



MINUTES
LOVELAND CITY COUNCIL MEETING
Tuesday, March 21, 2017 CITY COUNCIL CHAMBERS 6:00 PM

COUNCIL PRESENT: Mayor Gutierrez
Mayor Pro Tem Fogle
Councilors:
Krenning, Shaffer, Overcash, and Johnson.

COUNCIL ABSENT: Ball and Clark

1. INTRODUCTION

1.1. CALL TO ORDER

1.2. PLEDGE OF ALLEGIANCE

1.3. ROLL CALL

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.

Item 2.10 was removed from the Consent Agenda by Councilor Krenning.

Moved by Councilor Shaffer seconded by Councilor Fogle.

A Motion to approve the Consent Agenda, items 2.1 - 2.11. with the exception of item 2.10.

CARRIED UNANIMOUSLY.

**2.1. CITY CLERK
APPROVAL OF MINUTES**

Approval of the City Council minutes for the February 28, 2017 Special Meeting and March 7, 2017 Regular Meeting

A Motion to Approve the City Council minutes for the February 28, 2017 Special Meeting and March 7, 2017 Regular Meeting

CARRIED.

**2.2. DEVELOPMENT SERVICES
MIRASOL COMMUNITY PLANNED UNIT GENERAL DEVELOPMENT PLAN**

This is the second reading of an ordinance to modify the Mirasol Community PUD General Development Plan. The amendment would add the use of "Green House" skilled nursing homes as an allowable land use option in GDP Area I. Area I is located adjacent to the south of 4th Street SE and east of St. Louis Avenue. The applicant is the Housing Authority of the City of Loveland. This ordinance was adopted unanimously, on first reading, at the March 7, 2017 Regular City Council Meeting, as an item on the consent agenda.

A Motion To Adopt, On Second Reading, Ordinance #6095, Amending Section 18.04.060 Of The Loveland Municipal Code, The Same Relating To Zoning Regulations For Mirasol Community Planned Unit Development Third Amendment (#P-87), City Of Loveland, County Of Larimer, Colorado

CARRIED.

**2.3. DEVELOPMENT SERVICES
LOVELAND ORIGINAL TOWN VACATION**

This is a second reading of an ordinance concerning the vacation of Opera Alley and portions of E. Third Street in conjunction with the Foundry Redevelopment Project. The purpose in vacating both Opera Alley and portions of E. Third Street is in response to the Foundry redevelopment plan to extend buildings across Opera Alley and redesign E. Third Street to become more pedestrian focused –

integrating into an adjacent central plaza space. The Foundry Redevelopment Project generally consists of a 456 space multi-story parking garage, a 98,000 square foot mixed-use building along N. Cleveland Avenue, a 58,000 square foot mixed-use building along N. Lincoln Avenue, and a central plaza containing the Little Man Ice Cream and other amenities. Details of the theater and hotel are to follow in what likely will be separate site plan submittals. The project site is approximately 4 acres located in the heart of downtown between Backstage Alley and E. 1st Street and N. Lincoln Avenue and Cleveland Avenue. Area of the rights-of-way proposed to be vacated totals 0.31 acres. On March 7, 2017, City Council held a public hearing and first reading of the vacation ordinance. This item was also on the Consent Agenda with no discussion requested by the City Council or interested parties. Consequently, the item was unanimously adopted.

A Motion To Adopt, On Second Reading, Ordinance #6096, Vacating Public Rights-Of-Way Comprised Of Opera Alley And Portions Of Third Street Within The Original Town Of Loveland, City Of Loveland, County Of Larimer, State Of Colorado

CARRIED.

2.4. DEVELOPMENT SERVICES ANDERSON FARM 12TH EASEMENT VACATION

This is a public hearing to consider a request for vacating emergency access, drainage and utility easements within Lot 1, Block 1 Anderson Farm Fourth Subdivision. This site is located to the north of 1st Street and west of Denver Avenue along a private street named Peridot Avenue. The easement vacation is in preparation of a new drive-thru coffee kiosk proposed within this easement on the east side of Peridot Avenue which is adjacent to the proposed Larimer County offices at the corner of Denver and 1st Street. The property is currently vacant and is owned by Freedom Homes, LLC. The applicant is Ken Merritt with JR Engineering. The coffee kiosk and associated drive-thru facility have been approved administratively through the special review process. The requested easement vacation is a final step in accommodating this project. All City Divisions and all applicable outside City utility providers have reviewed the vacation request and indicated no objections. Planning Commission supported the vacation of easements with approval of the Commission's consent agenda on February 27, 2017; therefore, approved Planning Commission minutes are not included as an attachment. This was on City Council's March 7, 2017 consent agenda and was unanimously approved on first reading.

A Motion To Adopt, On Second Reading, Ordinance #6097,

***Vacating A Utility, Drainage And Emergency Access Easement
Located On, Over And Across Lot 1, Block 1, Anderson Farm
Fourth Subdivision, City Of Loveland, County Of Larimer, State Of
Colorado***

CARRIED.

**2.5. WATER & POWER
REVISIONS OF LOCAL LIMITS WASTEWATER PRETREATMENT
STANDARDS**

In accordance with the Wastewater Treatment Plant's (WWTP) discharge permit, Loveland Water and Power's Pretreatment Program performed a technical evaluation of the need to revise or develop the local wastewater pretreatment standards. Significant industrial users of the City's wastewater system may not release wastewater into the system that contains levels of pollutants that exceed the local limits. After evaluating current water quality standards, monitoring data, and WWTP operation data, the technical evaluation showed that local limits need to be revised. The revised local limits should continue to protect against pass through and interference, protect beneficial use of biosolids of the WWTP, and will have no impact on current significant industrial users. In addition, the Director of Water & Power has been provided the authority to develop specific discharge limitations for any other toxic or inhibiting pollutant that could endanger the treatment facility, public health, or the environment. This ordinance was adopted unanimously, on first reading, at the Regular City Council meeting held on March 7, 2017.

***A Motion To Adopt, On Second Reading, Ordinance # 6098
Amending Section 13.10.205 of The Loveland Municipal Code
Concerning Local Limits Of Wastewater Pretreatment Standards***

CARRIED.

**2.6. PUBLIC WORKS
U.S. 287 & ORCHARDS TRAFFIC SIGNAL**

The City has been awarded Federal Hazard Elimination grant funds to rebuild a traffic signal at Orchards and US 287. The resolution would approve and authorize the City Manager to execute the intergovernmental agreement to accept federal funding for the construction of the traffic signal. The ordinance appropriates the funds received, allowing them to be used by the City for this purpose. If Council approves the agreement, the City Traffic Engineering Division will design, advertise, bid, and provide all construction management responsibilities for the installation and completion of the traffic signal.

This ordinance was adopted unanimously on first reading at the regular City Council meeting held on March 7, 2017. The estimated construction cost for the project is \$300,000. The agreement provides that the City is eligible to receive grant funds of 90% of the construction costs up to \$300,000, or no more than \$270,000. In receiving the grant funds, the City will be required to provide matching funds in the amount of 10% or up to \$30,000. If approved, the remaining balance in the TABOR Excess Fund would be \$16,811,256. Should the actual cost of construction exceed \$300,000 as determined by the final approved design and contractor bid amount, the Agreement identifies possible actions: (1) if federal funds are made available for the work, the City of Loveland shall pay 10% of grant eligible costs (2) the City could choose to fund the additional costs above the \$300,000 or (3) the City may abandon the construction of the Traffic signal and return the grant money to the federal funding program. The budget is expected to be sufficient based on recent similar signal projects.

1) A Motion To Adopt, On Second Reading, Ordinance #6099, Enacting A Supplemental Budget And Appropriation For The 2017 City Of Loveland Budget For The Removal and Replacement Of A Traffic Signal At The Intersection Of US 287 and Orchards Shopping Center

CARRIED.

2) A Motion To Adopt Resolution #R-24-2017, Approving An Agreement Between The City Of Loveland, Colorado And The Colorado Department Of Transportation (CDOT), For The Removal and Replacement Of A Traffic Signal At The Intersection Of US 287 and Orchards Shopping Center

CARRIED.

**2.7. LOVELAND FIRE RESCUE AUTHORITY
LOVELAND FIRE RESCUE AUTHORITY RE-APPROPRIATION**

This resolution would approve: a 2017 net increase to the LFRA Operations Fund budget of \$82,300 from City and Rural District 2016 contribution budget savings; an increase Employee Benefits Fund of \$42,295 from matching revenue from ICMA-RC administrative fees; and an increase of the resources in the Fleet Replacement Fund of \$6,107 from accumulated funds in the City's Fleet Replacement Fund that were higher than originally anticipated. This action involves appropriating excess revenue received in 2016 and re-appropriating unspent funds from 2016. The LFRA Board approved the supplemental budget appropriation on February 22, 2017, and the Loveland Rural Fire Protection District approved it on March 1, 2017.

A Motion To Adopt Resolution #R-25-2017, Approving The Loveland Fire Rescue Authority's Supplemental Budget And Appropriation Resolution No. R-073 For The Loveland Fire Rescue Authority's 2017 Budget

CARRIED.

2.8. WATER & POWER

WASTEWATER UTILITY CONTRACT AWARD FOR PLANT EXPANSION

In order to expedite the start of construction, the Wastewater Treatment Plant Biological Nutrient Removal (BNR) and Digester improvements project has been split into two distinct packages – an Early Work package (Package 1) and a Final Work package (Package 2). This method will allow the contractor to begin construction on those design elements that are complete while the engineers complete the design for the remainder of the project scope. The anticipated duration of Package 1 is from April through December 2017. The Final Guaranteed Maximum Price (GMP) for Package 1 is \$3,041,000. Package 2 is expected to be presented to City Council in July of 2017 with an approximate contract value of \$29,000,000. The anticipated duration of Package 2 is from August 2017 through September 2019.

A Motion To Adopt Resolution #R-26-2017 Authorizing A Notice Of Award For Package 1 Of The Wastewater Treatment Plant Expansion To Garney Construction

CARRIED.

2.9. HUMAN RESOURCES

MOTION FOR SPECIAL MEETING ON APRIL 11, 2017 WITH POSSIBLE EXECUTIVE SESSION

This action is for Council to conduct the City Manager's quarterly performance review meeting on April 11, 2017, which may include an executive session to discuss personnel matters. The Special Meeting is a recurring performance evaluation meeting established pursuant to Resolution #R 117-2016 or required by the City Charter that will be conducted by Council with their employees, which includes the City Manager, City Attorney and Municipal Judge.

A Motion Calling A Special Meeting On April 11, 2017 At 5:30 P.M. For The Purposes Of Conducting An Employee Evaluation and Considering Personnel Matters For The City Manager With A Possible Executive Session

CARRIED.

**2.10. FISCAL ADVISOR
THE FOUNDRY PROJECT BANK LEASE PROCEEDS
PUBLIC COMMENT**

This item was considered on the Regular Agenda, Item 5.1.1.

**2.11. CITY CLERK
CALL FOR A SPECIAL MEETING ON MARCH 28, 2017 WITH POSSIBLE
EXECUTIVE SESSION**

The City Charter provides that the Mayor and three other Council members may call a special meeting. Also addressed in the Charter, is the provision that City Council may not take an action on an item that has not been posted at least 24 hours prior to the meeting.

***A Motion Calling A Special Meeting On March 28, 2017 At 6:30 P.M.
For The Purposes Of: 1) An Update On The Larimer County 6th Street
Building And Parking Lot And Possible Executive Session 2) Reviewing
the Foundry Project Right of Way Infrastructure Improvement Request for
Supplemental Appropriation And Possible Executive Session***

CARRIED.

**CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT
AGENDA**

3. PUBLIC COMMENT

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

Howard Dotson, 348 N Jefferson, spoke in support of YMCA of Estes Park hosting Syrian refugees, expressed concern regarding SB17-116 regarding concealed carry without a permit, expressed support for SB17-193 regarding the establishment of a center for research into substance use prevention and treatment.

Larry Sarnier, 1739 W 8th, expressed concern over the disapproved petition he submitted to the Clerk on March 15, 2017.

4. BUSINESS FROM CITY COUNCIL

***This is an opportunity for Council Members to introduce new business
for discussion at this time or on a future City Council agenda.***

Johnny Olson, Regional Director for CDOT, Kathy Gilliland, Transportation Commissioner, and Tom Donnelly, Larimer County Commissioner spoke regarding the decision by the Town Council of Johnstown to only contribute \$1.2million to the widening of the intersections at I-25 and Hwy 402 and I-25 and Hwy 34.

Moved by Councilor Shaffer and seconded by Councilor Johnson

A Motion to remove the update on the Larimer County 6th Street Building and Parking Lot from the March 28, 2017 Special Meeting and add CDOT for a presentation for a revised plan for the Hwy 402 and Hwy 34 interchanges with a possible executive session.

CARRIED UNANIMOUSLY.

Colorado House District 51 Representative, Hugh McKean, spoke regarding SB17-1248, \$90m will go to the Winding Gap FIRMING Project.

**5. REGULAR AGENDA
PROCEDURAL INFORMATION**

Anyone in the audience will be given time to speak to any action 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

**5.1.1 FISCAL ADVISOR
THE FOUNDRY PROJECT BANK LEASE PROCEEDS**

Alan Krcmarik, Executive Fiscal Advisor, presented this item to Council. The Foundry Project is a mixed-used development project located between Lincoln and Cleveland Avenues (the east and west boundaries) and 1st Street on the south and Backstage Alley on the north. The planned residential portion includes 155 housing units. The planned commercial portion includes a hotel and a movie theater. Public improvements include the parking garage, a public plaza, streets, sidewalks, gutters, and public utilities. Most of the proceeds from this lease transaction will be used for said 450 to 463 space parking garage. On March 14, 2017, the City closed the lease certificates of participation financing transaction for The Foundry Project in Downtown Loveland. The amount of proceeds was \$15,900,000. The proceeds of this lease transaction will provide a funding source for the construction of the parking garage and other public improvements at The Foundry in

Downtown Loveland. The future semi-annual payments on the lease will come first from capitalized interest, and then forthcoming revenues from the Foundry Metropolitan District, future property and sales tax increment from the Project to the Loveland Urban Renewal Authority Downtown Project, and finally the City's General Fund. Application of the future revenues to service the lease payments would be the negative Budget Impact.

Public Comment: Howard Dotson, expressed concern with "NIMBYism" regarding 137 Connect and their clients and expressed support for the project. Ed Klen, expressed concern and opposition to the project.

Moved by Councilor Shaffer, seconded by Councilor Fogle

A Motion To Adopt, On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2017 City Of Loveland Budget For The Foundry Project.

CARRIED 4 to 2. No votes: Overcash and Krenning

**5.2. COMMUNITY PARTNERSHIP OFFICE
AFFORDABLE HOUSING CODE AMENDMENTS
PUBLIC HEARING**

Alison Hade, Community Partnership Administrator, presented this item to Council. Changes to Title 16 at Chapter 43 were presented to the Planning Commission on February 27, 2017 and continued to March 13, 2017 after extensive effort by the Affordable Housing Commission. The changes listed below were unanimously approved by both commissions. You will also find attached two staff memos for your perusal that are associated with these meetings. Changes to the Affordable Housing Code do not affect the budget.

Public Comment: Diann Rice, Chair of the Affordable Housing Commission, spoke regarding presenting additional code changes to the Planning Commission by November of 2017. Roger Weidelman, expressed support for a priority on multi-family housing.

Council thanked the Affordable Housing Commission for their work on the code changes.

Moved by Councilor Shaffer, seconded by Councilor Fogle

A Motion To Adopt, On First Reading, An Ordinance Amending Title 16 Of The Loveland Municipal Code Regarding Affordable Housing Including Sections 16.08.010, 16.38.75, 16.38.080, 16.38.085, And Chapter 16.43

CARRIED UNANIMOUSLY.

**5.3. FISCAL ADVISOR
CAPITAL EXPANSION FEES STUDY RECOMMENDATIONS
PUBLIC COMMENT**

Alan Krcmarik, Executive Fiscal Advisor, presented this item. City Council and staff have been reviewing the possible transition from Capital Expansion Fees (“CEFs”) based on the current (Equity Buy-in) approach to the Plans Based approach over the last several years. The review relied on a study conducted by BBC Research & Consulting. The results of the study showed that for most fees, the Plans Based approach provided lower fee levels for residential projects and increases for commercial and industrial projects. The proposed resolution provides for a migration of the current General Government CEF to the Plans Based approach. This provides a reduction in residential fees. Single-family fees would decrease by \$412 per unit and multi-family fees would decrease by \$200 per unit. The new Plans Based calculation for General Government CEF leads to an increase of 21 cents per square foot for commercial projects to be phased in by 7 cents per year for the next three years. For industrial projects, the increase is 9 cents, to be phased in by 3 cents per year over the next three years. The resolution does not affect the other CEFs as they will remain on the Equity Buy-in approach. The resolution, as proposed, would reduce the amount of fees collected for General Government Capital Expansion Fees. Based on the history of CEF collections and typical distribution of new projects to residential, commercial, and industrial uses, the net effect of the changes would be a reduction in total CEFs collected.

Discussion ensued regarding making changes to the findings and moving this item to a future meeting in September or October. Council thanked staff for the work on this item.

FAILED. No Motion was made.

A Motion To Adopt Resolution #R-27-2017 A Resolution Adopting a New Schedule of Capital Expansion Fees Pursuant to Sections 16.38.020.E of the Loveland Municipal Code Effective July 1, 2017

Mayor Gutierrez left the meeting prior to Item 5.4.

**5.4. FINANCE
2018 BUDGET KICKOFF**

Theresa Wilson, Budget Manager, presented this item. Last year, during the 2017 Budget Development Process, City Council requested increased engagement in the budget development process earlier in the year. Because of this request for the 2018 Budget Development Process, staff has prepared more extensive budget development kick-off information to present to City Council a month earlier than last year.

Staff presented information regarding key factors of initial 2018 budget development (economic trends, recession outlook, and preliminary revenue projections/expectations) and discuss next steps of the 2018 process. Staff will follow-up on Priority Based Budgeting, including the need for an additional staff member, via a follow-up decision memorandum.

Information Only

6. REPORTS

6.1. BUSINESS FROM CITY COUNCIL

This is an opportunity for Council Members to report on recent activities.

Shaffer: Gary Thomas, Chair of the Transportation Advisory Board and the Director of SAINT, is retiring.

Johnson: attended Children's Day and thanked staff for a great event.

Fogle: attended NLC, National League of Cities, expressed concern about a new law in effect regarding mini towers and micro towers for ROW to cell phone companies at no cost to them.

6.2. CITY MANAGER REPORT

Adams: thanked Council for the opportunity to attend NLC. Reminder regarding the joint Study Session with Fort Collins' Council at Morehouse Hall on Thursday beginning at 5:30 p.m.

6.3. CITY ATTORNEY REPORT


No report.

7. ADJOURN

Mayor Pro Tem Fogle adjourned the April 21, 2017 Regular Meeting of the Council at 10:23 p.m.

Respectfully Submitted,




Beverly A. Walker, Acting City
Clerk


John H. Fogle, Mayor Pro Tem

