would be the case in Loveland even for State Highways located within this one mile radius. Drivers must be at least 16-years-old and hold a valid driver's license, and golf cars must be insured. The draft Ordinance also requires that permission be secured from the governing HOA or other private owner if travel upon a private street is desired.

The one mile radius boundary is recommended based on discussion with the City's golf course professionals as it is believed to accommodate current customers using this mode of travel and is considered an acceptable distance for golf car travel. This approach can be applied to all of the City's courses thereby eliminating the need for additional outreach to identify particular streets for golf car travel. City staff originally identified certain streets for inclusion in the Ordinance, but realized that being this specific could unintentionally exclude some current customers who travel to City courses by golf car using routes unknown to staff.

Golf cart rental services are available at the City's courses primarily for the convenience of customers. This amenity also ensures golf cars are available for traversing City courses while at the same time alleviating potential safety concerns that can arise when considering golf cart travel upon public streets.

While some municipalities allowing golf cars to travel on City streets implement an application and permit system to verify road worthiness, licensing and insurance, this level of regulation is not recommended in Loveland at this time in consideration of City Council's desire to fulfill this request as simply as possible. However, the simpler approach can increase concerns about liability and risk.

It should be noted that the route currently used relies upon access to privately-owned Vista Drive and associated golf course access gate. On June 4, 2016 the Vista Verde HOA informed the City that it would begin restricting use of their street and course access gate to residents only as of July 1, 2016. This decision created another set of challenges to developing a bona fide travel route to The Olde Course. City staff will identify alternate access points in the area that could replace the private Vista Verde access gate. All potential replacement access points are privately owned. Parks and Recreation staff will be contacting property owners seeking a party willing to negotiate an easement with the City. In the meantime, while not as direct a route, it is possible for golf cars to travel to The Olde Course using only public streets.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

1. Ordinance

2. Aerial of Olde Course Access Issue

FIRST READING _____

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE WITH RESPECT TO THE AUTHORIZATION AND REGULATION OF GOLF CARS ON CERTAIN PUBLIC STREETS WITHIN THE CITY OF LOVELAND

WHEREAS, the City operates several golf courses and believes providing efficient access to the golf courses is in the best interests of its citizens; and

WHEREAS, in order to enable the operation of golf cars on public roadways to access golf courses, the City, as a local government, desires to authorize and regulate the operation of “golf cars” as defined by the Colorado Motor Vehicle Code in accordance with the authority set forth in Colorado Revised Statute § 42-4-111(1)(bb); and

WHEREAS, the City desires to promulgate such regulations for the operation of golf cars within the City to ensure the health, safety and welfare of its citizens and others traveling upon public roadways; and

WHEREAS, the City Council finds that the Ordinance set forth below defines, authorizes and regulates the operation of golf cars upon City streets, rights-of-way and trails in a manner that both facilitates an efficient transportation system and protects the public.

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

Section 1. A new section following Chapter 10.04.020 shall be added to Title 10 of the Loveland Municipal Code to read as follows:

10.04.020 Operation of Golf Cars

- A. “Golf car” shall mean a self-propelled vehicle not designed primarily for operation on roadways and that has:
 - 1. A design speed of less than twenty miles per hour;
 - 2. At least three wheels in contact with the ground;
 - 3. An empty weight of not more than one thousand three hundred pounds; and
 - 4. A carrying capacity of not more than four persons.

B. Operation of Golf Cars Authorized.

1. Except as set forth in this Section 10.04.020, no person shall operate a golf car upon any public roadway in the City;
2. The operation of a golf car on a public roadway shall be authorized as follows:
 - i. A golf car may be driven upon streets for no greater than a distance of one mile for the purpose of traveling to one of the City's golf courses.
 - ii. Golf cars shall not be operated upon or across any portion of Colorado State Highway 34, Colorado State Highway 402 Colorado State Highway 287, or any other roadway with a posted speed limit of greater than 30 miles per hour, except that a golf car shall be permitted to cross a state highway in accordance with the other requirements set forth herein.
 - iii. A golf car shall not be driven upon private roadways, such as those owned by homeowners' associations, without express permission of the owner of such private roadways.
3. It is the responsibility of the golf car driver to know what roads are designated as permissible for the operation of golf cars.
4. Nothing in this section authorizes the operation of a golf car on rights-of-way under the jurisdiction of the county. It is the duty of each golf car operator to ascertain whether a permissible right-of-way is within the city limits.

C. Golf Cars, Operations.

In addition to the authorized golf car operations set forth in Section 10.04.020(B) above, the following regulations apply to the operation of golf cars:

1. Any operator of a golf car shall be at least sixteen (16) years of age and hold a currently valid driver's license pursuant to Title 42 of the Colorado Revised Statutes, or the equivalent under the law of any other jurisdiction within the United States.
2. Prior to the operation of a golf car on a City street or roadway as allowed herein, each owner shall obtain and carry a liability insurance policy for that golf car meeting the following minimum requirements: the liability insurance policy shall be issued by an insurance carrier authorized to do business in the state of Colorado, shall cover a golf car operating on public streets and roadways, shall have coverage with a minimum sum of one hundred thousand dollars (\$100,000.00) for damages to property of others, a minimum sum of one

hundred thousand dollars (\$100,000.00) for damages for or on account of bodily injury or death of one person as a result of any one accident, and, subject to such limit as to one person, a minimum sum of three hundred thousand dollars (\$300,000.00) for or on account of bodily injury to or death of all persons as a result of any one accident.

3. No golf car shall be operated upon any City sidewalk, pedestrian trail, or recreational facility with the exception of golf courses and associated golf facilities, and the emergency access easement in the Fairway West Subdivision between Glen Haven Drive and West 37th Street. Nothing contained herein to the contrary, it shall be legal for a City-authorized golf car to operate on City paths, trails and areas within parks, greenbelts, open spaces, and recreation facilities for public safety, upkeep, maintenance and any other municipal purposes.
4. A golf car shall be operated only during daylight hours between sunrise and sunset or at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand feet ahead.
5. Golf cars, when permitted to be operated upon a roadway, shall be operated as close to the right side of the roadway as practicable, exercising due care when approaching, overtaking, or passing a standing vehicle or one proceeding in the same direction, or when approaching, overtaking, or passing a pedestrian or bicyclist. In addition, the operator of a golf car must obey all traffic laws and parking regulations otherwise applicable to motor vehicles.

D. Violations.

Violations of this Section 10.04.020 shall be punishable in accordance with the penalty provisions set forth in Section 1.12.010 of the Code or applicable state proceedings.

E. Revocable

1. The operation of golf cars on City streets shall be deemed revocable upon the will of the City Council in its legislative capacity based on its consideration of the health, safety and welfare of the public arising from such use.
2. The operation of golf cars on City streets as included in this section shall not limit or otherwise preclude the City Council from contracting or expanding the streets or roads on which golf cars can be operated.

F. Waiver of Claim

Any person operating a golf car on City streets and all persons who are passengers in such golf cars shall be deemed to have waived any claim against the City for any loss or damages

whatsoever while operating golf cars on City streets as permitted herein.

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. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this ____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Golf Cars

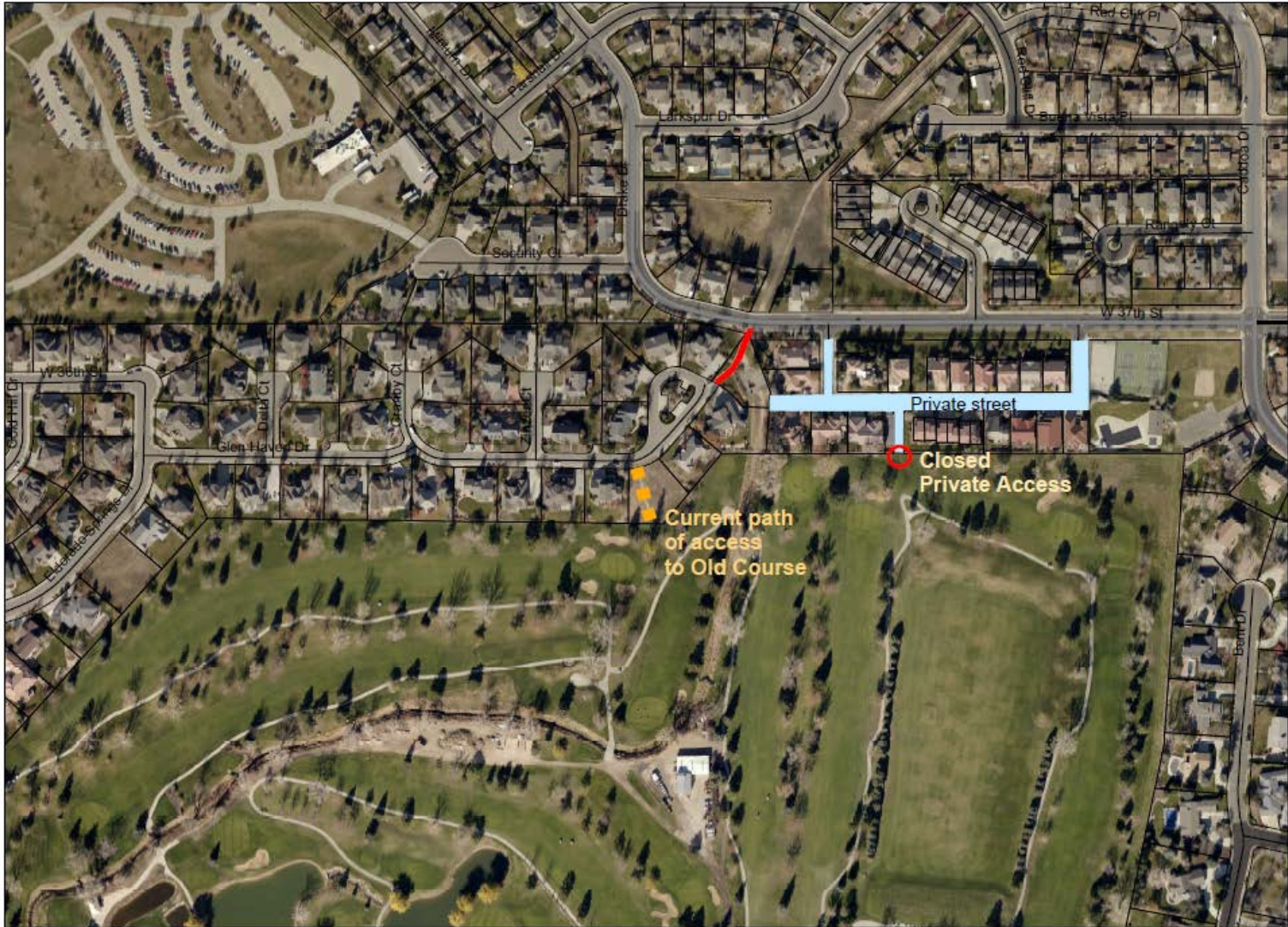
on certain public streets in Loveland

JULY 5, 2016
CITY COUNCIL MEETING

LEAH BROWDER, PUBLIC WORKS DIRECTOR



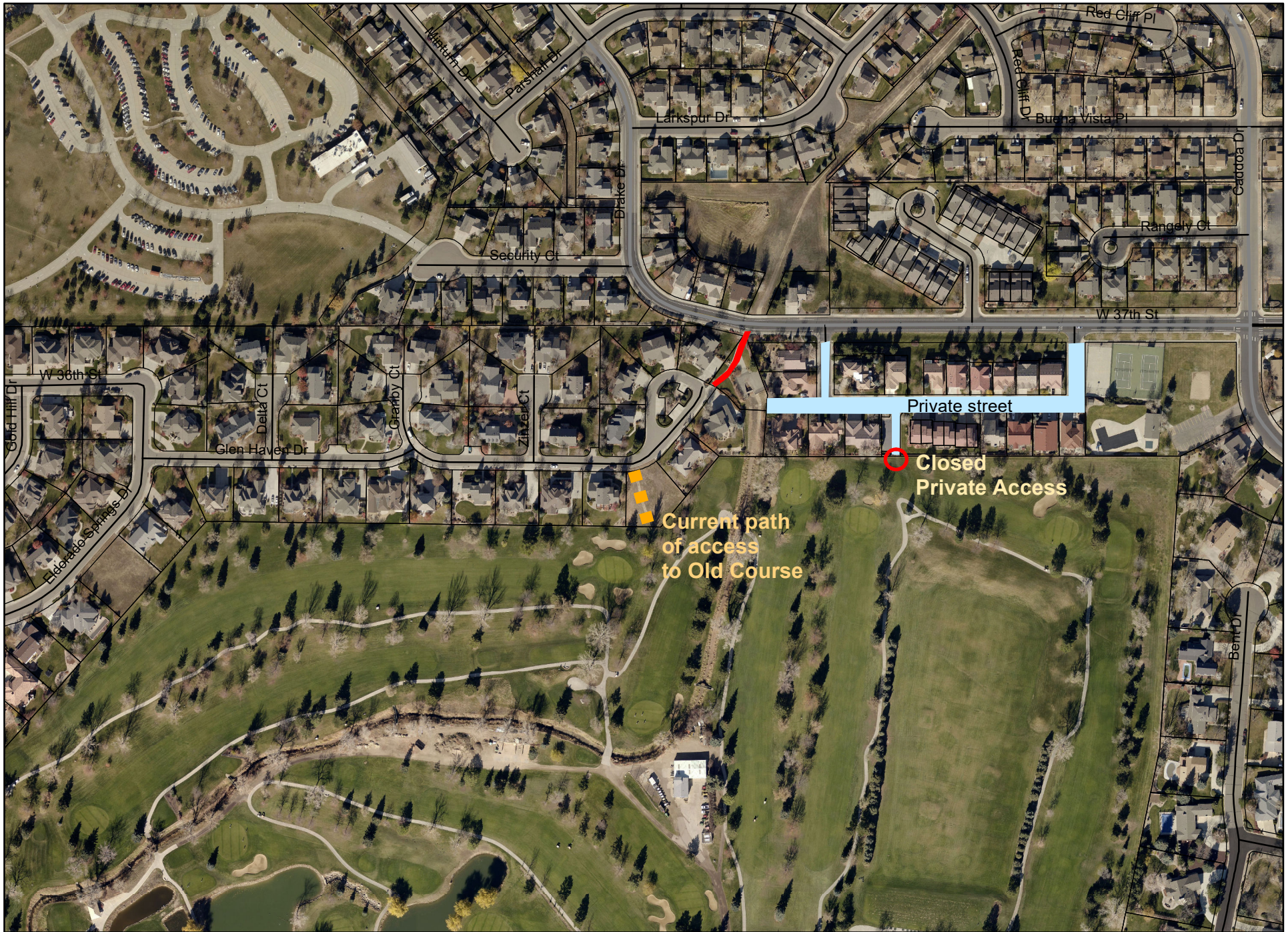
Golf Car Access (The Olde Course)



Summary

- State Law Provides for Local Authority
 - Common Issues
- As-Simple-As-Possible Amendment Recommended
 - Roadworthy Golf Cars
 - Valid driver's license & insurance
 - One mile radius, municipal courses, daylight hours
 - No State Highways except for incidental crossing
 - Permission required to use private streets
- Next Steps
 - Adjust bollards
 - Seek alternate access for Vista Verde gate

Golf Cart Access Request



AGENDA ITEM: 27
MEETING DATE: 7/5/2016
TO: City Council
FROM: Tami Yellico, City Attorney's Office
PRESENTER: Tami Yellico, City Attorney

TITLE:

Discussion and Staff Direction Regarding Litigation for Utility Easements and Possible Executive Session and/or Negotiations

RECOMMENDED CITY COUNCIL ACTION:

Discussion; possible direction

OPTIONS:

1. Discussion
2. Possible Executive Session
3. Possible Direction to City Attorney regarding initiating litigation and/or negotiation.
4. Take no action. If no action is taken, then City Attorney has no Council direction to initiate litigation and the City could become the defendant in a separate proceeding.

SUMMARY:

This is an administrative action. City Council may be asked to consider formal action by motion, to direct staff with regard to litigation and/or a potential Executive Session, to consider possible litigation and/or negotiation for utility easement quiet title actions.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

BACKGROUND:

The Water and Power Department generally has easements or their water and power lines are in the public right of way. Sometimes there are no recorded easements due to the longevity of the line. One example can be found along a section of Eisenhower Boulevard where a water line has been there for over seventy-five years. In 1936, the City entered into a license agreement with the Colorado and Southern Railway Company for a twelve inch diameter waterline. A 34 inch diameter waterline was added in 1954. In the 1970s, the railroad sold small land parcels adjacent to the railroad line to the surrounding landowners. In some cases, an easement was recorded, but in others, the easement for the water line was not.

Additionally, an overhead power transmission line was installed in 1971, and the City owns the line but it is maintained and operated by Platte River Power Authority. The City renewed the license annually with the railroad company until the property transferred to private ownership in the 1970's. In situations where the water and power lines have been on the property for more than eighteen years, the City asserts it has a prescriptive easement for these utilities or an easement by estoppel.

In order to record the easements, the City may seek a declaratory order through a quiet title action. The litigation would resolve the issue of the City's right to maintain the water and power lines allowing the easements to be recorded.

In order to acquire a prescriptive easement, the City would have to prove the following:

- Open or notorious; and
- Continuous without effective interruption for at least 18 years; and
- Either adverse or pursuant to an attempted but ineffective grant.

The City could also argue that an implied easement exists by estoppel, and the elements to show the court are the following:

- Owner permitted the use under conditions where it was reasonable to expect that the permission would not be revoked; and
- The City substantially changed its position (building the water lines and power lines) reasonably relying on the expectation that the permission would not be revoked; and
- The only way to avoid injustice is to establish the easement.

The City Attorney's Office would file a complaint in District Court requesting the Court to make a determination that the City has a prescriptive or implied easement on the property for the water and power lines to resolve the right to maintain, access, and use those lines into the future. Additionally, the complaint would include a request for a preliminary injunction to prevent action by a landowner that could harm any of the lines. One landowner at 3510 W. Eisenhower Boulevard has provided a thirty day notice to remove/relocate the water lines on June 23, 2016.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

Letter Exhibit

AGENDA ITEM: 28
MEETING DATE: 7/5/2016
TO: City Council
FROM: Tami Yellico, City Attorney's Office
PRESENTER: Tami Yellico, City Attorney

TITLE:

A Motion to go into Executive Session for the Purpose of Legal Advice, Negotiations, and Staff Direction in Buck 2nd LLP v City of Loveland and Giuliano & Father Construction, Inc. and Giuliano Addition, LLLP v City of Loveland.

RECOMMENDED CITY COUNCIL ACTION:

Adopt the Motion

OPTIONS:

1. Adopt the action as recommended. Legal advice and discussion regarding negotiation for possible settlement on pending litigation is appropriate for executive session.
2. Deny the action
3. Take no action. If no action is taken, then City Attorney has no Council direction for settlement, court ordered mediation, and on-going litigation.

SUMMARY:

This is an administrative action to allow for receiving legal advice and to discuss matters subject to negotiation. In Executive Session, City Council can provide guidance regarding negotiations concerning the lawsuit of Buck 2nd v City of Loveland and Giuliano & Father Construction v City of Loveland for the purpose of negotiations, possible settlement, or court ordered mediation.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

BACKGROUND:

On November 3, 2015, Buck 2nd LLP (a developer) filed a complaint in Larimer County District Court demanding immediate and full payment of amounts owed under a Streets Oversizing Agreement. The City answered the complaint, and the parties are to begin discovery. The parties are also ordered to participate in mediation, so the City and the Plaintiff have begun discussing possible resolution. A confidential settlement proposal from the Plaintiff will be discussed in executive session.

Oversizing is a term of art or technical term used to identify the portion of a public improvement larger than that required for the development of the property alone. The Oversizing Agreement was entered into through Public Works for \$664,528.89 for 43rd Street and repayment is subject to appropriation out of the Capital Improvements account. The current schedule for repayment would have the final payment issue in 2023.

On April 8, 2016, Giuliano & Father Construction (the same developer) filed a complaint against the City alleging building permits were being withheld due to a dispute regarding how many affordable housing units must be built in the Giuliano Addition and alleging that the City is responsible for inadequate design of water infrastructure.

Staff would like to discuss the lawsuit in executive session for the purposes of receiving legal advice and direction in matters subject to negotiation.

REVIEWED BY CITY MANAGER: YES

LIST OF ATTACHMENTS:

None