



MINUTES
LOVELAND CITY COUNCIL MEETING
Tuesday, August 16, 2016 CITY COUNCIL CHAMBERS 6:00 PM

1. INTRODUCTION

1.1 CALL TO ORDER

Mayor Gutierrez called the August 16, 2016 Regular Meeting to order at 6:00 p.m.

1.2 PLEDGE OF ALLEGIANCE

1.3 ROLL CALL

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

2. 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.

Moved by Councilor Shaffer, seconded by Mayor Pro Tem Fogle

A motion approving the Consent Agenda with the exception of items 2.3.& 2.10

Carried 9-0

2.1 CITY CLERK

APPROVAL OF MINUTES

Approval of the City Council minutes for the July 26, 2016 Study Session and the August 2, 2016 Regular Meeting.

Moved by Councilor Shaffer, seconded by Mayor Pro Tem Fogle

A Motion To Approve City Council Minutes for the July 26, 2016 Study Session and the August 2, 2016 Regular Meeting.

Carried 9-0

**2.2 DEVELOPMENT SERVICES
WESTWOOD THIRD SUBDIVISION PEDESTRIAN EASEMENT**

This ordinance will be vacating a 20' by 53' pedestrian easement across the Mariano Exchanged Ditch between the Westwood and Somerset Park subdivisions. The easement was established when the Westwood Third Subdivision was developed. A bridge was built over the easement to allow crossing of the ditch. Its purpose was to facilitate a connection between the adjoining subdivisions and improve pedestrian access to other destinations in the general area, such as schools and churches. However, over the years, the bridge has become a location for unwanted and criminal activities, causing concerns to the surrounding residents and the Westwood Home Owners Association (entity responsible for maintenance and liabilities). Because of continued problems, the bridge was barricaded with a fence and a request to vacate the easement submitted. If the easement is vacated, the bridge would be removed. The property is generally located south of W. 1st Street and east of S. Wilson Avenue between 5th Court SW and Natasha Court spanning the Mariano Exchange Ditch connecting Westwood and Somerset Park subdivisions. The applicant is Kathy Louderback with Touchstone Property Management, LLC on behalf of the Westwood Third Subdivision Home Owners Association. This ordinance was approved unanimously on first reading by City Council on August 2, 2016.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A Motion to Approve on, Second Reading, Ordinance #6036 Vacating A Twenty Foot Pedestrian Access Easement Located Across Tracts A And G Of The Westwood Third Subdivision, City Of Loveland, County Of Larimer, State Of Colorado.

Carried 9-0

**2.3 CITY ATTORNEY
APPROVAL OF THE DDA ELECTION & BALLOT QUESTION**

This item was considered on the Regular Agenda

**2.4 PUBLIC WORKS
SUPPLEMENTAL APPROPRIATION FOR INTERSECTION
IMPROVEMENTS**

Walmart Distribution Center has approached the City with an offer and agreement to fund the design and construction of an interim traffic signal at the intersection of Crossroads Boulevard and Ward Avenue for an amount not to exceed \$300,000 for construction of the signal. The resolution adopted by Council on August 2, 2016 authorize the City Manager to execute the agreement to accept payment of \$300,000 from Walmart to be used for the construction of the traffic signal.

The ordinance appropriates the funds received, allowing them to be used by the City for this purpose. This ordinance was approved unanimously on first reading by City Council on August 2, 2016.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

1. A Motion To Approve, On Second Reading, Ordinance #6038 Enacting A Supplemental Budget And Appropriation For The 2016 City Of Loveland Budget For The Construction Of An Interim Traffic Signal At The Intersection Of Crossroads Boulevard And Ward Avenue.

Carried Unanimously

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

2. A Motion to adopt Resolution #R-67-2016 Approving An Agreement Between The City Of Loveland, Colorado and Walmart Stores, Inc., for the Design and Construction of an Interim Traffic Signal at the Intersection of Crossroads Boulevard and Ward Avenue.

Carried 9-0

2.5 NORTHERN COLORADO REGIONAL AIRPORT SUPPLEMENTAL APPROPRIATION FOR STRATEGIC PLAN

The purpose of this item is to approve an amendment to the 2016 Airport operating budget and appropriate funds from the Airport Reserve Fund to initiate work associated with the City Council approved Airport Strategic Plan. The Northern Colorado Regional Airport Commission has reviewed and approved this request. The 2016 Airport operating budget will be amended to authorize expenditure in the total amount of \$165,000 from the Airport Reserve Fund. The City of Loveland will appropriate 50% (\$82,500) of the total \$165,000 request, and the City of Fort Collins has approved their half of the appropriation at their July 19, 2016 City Council Meeting. This appropriation is needed as the funding resources were not included in the adopted 2016 Airport Budget approved by Council. This ordinance was approved unanimously on first reading by City Council on August 2, 2016.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A motion to approve on second reading Ordinance #6039 Enacting A Supplemental Budget And Appropriation To The 2016 Northern Colorado Regional Airport Budget For The Addition Of 1 FTE & Strategic Plan Implementation.

Carried 9-0

**2.6 DEVELOPMENT SERVICES
FLEXIBLE ZONING OVERLAY DISTRICT CODE AMENDMENT**

This is a legislative action item to consider adoption of the Flexible Zoning Overlay District provisions. This new chapter of the zoning code responds to the interest of City Council in providing property owners with relief from regulatory standards that may be restraining development. The provisions are intended to promote development and redevelopment opportunities in locations experiencing disinvestment or underutilization of land. Applications for overlay districts would require a neighborhood meeting, a public hearing before the Planning Commission, and an adoption hearing by City Council. This public input process is designed to ensure that resulting projects would be well-vetted and compatible with surrounding development. This ordinance was approved unanimously on first reading by City Council on August 2, 2016.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A Motion to approve, On Second Reading, Ordinance #6040 Amending Title 18 Of The Loveland Municipal Code To Add A New Chapter 18.44 Regarding A Flexible Zoning Overlay District.

Carried 9-0

**2.7 PUBLIC WORKS
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION FOR FLEET VEHICLES**

Currently, some vehicles are purchased by the Fleet Replacement Fund (500) and other vehicles are purchased by other funds (enterprise and special revenue funds). Fleet Management amortizes vehicles purchased within the Fleet Replacement Fund to ensure funds are set aside for future replacement costs. Most vehicles purchased by other funds are amortized within those funds, however, the occasional vehicle has missed being amortized. This item is being presented to streamline and increase efficiency of the vehicle purchasing and amortization process. This item proposes the supplemental budget and appropriation necessary to transfer currently budgeted 2016 funds from the Transportation, Stormwater, Transit, and Police CEF Funds into the Fleet Replacement Fund to make this administrative change for vehicle purchases budgeted outside of the Fleet Replacement Fund in 2016. This streamlined method will be built in to the budget for 2017 and beyond for future years.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A Motion To Approve, On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For An Administrative Change In The Method Of Purchasing Fleet Vehicles.

CARRIED 9-0.

**2.8 DEVELOPMENT SERVICES
MIRASOL SECOND ADDITION ANNEXATION**

This resolution sets a public hearing date of September 20, 2016 for the consideration of an annexation of 6.8 acres to be known as the Mirasol Second Addition. The property is located at the southeast corner of the intersection of 4th Street SE and S. St. Louis Avenue. Included with the annexation is a request to zone the property Mirasol Community Planned Unit Development and include the property into the Mirasol General Development Plan. The GDP seeks to allow the construction of a 60 unit apartment complex and 10 single family/duplex units on the property. The applicant is the Housing Authority of the City of Loveland.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A Motion to Adopt Resolution R-73-2016, Finding A Certain Petition For Annexation Known As Mirasol Second Addition, Filed July 29, 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

CARRIED 9-0.

**2.9 PARKS AND RECREATION
WARD TRUST OPEN LANDS CONSERVATION EASEMENT**

The City applied for and was awarded a Great Outdoors Colorado ("GOCO") grant for the Ward Trust Property Open Lands Acquisition, which includes the acquisition of a 78-acre, more or less, parcel and associated George Rist Ditch water rights. This is an administrative action to approve the acquisition of the property and authorize the City Manager to sign the Conservation Easement on behalf of the City.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

1. A Motion to Adopt Resolution R-74-2016 Of The Loveland City Council Approving - The Acquisition Of The 78-Acre, More Or Less, Including Appurtenant Water Rights, Ward Trust Property On Cedar Valley Drive For Open Space Purposes.

CARRIED 9-0.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

2. A Motion to Adopt Resolution R-75-2016 Of The Loveland City Council Approving A Grant Of Conservation Easement On The Ward Trust Property From The City Of Loveland To Larimer County.

CARRIED 9-0.

**2.10 CITY CLERK
IGA WITH LARIMER COUNTY CONCERNING THE COORDINATED
ELECTION**

This item was considered on the Regular Agenda

**2.11 CITY MANAGER
CHAMBER OF COMMERCE OFFICE LEASE**

The resolution will authorize the City Manager to sign the attached Building Lease between the City and the Loveland Chamber of Commerce. The Chamber Board of Directors voted unanimously to approve this Lease with the City.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A Motion to Adopt Resolution R-77-2016 Approving A Lease Agreement Between The City Of Loveland, Colorado And The Loveland Chamber Of Commerce For A Portion Of The Building Located At 5400 Stone Creek Circle In Loveland, Colorado.

CARRIED 9-0.

**2.12 PUBLIC WORKS
BELL HOMES REIMBURSEMENT AGREEMENT**

Bell Homes LLC constructed street improvements that are a benefit to the adjacent property. The City and Bell Homes LLC entered into an agreement where the City collects those costs from the adjacent property at the time of development. This agreement has a 10-year period for collection, which expires September 6, 2016, if not extended by City Council. The process of reimbursement of the Developer from the adjacent property is detailed in the Larimer County Urban Area Street Standards in section 1.9.3. The Developer reimburses the City \$500 for the collection of these funds, and the City simply acts as a pass-through for the Developer.

Moved by Councilor Shaffer and seconded by Mayor Pro Tem Fogle

A Motion to Adopt Resolution R-78-2016 Approving An Amendment To A Reimbursement Agreement For New Street Construction Between The City Of Loveland And Bell Homes, LLC.

CARRIED 9-0.

3. CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

4. PUBLIC COMMENT

Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.

Jackie Marsh, expressed concern with the Building Department and a new business owner downtown. Council directed Staff to bring back an ordinance amending the building code to remove the "drinking fountain" requirements. Daryl Klassen, Loveland resident, asked Council to take a moment to honor past Council member Walt Skowron, who passed away on Saturday, August 13, 2016. Victoria Gardner, Loveland resident, expressed concern regarding the homeless population, with winter coming soon. Announced a meeting of concerned citizens meeting at 6:30 on Thursday, August 18, 2016 at the Loco Artist and Café.

5. REGULAR AGENDA

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.

5.1 CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

2.3 CITY ATTORNEY

APPROVAL OF THE DDA ELECTION & BALLOT QUESTION

Approval of the ordinance will direct the City Clerk and other staff to conduct an election on November 8, 2016 for the Downtown Development Authority (DDA) and submit ballot questions regarding an ad valorem tax increase and authorization of debt to the qualified electors within the DDA boundaries. The ballot language can be found in Section 1 of the attached City of Loveland ordinance. This ordinance was approved unanimously on first reading by City Council on August 2, 2016. Resident Larry Sarnier spoke in opposition to the ordinance. Council suggested Mr. Sarnier get in touch with Staff to discuss possible wording changes prior to certification of the ballot language to the County.

Moved by Councilor Shaffer, seconded by Mayor Pro Tem Fogle

A Motion to Approve, on Second Reading, Ordinance #6037 Approving A Downtown Development Authority Election To Be Held November 8, 2016, To Authorize Debt, Taxes And Revenue Retention.

Moved by Councilor Krenning, seconded by Mayor Pro Tem Fogle

A Motion to call the question.

CARRIED 9-0.

Roll Call on the Original Motion

CARRIED 9-0.

2.10 CITY CLERK

IGA WITH LARIMER COUNTY CONCERNING THE COORDINATED ELECTION

This resolution authorizes the execution of an agreement between the City of Loveland and the Larimer County Clerk and Recorder concerning the coordinated election to be held on November 8, 2016. Mr. Sarner indicated that this should be pulled since he pulled item 2.3. He is not supportive of the Resolution.

Moved by Councilor Shaffer, seconded by Councilor Krenning

A Motion to adopt Resolutions R-76-2016 Approving and Authorizing the Execution of an Intergovernmental Agreement Between the City of Loveland and the Larimer County Clerk and Recorder concerning the Coordinated Mail Ballot Election to be Held on November 8, 2016.

Carried 9-1.

5.2 DEVELOPMENT SERVICES

PUBLIC HEARING

GATORWEST ADDITION ANNEXATION

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

- A legislative action to adopt a resolution and ordinance to annex 2.3 acres of property to be known as the Gatorwest Addition; and
- A quasi-judicial action to zone the 2.3 acres to B-Developing Business District.

The property is situated on the west side of N. Garfield Avenue and on the east side of N. Granite Street, roughly half way between W. 50th Street and Ranch Acres Drives. It is addressed at 5100 Granite Street. The applicant is M. Bryan Short with Gatorwest, LLC.

Mayor Gutierrez opened the public hearing at 7:35. Staff and the applicant made presentations. There were no public comments. Mayor Gutierrez closed the public hearing at 7:43 p.m.

Moved by Councillor Shaffer, seconded by Councilor Krenning

1. A Motion to Adopt Resolution R-79-2016 Concerning The Annexation To The City Of Loveland, Colorado, Of A Certain Area Designated As "Gatorwest 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.

CARRIED 9-0.

Moved by Councilor Shaffer, seconded by Councilor Ball

2.A Motion to Approve, On First Reading, Ordinance Approving The Annexation Of Certain Territory To The City Of Loveland, Colorado, To Be Known And Designated As "Gatorwest Addition" To The City Of Loveland.

CARRIED 9-0.

Moved by Councilor Shaffer, seconded by Councilor Johnson

3. A Motion to Approve, On First Reading, An Ordinance Amending Section 18.04.060 Of The Loveland Municipal Code, The Same Relating To Zoning Regulations For "Gatorwest Addition" To The City Of Loveland.

CARRIED 9-1.

5.3 CITY ATTORNEY

REPEALING CODE FOR AIRCRAFT TAKEOFF AND LANDING

Approval of one of the ordinances will repeal or amend Sections 12.48.030 and 12.48.110 of the Loveland Municipal Code. Council Discussion ensued. Parks and Recreation Director indicated Staff would work with the public to find ideal sites for these activities. There were no public comments.

Moved by Councilor McKean, seconded by Mayor Pro Tem Fogle

A Motion to Approve, On First Reading, An Ordinance Repealing Loveland Municipal Code §§ 12.48.030 AND 12.48.110 Prohibiting Takeoff and Landing of Aircraft Outside of Airport and Landing in City.

CARRIED 8-1. No: Shaffer; Abs: Krenning

**5.4 ECONOMIC DEVELOPMENT
SOUTH CATALYST UPDATE AND BRINKMAN PARTNERS AMENDMENT TO THE
ENA**

Staff will provide a public briefing on the South Catalyst project; specifically, the progress staff has made in negotiation with the Brinkman Partners. The presentation will include an overview of what has been accomplished, the most recent conceptual plans, a brief overview of the proposed cost and financing plan and next steps. The executive session will allow Council to review the draft terms of agreement and provide direction on confidential business negotiations.

If approved the Second Amendment to the Exclusive Negotiation Agreement (see attached) changes the deadline for the completion of the preliminary terms of the agreement from August 16, 2016 to November 15, 2016. Because there is no administrative extension allowed under the original agreement, this amendment is required to go before City Council for consideration.

The City will be expected to contribute the land value, and fee waivers as well as additional public contributions to be discussed in Executive Session.

Moved by Councilor Shaffer, seconded by Councilor Clark

I move 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 9:15 p.m.

CARRIED 9-1.

Moved by Mayor Pro Tem Fogle, seconded by Councilor Krenning

A Motion to extend the meeting to 11:30 p.m.

CARRIED 6-3- Nos:Ball, Johnson, Overcash.

Moved by Councilor Shaffer, seconded by Mayor Pro Tem Fogle

A Motion to Adopt Resolution R-81-2016 of the City of Loveland City Council Approving the Execution of the Second Amendment to the Exclusive Negotiation Agreement (ENA) with Brinkman Capital, LLC for the South Catalyst Project.

CARRIED 8-0.

5.5 CITY CLERK

CALL FOR A SPECIAL MEETING ON AUGUST 23, 2016

City Council directed the City Manager to set a special meeting to discuss and establish goals, objectives and priorities to be used for future direction in the City of Loveland. Council has requested the meeting occur offsite. Council preference was to use a Tuesday evening Study session date and time. The meeting will occur at the Devereux Room at the Rialto Theatre on August 23, 2016. A special meeting has been called and will be published and posted at least 24 hours prior to the meeting per the C.R.S. "Open Meetings Law". Study sessions items currently slated for August 23, 2016 on the "Rolling Calendar" will be moved to August 30, 2016.

Moved by Councilor Shaffer, seconded by Mayor Pro Tem Fogle

A motion calling a special meeting of City Council August 23, 2016 at 6:00 p.m., to be located in the Devereux Room, at the Rialto Theatre, 228 E 4th St. Loveland, CO 80537. The purpose of the meeting is for Council to work with the City Manager on goals, objectives and priorities for the City of Loveland.

CARRIED 8-0.

6. REPORTS

6.1 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.

Mayor Gutierrez asked Council for direction regarding the DDA designated Qualified Voter.

Moved by Mayor Gutierrez and seconded by Councilor Shaffer

A Motion designating Mayor Pro Tem Fogle to vote on behalf of the City of Loveland, a qualified Voter Entity, in the DDA. And directed Mayor Pro Tem Fogle to vote yes.

CARRIED 8-0: Abs McKean.

6.2 CITY MANAGER REPORT

6.3 CITY ATTORNEY REPORT

7. ADJOURNMENT

Hearing no other business before this Council, Mayor Gutierrez adjourned the August 16, 2016 Regular meeting at 11:23 p.m.

**7.1 COMMUNITY PARTNERSHIP OFFICE
LARIMER COUNTY MENTAL HEALTH BALLOT QUESTIONS**

This item was removed for this agenda at the request of Laurie Stolen



Teresa G. Andrews

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez

Mayor Cecil A. Gutierrez