



MINUTES
LOVELAND CITY COUNCIL MEETING
Tuesday, March 5, 2019 CITY COUNCIL CHAMBERS 6:00 PM

COUNCIL PRESENT:

Mayor Marsh

Councilors:

Overcash, Fogle, Clark, Johnson (arrived at 6:05 p.m.), Olson, Jersvig, Ball (arrived at 6:30 p.m.) and Wright

COUNCIL ABSENT:

1. INTRODUCTION

1.1 CALL TO ORDER

1.2 PLEDGE OF ALLEGIANCE

1.3 ROLL CALL

Steve Adams, City Manager, stated that Kevin Bommer, Deputy Director, Colorado Municipal League (CML), was in attendance to address questions Council had regarding Senate Bill 19-181. This draft bill was placed in the Business and Reports from City Council. Mr. Adams requested a motion to move Item 8.1 – Business and Reports from City Council to after Item 5. Consent Agenda.

Moved by Councilor Olson and seconded by Councilor Jersvig.

A Motion to Move Item 8.1 – Business and Reports from City Council to after Item 5. Consent Agenda.

CARRIED UNANIMOUSLY 7-0

PROCEDURAL INFORMATION

Council may act on behalf of the City, the General Improvement District #1, the Special Improvement District #1, or the Loveland Urban Renewal Authority. Items requiring a public hearing or other public participation that remain on the Consent Agenda are considered to have been opened and closed, in the name of the applicable legal entity that is required to take action to approve such items, 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 and your city of residence and write that information on the sheet provided by the City Clerk 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. PUBLIC COMMENT

Anyone who wishes to speak to an item NOT on the Regular Agenda may address the Council at this time. Items not on the Regular Agenda consists of all other items on the Agenda including Consent Agenda items and No-Action items. Any member of the public may request that an item labeled as quasi-judicial be placed on the regular agenda for discussion and public comment or testimony.

Galon Lyle, Loveland resident, stated he was following up on the direction that the city would be disclosing CEF information on the website. City Manager Adams stated that it was in process and would include building permit information.

6:05 p.m. - Councilor Johnson arrived.

3. CONSENT AGENDA

At this time, any Council Member may request that an item on the Consent Agenda be moved to the Regular Agenda. Items moved to the Regular Agenda will be heard at the end of the Regular Agenda. Members of the public who have not previously provided public comment at this meeting on an item moved to the Regular Agenda will be given an opportunity to speak to the item before the Council acts upon it.

3.1 CITY CLERK

APPROVAL OF MINUTES

Approval of the City Council minutes for the January 22, 2019 Study Session and the February 5, 2019 Regular Meeting.

A Motion to Approve the City Council minutes for the January 22, 2019 Study Session and the February 5, 2019 Regular Meeting

CARRIED.

**3.2 CITY CLERK
MEMBER APPOINTMENTS TO BOARDS AND COMMISSIONS**

This item is the recommendation to City Council to reappoint members to the Senior Advisory Board.

1) A Motion To Appoint Carmen Cisneros To The Senior Advisory Board For A Term Effective Until December 31, 2021

CARRIED.

2) A Motion To Appoint Julie Demaree To The Senior Advisory Board For A Term Effective Until December 31, 2021

CARRIED.

3) A Motion To Appoint Richard Zlamany To The Senior Advisory Board For A Term Effective Until December 31, 2021

CARRIED.

**3.3 LOVELAND POLICE DEPARTMENT
AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND
APPROPRIATION TO THE 2019 CITY OF LOVELAND BUDGET FOR BODY
WORN CAMERAS**

The purpose of this item is to appropriate funding to enter into a contract to issue body-worn cameras to all sworn police officers.

The first reading of this item was heard at the City Council Regular Meeting on February 19, 2019 where it passed on the regular agenda with an 8-0 vote.

A Motion To Adopt, On Second Reading, Ordinance No. 6286 Enacting A Supplemental Budget And Appropriation To The 2019 City Of Loveland Budget For Body Worn Cameras

CARRIED.

**3.4 WATER & POWER
A RESOLUTION ADOPTING A REVISED SCHEDULE OF POLE
ATTACHMENT RATES, CHARGES, AND FEES WITHIN THE SCHEDULE
OF RATES, CHARGES, AND FEES FOR SERVICES PROVIDED BY THE
WATER AND POWER DEPARTMENT OF THE CITY OF LOVELAND AND
SUPERSEDING ALL PRIOR RESOLUTIONS ESTABLISHING SUCH
RATES, CHARGES, AND FEES**

On April 18, 2017 the State of Colorado signed into law House Bill 17-1193, changing the requirements for attachment of small cell facilities on utility poles and streetlights. Previously, the FCC requirements allowed utilities to deny wireless attachments and attachments of communication facilities to streetlight poles, as long as the utility treated all communications facilities, including utility owned equipment, equally. Following the signing of HB 17-1193, the city has been working to modify the application process, pole attachment agreement and pole attachment fees to accommodate for small cell wireless attachments. The purpose of this item is to approve a resolution to revise the Water and Power Department Schedule of Rates, Charges, and Fees as shown in Exhibit A of the resolution for those rates, charges, and fees applicable to pole attachments on city-owned utility poles.

This item was presented to City Council at the February 19, 2019 Regular meeting where it passed with a 9-0 vote.

A Motion To Adopt, On Second Reading, Resolution R-21-2019 Adopting A Revised Schedule Of Pole Attachment Rates, Charges, And Fees Within The Schedule Of Rates, Charges, And Fees For Services Provided By The Water And Power Department Of The City Of Loveland And Superseding All Prior Resolutions Establishing Such Rates, Charges, And Fees

CARRIED.

3.5 PUBLIC WORKS

RESOLUTION APPROVING SECOND CONTRACT AMENDMENT FOR US 34 HIGHWAY WIDENING PROJECT

The widening of US 34 from Denver Avenue to I-25 has been a City Council, City Staff and regional priority for many years. Short Elliott Hendrickson Inc (SEH) is currently under contract to prepare final construction plans for the US 34 Widening project from Denver Avenue to Boyd Lake Avenue and conceptual plans for Rocky Mountain Avenue to Boyd Lake Avenue. Based on the current cost estimates, it became possible to include the construction of westbound US 34 from rocky Mountain Avenue to Boyd Lake Avenue in the project. Amendment 2 adds the scope and fees to SEH's existing Services Agreement. The current contract amount is \$478,880 with the proposed Amendment 2 increasing the amount by \$200,675 to \$679,555. City Council approval is required, as the total contract amount will exceed \$500,000 and the total of all amendments will exceed 20% of original amount, per City Code 3.12.060B.

A Motion To Adopt Resolution #R-30-2019 Approving A Second Contract Amendment For The U.S. 34 Highway Widening Project

CARRIED.

3.6 PUBLIC WORKS

RESOLUTION AUTHORIZING THE FILING OF APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FEDERAL TRANSPORTATION ASSISTANCE

This resolution will allow the Public Works Director to execute and file applications, certifications and assurances, and other required documentation for assistance from the Federal Transit Administration (FTA) in the form of grants or cooperative agreements. Grant agreements or cooperative agreements will be subject to approval by City Council and executed by the City Manager. In 2016 COLT was awarded a Congestion Mitigation Air Quality (CMAQ) grant for 2018 and 2019 to replace two aging COLT buses. This funding was flexed to the FTA for management of the grant requiring COLT to return to the status of a direct recipient of FTA funding to proceed with managing the awarded grants.

A Motion To Adopt Resolution #R-31-2019 Authorizing The Filing Of Applications With The Federal Transit Administration For Federal Transportation Assistance

CARRIED.

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

5. MOTION TO ADOPT THE CONSENT AGENDA

Moved by Councilor Jersvig, seconded by Councilor Johnson

A Motion To Adopt The Consent Agenda, Items 3.1 to 3.6.

CARRIED UNANIMOUSLY 8-0.

8.1 BUSINESS AND REPORTS 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.

Kevin Bommer, CML Deputy Director, addressed Council regarding the organizations position of support on Senate Bill (SB) 181. Mr. Bommer provided an overview of local control and the need to be part of the policy making process. He stated that CML is fairly certain that SB181 will pass and be signed by the governor. Knowing this allows CML to be part of the process and then be able to help on the pieces that need more work.

City Council members expressed frustration of CML's support of the bill due to the number of mayors and mayor pro-tems that had come out in opposition to Proposition 112 in 2018. Council members were also unhappy with the process as the bill was drafted in secret and just recently made public.

Council requested that every chance is made to get information to the membership as soon as possible and provide opportunity for instant feedback. They would prefer the option of collaboration on something of this magnitude.

Mayor Marsh stated that she appreciated the changes being offered in SB181.

6:30 p.m. – Councilor Ball arrived.

Council thanked Mr. Bommer for the discussion and clarification.

New business from Council

Councilor Wright attended a meeting called Civil Conversations at the library; staff had attended a National Issues Forum and brought the information back. Councilor Wright asked for Rule of 4 for them to present the information to Council. A Rule of 4 was achieved by Mayor Marsh and Councilors Johnson, Olson and Jersvig. She additionally attended a meeting held by Larimer County on mental health and substance abuse.

Councilor Olson reported he had sent an email that summarizes his activities the month of February. He additionally provided positive comments with the progress and growth of CFAC.

Councilor Jersvig reported on the \$500k Safe Routes to School grant that was awarded to the City of Loveland. He thanked Mark Jackson, Director of Public Works, and staff for the work that was done on it. He also noted that the Human Services Commission will be hearing grant applications in about two weeks; over 50 organizations have applied for grants.

Councilor Johnson reported the Affordable Housing Commission will be hearing applications for Community Development Block Grant (CDBG). She recommended people look at the Minka home in process on 37th Street; the Housing Authority is looking to do six Minka homes at Silver Leaf. Councilor Johnson and her children attended Children's Day on Friday - she thanked staff for their time/effort.

Mayor Marsh reported that she attended a Mayors Summit hosted by Wade Troxell on entrepreneurship (start-up businesses) She requested a Rule of 4 to have a study session to discuss start-up businesses – what we can do to

help support small businesses. Council discussed asked what Economic Development feels needs to be done and suggested that contact is made with Small Business Development Center (SBDC) to get information. A Rule of 4 was not achieved.

Mayor Marsh asked for a Rule of 4 to have a study session on how to increase revenue particularly through an increase in tourism. She stated that Loveland is not seeing the benefit of people going to Estes Park which Mayor Marsh reported had a "banner year" in 2018. A Rule of 4 was not achieved.

City Manager Adams will check if there is an annual report from the Community Marketing Department and get it to Council.

Councilor Clark reported that two members of the Youth Advisory Commission submitted a video to the National League of Cities which one first place. They will be recognized at the conference.

**6. REGULAR AGENDA
PROCEDURAL INFORMATION**

Council will give anyone in the audience time to speak to any item on the Regular Agenda before acting upon it. The Mayor will call for public comment as part of the consideration of each item according to State law, the Charter, its Rules of Procedure and other legal requirements. Loveland's Charter only requires that a majority of the quorum present vote in favor to adopt an ordinance on 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 CITY MANAGER
PRESENTATION ON XCEL FRANCHISE AGREEMENT WITH POSSIBLE
EXECUTIVE SESSION TO INSTRUCT CITY NEGOTIATORS**

Rod Wensing, Deputy City Manager, introduced this item to Council noting that the city's Xcel Franchise Agreement is due to terminate June 30, 2019. A franchise in this context is a permission to use city rights of way for a specific purpose. Xcel has a Franchise with Loveland to sell and distribute gas to the city and its residents for fifteen years that was executed in 2004. City staff with outside counsel, Ken Fellman of Kissinger & Fellman, have been reviewing a new proposed franchise agreement. The Public Utilities Commission at the state level regulates the provision of gas service by Xcel. Staff seeks direction on contract terms that will be negotiated and propose an executive session to be given guidance on critical points of the franchise renewal. At this time, we are seeking guidance on negotiations. The item will be brought to Council for approval and public comment prior to any final agreement with Xcel Energy.

Moved by Councilor Jersvig, seconded by Councilor Olson

A Motion To Move Into Executive Session Regarding the City's Franchise Agreement With Xcel And To Give Direction to City Negotiators

CARRIED UNANIMOUSLY 9-0.

6.2 CITY MANAGER

REAL PROPERTY PURCHASE OPTIONS WITH POSSIBLE EXECUTIVE SESSION

Michael Hogan, Facilities Operations Manager, addressed Council regarding the opportunity to obtain real property related to City projects, and will seek direction from Council regarding a potential purchase contract. Direction from Council will permit staff to determine appropriate actions with respect to the potential property purchase.

Moved by Councilor Jersvig, seconded by Councilor Olson

A Motion to Recess Into Executive Session to Discuss the Potential Purchase of Real Property Related to City Projects, Discuss Matters Subject to Negotiation, and to Receive Legal Advice

CARRIED UNANIMOUSLY 9-0.

6.3 FINANCE

RESOLUTION ADOPTING A FUND BALANCE AND RESERVE POLICY FOR THE CITY OF LOVELAND

Theresa Wilson, Budget Manager, presented the item noting City Council's desire to increase their special projects fund reserve from 2.5% to 5% and requested staff to provide recommendations on how to achieve that goal. The Fund Balance and Reserve Policy moves toward responsible financial management by adhering to best budget practices and accounting principles; details fund balance and reserve requirements, sets parameters for use of fund balance and reserves, details monitoring and reporting measures, and includes a list of related definitions.

Three recommendations were provided:

- 1) Prioritize funding of key General Fund Reserves
Staff recommended the following priority order for funding key General fund reserves and identified the 3% TABOR Emergency Reserve, TABOR Excess Revenue Reserve, 15% Fiscal Contingency Reserve, General Fund Unassigned Fund Balance Target and Council Special Projects Reserve.

- 2) Cap Council Special Projects Fund (CSPF) Reserve at \$2 million until funding shortfalls for other key reserves are overcome
Staff recommended capping CSPF Reserve at \$2 million until funding shortfalls for the 15% Fiscal Contingency Reserve and General Fund Unassigned Fund Balance Target are overcome and then work toward reaching the 5% level of CSPF.
- 3) Fully fund key General Fund reserves over 3-5 years or sooner if fiscally feasible.

It was noted that the City has been spending down the general fund and that current revenues do not compensate for the expenditures. There is currently a \$6 million shortfall and it can be done over three years at \$2 million per year.

Council discussed the potential recession and the need to identify goals in order to overcome the shortfall.

Mayor Marsh stated she was interested to hear ideas on how to increase revenues.

Mayor Marsh opened the meeting for public comment to which there was none.

Moved by Councilor Jersvig, seconded by Councilor Olson

A Motion To Adopt Resolution #R-27-2019 Adopting A Fund Balance And Reserve Policy For The City Of Loveland

CARRIED UNANIMOUSLY 9-0.

6.4 ECONOMIC DEVELOPMENT PUBLIC COMMENT

AN ORDINANCE AMENDING CHAPTER 2.24 OF THE LOVELAND MUNICIPAL CODE TO PROVIDE THE CITY MANAGER WITH THE AUTHORITY TO CREATE ADMINISTRATIVE RULES GOVERNING CITY PROPERTY

Mike Scholl, Economic Development Manager, stated that staff is seeking consideration on second reading an ordinance that would authorize the City Manager to set policies for City owned facilities not otherwise regulated by code including the downtown Parking Facility. The other facilities include the City Hall buildings and campus, as well as the Museum.

This item was presented to City Council at the February 19, 2019 where it passed with a 8-1 vote on the regular agenda.

Jay Hardy (Brinkman), Michael Hogan (Facilities) & David Eisenbraun (Parking Study) were all present. Mr. Scholl reported that there are 461 parking spaces in the Foundry parking garage; there are 144 below the reserved arm for residents with 11 additional spaces above the arm for residents.

Councilor Jersvig reported he resolved the conflict for which he voted against the ordinance at the last meeting.

Mayor Marsh opened the meeting for public comment to which there was none.

Moved by Councilor Jersvig, seconded by Councilor Olson

A Motion to Adopt, On Second Reading, Ordinance No. 6285 Amending Chapter 2.24 Of The Loveland Municipal Code To Provide The City Manager With The Authority To Create Administrative Rules Governing City Property

CARRIED UNANIMOUSLY 9-0.

Jay Hardy, Brinkman, reported on the status of the project noting that the parking garage and the apartments on both Lincoln and Cleveland were completed. The Plaza is approximately two weeks out and its completion is weather dependent. The hotel and movie theater will be ready by the end of June or first part of July.

6.5 CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

7. NO-ACTION ITEMS

No-Action items include any personnel evaluation, information only item, executive session item, or any other item where Council direction is sought, but no formal City Council action will occur. Public Comment or testimony on No-Action items occurs during the Public Comment portion of the meeting and is not permitted during this portion of the meeting.

7.1 FINANCE

DECEMBER 2018 FINANCIAL REPORT

The SnapShot is submitted for Council information and includes the reporting of the City's revenues and expenditures, included detailed reports on tax revenue and health claim as of year-end 2018. The numbers are based on the December 2018 preliminary month-end close. Final numbers will be reported in the 2018 Comprehensive Annual Financial Report (CAFR). City-wide revenue of \$325.4 million is 84.9% of the annual budget projection. The mayor shortfalls from the budget projections are in Special Revenue Funds, Capital Projects, and Water & Power.

Sales tax collections at year-end are 3.3% above 2017 year-end and 1.2% above the revised budget projection. Building materials Use Tax for the year is 1.3% above the revised projection. Motor Vehicle Use Tax for the year is also 1.3% above the revised projection.

City-wide expenditures of \$346.2 are 73.1% of the total annual budget. The largest variances on the expenditure side are in the Capital Projects, and Water & Power.

This item was brought to Loveland City Council on the Regular agenda, however it was decided at the meeting to table this item until March 5, 2019.

Councilor Clark requested to revisit the lodging tax policy sometime in the future.

9:24 – Mayor Pro Tem Overcash left the meeting.

9:27 – Councilors Fogle and Ball left the meeting.

Information Only

7.2 FISCAL ADVISOR DECEMBER 2018 INVESTMENT REPORT

The budget projection for investment earnings for 2018 was \$2,527,729. On the portfolio's 2018 beginning balance market value, this equates to an annual interest rate of 1.91%. For the month, accounting staff posted net total earnings of \$323,231 to City fund accounts. The total postings for the year-to-date of \$3,361,994 greatly exceed the annual budget target for investment earnings. U.S. short-term Treasury interest rates moved sharply lower during December. In December, due to volatility in the stock market, interest rates on U.S. treasuries moved lower. The Federal Reserve Board increased the Federal Funds rate again in December, the fourth increase of 2018. The estimated market value at the end of December 2018 is \$232.3 million. The portfolio increased in value by \$1,616,664 in December, decreasing the unrealized loss in the portfolio to \$2,889,041. The investment program strives to earn competitive returns within state law and City investment policy guidelines which emphasizes safety first, liquidity second, and yield.

This item was brought to Loveland City Council on the Regular agenda, however it was decided at the meeting to table this item until March 5, 2019.

Information Only

8. REPORTS

8.1 BUSINESS AND REPORTS 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.

Moved to follow consent agenda.

8.2 CITY MANAGER REPORT

City Manager Adams reported that four councilmembers would be attending the Colorado Municipal League Conference in June and requested to cancel the June 18 meeting. Council concurred.

8.3 CITY ATTORNEY REPORT

No report.

9. ADJOURN

The meeting was adjourned at 9:41 p.m.

Respectfully Submitted,



Patti Garcia, City Clerk

Jacki Marsh, Mayor