



MINUTES
LOVELAND CITY COUNCIL MEETING
Tuesday, March 6, 2018 CITY COUNCIL CHAMBERS 6:00 PM

COUNCIL PRESENT: Mayor Marsh
Councilors:
Overcash, Fogle, Ball, Clark, Johnson, Olson, Jersvig, and Wright.

COUNCIL ABSENT: None

1. INTRODUCTION

1.1 CALL TO ORDER

1.2 PLEDGE OF ALLEGIANCE

1.3 ROLL CALL

1.4 PROCLAMATIONS

1.4.1 PROCLAMATION

DECLARING MARCH 9, 2018 AS COLORADO CHILDREN'S DAY

Councilor Wright presented the proclamation to Sarah Garnier with the Chilson Recreation Center.

1.4.2 PROCLAMATION

DECLARING THE WEEK OF MARCH 8, 2018 AS WOMEN OF AVIATION WORLDWIDE WEEK

Councilor Johnson presented the proclamation and will give it to Dianna Stanger.

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 end 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.

**2.1 CITY CLERK
APPROVAL OF MINUTES**

Approval of the City Council minutes for the February 6, 2018 Regular Meeting, the February 13, 2018 Special Meeting and Study Session.

A Motion to Approve the City Council minutes for the February 6, 2018 Regular Meeting, the February 13, 2018 Special Meeting and Study Session.

CARRIED.

**2.2 DEVELOPMENT SERVICES
LOVELAND EISENHOWER INVESTMENTS (LEI) VESTED PROPERTY RIGHTS
EXTENSION**

This is consideration of a second reading of an ordinance to extend the vested property rights that were established in the Loveland Eisenhower Investments (LEI) 2010 Annexation Agreement from eight years to ten years. Vested property rights requests do not require review by the Planning Commission, and instead go straight to City Council. This item was presented to City Council on February 20, 2018 where the ordinance was adopted, on first reading, unanimously, with a 9 to 0 Vote.

A Motion To Adopt, On Second Reading, Ordinance No. 6191 Approving The Second Amendment To The Annexation And Development Agreement Between Loveland Eisenhower Investments LLC And The City Of Loveland To Extend Certain Vested Property Rights Pursuant To Section 24-68-103 Colorado Revised Statutes, As Amended And Loveland Municipal Code Chapter 18.72

CARRIED.

**2.3 FINANCE
2018 RE-APPROPRIATIONS**

Budget Office staff worked with City departments to identify remaining balances related to on-going operations and maintenance and project items appropriated but not completed in 2017 that need to be re-appropriated for continuation in 2018. Unspent appropriation related to these items reverted to the fund balance of origin at the end of 2017 and is available for re-appropriation in 2018. This item was presented to City Council on February 20, 2018 where the ordinances were adopted, on first reading, unanimously with a 9 to 0 Vote. Council voiced support for non-lapsing capital funds and other process improvements related to the re-

appropriations process. Budget Office staff will work with other appropriate staff (Legal, Purchasing, etc.) to formulate process improvement options for Council consideration, with the plan to implement process improvements for 2019 re-appropriations.

1) A Motion To Adopt, On Second Reading, Ordinance No. 6192 Enacting A Supplemental Budget And Re-Appropriation To The 2018 City Of Loveland Budget For Projects Appropriated But Not Completed in 2017

CARRIED.

2) A Motion To Adopt, On Second Reading, Ordinance No. 6193 Enacting A Supplemental Budget And Re-Appropriation To The 2018 Northern Colorado Regional Airport Budget For Airport Pavement Projects

CARRIED.

3) A Motion To Adopt, On Second Reading, Ordinance No. 6194 Enacting A Supplemental Budget And Re-Appropriation To The 2018 City Of Loveland Budget For Community Development Block Grants (CDBG) And Human Services Grants

CARRIED.

2.4 FINANCE

2018 NEW APPROPRIATIONS

This is an annual effort. Budget Office staff brings forward an operations and maintenance (O&M) and new projects appropriations ordinance each year. Staff brings forward a new appropriations ordinance to address both projects/contracts and operations/maintenance needs in February of each year. Gross new appropriations, the sum of the total appropriations for each fund (including the Airport), total \$9,128,120. Net new appropriations, excluding \$6,320,397 in transfers made between the various funds, total \$2,807,723. Transfers are excluded to avoid double counting of related appropriation line items (transfer and corresponding expenditure) included in the ordinance. This item was presented to City Council on February 20, 2018 where the ordinances were adopted, on first reading, unanimously with a 9 to 0 Vote. The majority of questions related to proposed new appropriations revolved around the new positions. A follow-up meeting with Councilor Olson regarding the Building Attendant position is scheduled for the afternoon of Friday, March 2, 2018. Funding for this position will remain in the new appropriations package, however, the position will not be hired until any issues/concerns are fully resolved. Council was supportive of the Digital Communications Specialist and would like the Public Information Office to be included in Administrative Cost Allocations moving forward. Budget Office staff has a follow-up meeting with the City's Cost Allocation consultant on February 27, 2018, and will be including the PIO as an allocating department for the 2019 Cost Allocation Plan.

1) A Motion To Adopt, On Second Reading, Ordinance No. 6195 Enacting A Supplemental Budget And Appropriation To The 2018 City Of Loveland Budget For New Operations And Maintenance Items And Projects

CARRIED.

2) A Motion To Adopt, On Second Reading, Ordinance No. 6196 Enacting A Supplemental Budget And Appropriation To The 2018 Northern Colorado Regional Airport Budget For Emergency Response Reimbursement

CARRIED.

**2.5 DEVELOPMENT SERVICES
SHAMROCK WEST THIRD SUBDIVISION VACATION**

The purpose of this item is to consider the adoption of an ordinance, on second reading, vacating a utility easement at 4201 N. Taft Avenue, on the recently constructed Ziggi's Coffees Kiosk property. The easement was created by separate document last year in conjunction with the Ziggi's Site Development Plan and Building Permit processes for the purpose of extending City power lines to the coffee kiosk. The power lines were originally planned to be installed to the west of the building, but were instead installed to the east of the building, outside the boundaries of the recorded easement. Therefore, a new easement that aligns with the location of the power lines will be recorded (attachment 3) and the existing easement (attachment 1) that does not align with the installed power lines is being vacated. The vacation of the original easement that does not align with the location of the power lines requires approval of a City Council ordinance, while the creation of the new easement in the location of the installed power lines does not require City Council approval, and instead is approved administratively. The vacation of the original utility easement, while not required, is considered beneficial. The applicant is Alles, Taylor & Duke, LLC. This item was presented to City Council on February 20, 2018 where the ordinance was adopted, on first reading, with a vote of 9 to 0.

A Motion To Adopt, On Second Reading, Ordinance No. 6197 Vacating A Ten Foot Wide Utility Easement Located On, Over And Across A Portion Of Lot 2, Block 1 Of Shamrock West Third Subdivision, City Of Loveland, County Of Larimer, State Of Colorado

CARRIED.

**2.6 WATER & POWER
THIRD AMENDMENT TO THE FIFTH INTERIM AGREEMENT BETWEEN THE MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY DISTRICT WINDY GAP FIRING PROJECT WATER ACTIVITY ENTERPRISE, AND THE CITY OF LOVELAND FOR PARTICIPATION IN THE WINDY GAP FIRING PROJECT**

The City of Loveland needs dedicated storage space (reservoir storage) to firm up the use and reliance of its Windy Gap units. Windy Gap is a water project located on the west slope in the Colorado River basin. Water from Windy Gap Project is delivered to the Northern Front Range of Colorado via the Colorado-Big Thompson Project. As cited from Northern Colorado Water Conservation District's (Northern Water) website, "the Windy Gap Project consists of a diversion dam on the Colorado River, a 445-acre-foot reservoir, a pumping plant, and a six-mile pipeline to Lake Granby. Windy Gap water is pumped and stored in Lake Granby before it is delivered to water users via the Colorado-Big Thompson Project's East Slope distribution

system." The Fifth Phase of the Project, covered by the Fifth Interim Agreement, allows work to continue on the completion of all permits and approvals, and additional land acquisition for Chimney Hollow Reservoir and its associated infrastructure. Work will also continue to move forward on detailed engineering design and planning and implementation of required mitigation and enhancement measures and related activities. Of particular emphasis is amending the Windy Gap Project decrees in Water Court to accommodate necessary changes in mitigation and project enhancements. Also critical is development of alternatives for financing the Project, jointly or individually. This project is already budgeted within the 2018 budget therefore, there will not be an impact on unassigned fund balance within the Raw Water Utility. Loveland's portion of the Fifth Interim Agreement costs under this Third Amendment are projected to be \$958,700 during 2018 based upon the City's current subscription of 9,587 acre feet in the 90,000 acre foot project. This item was presented to the Loveland Utilities Commission (LUC) on January 18, 2018 where unanimously recommended Council approval of the resolution which, at the time, included the City of Loveland's subscription of 9,451 acre-feet of storage in the project. This item was also presented to LUC on February 21, 2018 where LUC considered the revised Third Amendment to the Fifth Interim Agreement which included the City of Loveland's additional 136 acre-feet of storage in the project, for a total of 9,587 acre-feet of storage.

A Motion To Adopt Resolution #R-21-2018 Approving And Authorizing The Execution Of A Third Amendment To The Fifth Interim Agreement With The Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firing Project Water Activity Enterprise, For Continued Participation In The Windy Gap Firing Project

CARRIED.

2.7 PUBLIC WORKS

RESOLUTION APPROVING AMENDMENT 1 (SUPERCIRCULAR, 2 CFR 200) AND AMENDMENT 2 (CHANGES 10% MATCH FROM LOCAL TO STATE) FOR THE 287 AND ORCHARDS SIGNAL REPLACEMENT IGA WITH THE COLORADO DEPARTMENT OF TRANSPORTATION

The Colorado Department of Transportation (CDOT) is requesting two amendments to the existing Intergovernmental Agreement (IGA) for 287 and Orchards Signal Replacement. Amendment 1 (attachment 1) will modify the language of the executed IGA to comply with federal regulations applicable to federally-funded projects primarily by adding specificity to start and end dates for projects and/or phases of projects and requiring CDOT to conduct risk assessment of the City as a grant recipient. Amendment 2 (attachment 2) will make CDOT responsible for \$30,000 matching funds instead of City of Loveland. There will be no cost to the City of Loveland. This item was presented to City Council on March 21, 2017 where Council approved the original IGA with CDOT for this project by adopting a resolution, unanimously, with a 6 to 0 Vote.

A Motion To Adopt A Resolution #R-24-2018 Approving Two Amendments To An Intergovernmental Agreement Between The City Of Loveland And The Colorado Department Of Transportation, For The 287 And Orchards Signal Replacement Project

CARRIED.

**2.8 FISCAL ADVISOR
JANUARY 2018 INVESTMENT REPORT**

The budget projection for investment earnings for 2018 is \$2,527,729. On the portfolio's 2018 beginning balance, this equates to an annual interest rate of 1.13%. Based on the January 2018 monthly report, the estimated yield on fixed income securities held by US Bank was at 1.60%; for total assets, the yield was 1.48%. For the month, accounting staff posted net total earnings of \$171,229 to City fund accounts. U.S. short-term Treasury interest rates had moved sharply higher from the second week of November 2016 to a peak in March, and then trended downward. In June, after the Federal Open Market Committee raised the federal funds rate by 0.25%, interest rates on short term investments (3 years and shorter) moved higher while longer term rates moved lower. For the last five and a half months, rates all along the interest rate curve have moved upwards. The Federal Reserve Board increased the Federal Funds rate again in December. Additional rate increases are expected in March, June, and again in the fall. The estimated market value at the end of January 2018 is \$220.8 million. Proceeds from the lease financing for the downtown parking facility are included in the total. Due to the large shift in the bond markets, the holdings in the portfolio decreased in value by \$1,337,521 in January, increasing the unrealized loss in the portfolio to \$3,735,795. The investment program strives to earn competitive returns within state law and City investment policy guidelines which emphasizes safety first, liquidity second, and yield.

Information Only

**2.9 FINANCE
JANUARY 2018 FINANCE REPORT**

The Snapshot Report (attachment 2) is submitted for Council review and includes the reporting of the City's revenue and expenditures, including detailed reports on tax revenue and health claims, as of January 31, 2018. Citywide Revenue of \$25.6 million is 7.7% of total annual budget. Sales Tax collections January YTD are 0.4% above January 2017 YTD, and 10.9% of the total annual budget. Building Material Use Tax collections for January are 158.2% above January 2017 YTD, and 6.9% of the total annual budget. Sales and Use Tax collections combined are 10.4% of total annual budget. Citywide total expenditures of \$22.3 million are 10.6% of the total annual budget.

Information Only

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

4. MOTION TO ADOPT THE CONSENT AGENDA

Moved by Councilor Jersvig, seconded by Councilor Johnson

A Motion To Adopt The Consent Agenda, Items 2.1 to 2.9.

CARRIED UNANIMOUSLY, 9 - 0.

5. PUBLIC COMMENT

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

No public comments were given.

**6. REGULAR AGENDA
PROCEDURAL INFORMATION**

Council will give anyone in the audience time to speak to any PUBLIC COMMENT or PUBLIC HEARING item on the Regular Agenda before acting upon it. The Mayor will call for public comment following any staff report. Council conducts public hearings according to its Rules of Procedure and legal requirements. Loveland's Charter only requires that a majority of the quorum present vote in favor to adopt an ordinance first reading. However, adopting an ordinance on second or final reading requires that at least five of the nine Council members vote in favor.

**6.1 ECONOMIC DEVELOPMENT
SUPPLEMENTAL APPROPRIATION FOR DESK CHAIR, LLC REIMBURSEMENT
AGREEMENT**

Mike Scholl, Economic Development Manager, presented this item to Council. Desk Chair, a co-working office space located in Downtown Loveland at 201 E. 4th Street, requested reimbursement for improvements to the sidewalk along Cleveland Avenue and 4th Street adjacent to the building (attachment 1 - Sidewalk Plans) at a cost of \$78,827. Desk Chair will assume all costs that exceed the capped amount. Desk Chair LLC, when complete, is a modern co-working office space that will bring over 200 subscribers and entrepreneurs to Loveland. Additional information on Desk Chair and co-working in general are attached (attachments 3, 4, and 5). The agreement would be funded through the the Economic Incentive fund. If this item were approved by City Council, the remaining balance of the Economic Incentive Fund would be \$842,688. This item was presented to City Council at their Study Session held on February 27, 2018 where Council directed staff to bring the item back to Council for formal consideration.

Moved by Councilor Jersvig, seconded by Councilor Fogle

A Motion To Adopt, On First Reading, An Ordinance Enacting A Supplemental Budget and Appropriation To The 2018 City of Loveland Budget For an Economic Incentive For Desk Chair, LLC

CARRIED UNANIMOUSLY, 9 - 0.

**6.2 CITY MANAGER'S OFFICE
CITY OF LOVELAND 2018 LEGISLATIVE POLICY AGENDA BROCHURE**

Justine Bruno, Assistant to the City Manager, presented this item to Council. The policy agenda helps underscore the impacts of pending legislation to Loveland, Council's areas of interest, and it provides a tool for both Council and staff to respond to inquiries. Through the use of a brochure, Council's viewpoints on broad areas of legislation are identified, allowing the Loveland City Council to speak with a unified voice. This item was presented to the Council Legislative Review Committee on January 17, 2018. Direction was given from several meetings that are referenced in the Council Or Board/Commission Review section of the attached AIR.

The purpose of the resolution is to provide Council's general positions and as a guiding document to respond to inquiries. This is an accumulation of Council's discussion over the years.

Councilors expressed their individual views on several topics that were listed such as; the market place fairness act, the carbon regulations, housing affordability/availability, control to local school district, and local control on location of cell towers.

Concern was also expressed with approving it without the public opinion on it, although the City Attorney stated that approving it doesn't set any policies.

Public Comment: Modisol Jackson, Loveland resident, expressed concern in regards changing the description of affordable housing to "robust housing".

Moved by Councilor Jersvig, seconded by Councilor Johnson

A Motion to Adopt the 2018 City of Loveland Legislative Policy Agenda Brochure

CARRIED 8 to 1, No Vote: Marsh.

**6.3 CITY MANAGER'S OFFICE
CITY COUNCIL RULES OF PROCEDURE DISCUSSION**

Steve Adams, City Manager, presented this item to Council. Council, by the Rule of 4, requested of staff at the February 27, 2018 Study Session to bring this item for discussion and include a process for engagement with and requests to staff under an expanded definition of the Rule of 4. The Rule of 4 redefinition could provide staff general direction for responding to requests for information based on the nature of the request and workload capacity impacts of preparing responses. These responses could be the result of City Council or citizen requests for information on a community issue or providing clarification regarding a scheduled Council meeting topic or agenda item. Item #1 of the City Manager Communications Plan only defines the process for addressing citizen inquiries. City staff seeks a process to determine direction, by consensus of Council, on a request that may take greater-than-average staff time and resources to complete. The City Manager currently works with department directors to estimate the staff time and resources required to respond and, if in his judgement a response will require significant time and resources, works with the citizen or Council member to narrow the request. This item allows a discussion about implementing a process to assist the City Manager, City Attorney and staff to manage workload capacity when multiple information requests are received. These requests are not CORA requests that are handled by a different, more formal, process. (Attachment 4) City staff will present background information and list options for Council's consideration at this meeting. This

information will be available on Monday, March 5, 2018, and will be included as an update to this AIR. City Charter Section 4-1 provides that City Council shall prescribe by rules of the Council the day and hour of its meetings and the procedures governing the meetings, and the rules are defined by Resolution #R-125-2017 (attachment 1). In addition, the City Manager provided to Council a communications plan identified as the City Manager Communications Plan. The communications plan was presented to Council at the August 23, 2016 regular meeting (attachment 2) and to newly elected Councilors at the Council Orientation on November 8, 2017 (attachment 3).

Mr. Adams clarified how the Rule of 4 could work through the process of handling information requests. Rule of 4 is the process to place an item on a future agenda. He also stated that it would sometimes be necessary to incorporate citizens' concerns and comments into an agenda item.

Council will be included in all requests for information and included in the responses.

Council comments:

Councilors expressed the need for all citizen's communications to be copied to all of Council to help decrease any duplication of effort.

When a Councilor makes a request, the reason for the request should be noted for clarity and transparency.

The City Manager should notify Council of requests that would take a significant amount of time.

Staff should not be bound to provide information that is not a City record.

Consensus by Council, gave the City Manager permission to deny a request if it would take too much time and does not fall within the purview of the City.

The idea to have two other Councilors supporting a request was not agreed on.

Staff was asked to research other municipalities policy's regarding how items are placed on an agenda.

The City Manager will bring back an updated Communications Plan with the suggested revisions.

Information Only

6.4 PUBLIC WORKS

UPDATE ON PURCHASE CONTRACT FOR NORTH TRANSIT CENTER PROPERTY WITH POSSIBLE EXECUTIVE SESSION

Michael Hogan, Facilities Operations Manager, presented this item to Council. City Council approved a Contract for Purchase of Real Property at Highway 287 and 37th Street for the future North Transit Center. The closing date under the contract has been extended four times at the Seller's request, and a closing date is now scheduled for March 14, 2018. Staff will provide Council with updates regarding the status of the purchase and contract and will seek direction from Council regarding the purchase. All necessary funds for the property purchase have been previously appropriated. This item was presented to City Council at their regular meeting held on November 7, 2017 where the ordinance was adopted, on second reading, and the resolution was adopted, unanimously, with a 7 to 0 Vote. Council was concerned about how much staff time was expended on the transaction.

Moved by Councilor Jersvig, seconded by Councilor Ball

A Motion that the Loveland City Council recess into executive session concerning the purchase contract for the North Transit Center property pursuant to the Colorado Revised Statutes and the City of Loveland Charter

- To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop negotiation strategy, and to instruct negotiators as authorized by CRS § 24-6-402 (4)(e) and Charter Section 4-4(c)(1);***
- To receive information regarding or discuss the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest, as authorized by CRS § 24-6-402 (4)(a) and Charter Section 4-4(c)(2); and***
- To discuss matters of attorney-client privilege, to receive legal advice from an attorney representing the City, and for matters required by law to be kept confidential as authorized by CRS § 24-6-402 (4)(b) and Charter Section Charter Section 4-4(c)(3)***

CARRIED UNANIMOUSLY, 9 - 0.

Council recessed into executive session at 9:00 p.m.

Council reconvened from executive session at 9:45 p.m.

6.5 CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA
None

7. REPORTS

7.1 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.

Overcash - Parks and Recreation hiring a new Golf Manager.

Olson - Expressed his regret for comments he made regarding sidewalks regarding the Desk Chair item and hopes he didn't upset any staff. He is on a mental health committee that is developing a strategy to combat opioid addiction and would like to present to Council in the future.

Clark - DDA director is resigning and the process to find a replacement is underway. The NFRMPO in process of looking for a new executive director.

Wright - Attended the Transportation Advisory Board meeting where the Big Thompson River plan was presented.

Fogle - Expressed congratulations to the Fire Chief Miller, the LFRA and other municipalities for the impact fee agreement.

Marsh - Attended a meeting between Police Chief Ticer and the Thompson School District Superintendent, regarding school safety.

Chief Ticer addressed the Council to report on the support given by the LPD and providing school resource officers and they are working on the IGA with the district.

Johnson - Noted that a group from House of Neighborly Service was in attendance tonight to express appreciation to Council.

7.2 CITY MANAGER REPORT

The Special Meeting and Study Session on March 13, 2018 is canceled. There will be a lack of quorum due to the number of Councilors attending the National League of Cities (NLC) Conference.

Foundry topping off ceremony and ground breaking for the movie theater and hotel, tomorrow at 2:00 p.m.

Boards and Commissions Appreciation Event Thursday the March 8, 2018 at 5:30 p.m.

7.3 CITY ATTORNEY REPORT

No report.

8. ADJOURN

Mayor Marsh adjourned the March 6, 2018 Regular Council meeting at 10:00 p.m.

Respectfully Submitted,




Beverly A. Walker, Acting City Clerk


Jacki Marsh, Mayor

