

CALL TO ORDER Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL Roll was called and the following responded: Gutierrez, McKean, Klassen, Heckel, Rice, McEwen, Shaffer and Solt. Councilor Johnson was absent.

PROCLAMATION Mayor Gutierrez read a proclamation declaring April 19, 2011, as "Welcome Home Vietnam Veterans' Day". The proclamation was received by Ed Aitken, VFW.

PROCLAMATION

WHEREAS the Vietnam War was fought in the Republic of South Vietnam from 1961 to 1975, and involved North Vietnamese regular forces and Viet Cong guerrilla forces in armed conflict with United States Armed Forces and the Army of the Republic of Vietnam; and

WHEREAS members of the United States Armed Forces began serving in an advisory role to the Government of the Republic of South Vietnam in 1961; and

WHEREAS in 1965, United States Armed Forces ground combat units arrived in Vietnam; and

WHEREAS by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969, a peak of approximately 543,000 troops was reached; and

WHEREAS on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners-of-war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam; and

WHEREAS on March 30, 1973, the United States Armed Forces completed the withdrawal of combat units and combat support units from South Vietnam; and

WHEREAS more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded; and

WHEREAS the Vietnam War was an extremely divisive issue among the people of the United States and a conflict that caused a generation of veterans to wait too long for the United States public to acknowledge and honor the efforts and services of such veterans; and

WHEREAS members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were often wrongly criticized for the policy decisions made by 4 presidential administrations in the United States; and

WHEREAS The Loveland City Council wishes to honor and recognize the contributions of veterans who served in the United States Armed Forces in Vietnam during war and during peace; and

WHEREAS we encourage the citizens of Loveland to provide the appreciation Vietnam War veterans deserve, but did not receive upon returning home from the war; and

WHEREAS the establishment of a 'Welcome Home Vietnam Veterans' Day' would be an appropriate way to honor those members of the United States Armed Forces who served in South Vietnam and throughout Southeast Asia during the Vietnam War;

Now, therefore, be it resolved that the Loveland City Council does hereby establish March 30, 2011 as

"WELCOME HOME VIETNAM VETERANS' DAY"

And encourages the citizens of Loveland to demonstrate the resolve that never again shall the Nation disregard and denigrate a generation of veterans and help promote awareness of the faithful service and contributions of such veterans during their military service as well as to their communities since returning home.

Signed April 19, 2011

Cecil A. Gutierrez, Mayor

PROCLAMATION Councilor Solt read a proclamation declaring April 10-16, 2011 as "National Library Week". The proclamation was received by Library Director Ted Schmidt.

PROCLAMATION

WHEREAS, libraries provide free access to all – from books and online resources for families to library business centers that help support entrepreneurship and retraining; and

WHEREAS, our nation's public libraries make a difference in the lives of millions of Americans today, more than ever; and

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and Interpret the information they need to live, learn and work in a challenging economy; and

WHEREAS, libraries are helping level the playing field for job seekers, with 88% of public libraries providing access to job databases and other online resources; and

WHEREAS, libraries are places of opportunity providing programs that teach all forms of literacy, promoting continuing education and encouraging lifelong learning; and

WHEREAS, in times of economic hardship, Americans turn to – and depend on – their libraries and librarians; and

WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week.

NOW, THEREFORE, be it resolved that we, the Loveland City Council do hereby proclaim April 10-16, 2011 as

NATIONAL LIBRARY WEEK

and encourage all residents to visit the library to take advantage of the wonderful library resources available @ your library.

Create your own story @ your library.

Signed this 19th day of April, 2011

Cecil A. Gutierrez, Mayor

PROCLAMATION

Councilor Shaffer read a proclamation declaring the April 2011 as "Fair Housing Month".
The proclamation was received by Connie Ealey.

PROCLAMATION

WHEREAS, Title VIII of the Civil Rights Act, which guarantees fair housing for all residents of the United States, was signed into law in April 1968; and

WHEREAS, the Month of April is nationally recognized as Fair Housing Month and a time to reflect on and reaffirm our national commitment to the ideal that fair housing opportunity is available to everyone in the United States without regard to race, color, religion, national origin, sex, familial status, and disability; and

WHEREAS, this year's theme "LIVE FREE", indicates collaborative effort of the United States Department of Housing and Urban Development and its partners in realizing increased housing opportunities for every individual; and

WHEREAS, the State of Colorado, which enacted prohibitions against housing discrimination in 1959, the first state in the nation to pass anti-discrimination laws pertaining to private property, recognizing and affirming that all persons in the State of Colorado are free to purchase, rent, finance, and insure their homes without regard to their race, color, religion, creed, sex, national origin, ancestry, familial status, marital status, or sexual orientation; and

WHEREAS, the City of Loveland, Colorado welcomes this opportunity to reaffirm our commitment to the principal of fair housing for all and are committed to all efforts that address discrimination in our communities, support all programs that will educate the public concerning their rights to equal housing opportunity and to assure every person their right to live free of the fear of housing discrimination;

Now, Therefore, we, the City Council of Loveland do hereby declare April 2011 as

FAIR HOUSING MONTH

in the City of Loveland, Colorado.

Signed this 19th day of April, 2011

Cecil A. Gutierrez, Mayor

PROCLAMATION

Mayor Gutierrez read a proclamation of appreciation for the gift from the George K. Kroh Charitable Remainder Trust.

PROCLAMATION

WHEREAS, The George K. Kroh Charitable Remainder Trust was established in 1977; and

WHEREAS, The City of Loveland is a beneficiary of the Trust; and

WHEREAS, The City has been the recipient of an annual distribution of ten percent of the net income of the remaining Trust assets for the use and benefit of the Loveland Public Library, and ten percent of the net income of the

remaining Trust assets for the use and benefit of the Loveland Museum/Gallery, until full termination of the Trust by or before 2016; and

WHEREAS, upon requested termination of the designated principal, the Trust will provide an asset distribution for use by the Library and the Museum/Gallery of over \$600,000 each; and

WHEREAS, Resolution #R-24-2011 of the Loveland City Council consenting to the termination of the designated principal of the George K. Kroh Charitable Remainder Trust and accepting a distribution of the assets from said trust to the City of Loveland for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery is proposed for the City Council's adoption; and

WHEREAS, This continues the Kroh Family's tradition of generosity to the community.

NOW, THEREFORE, we, the City Council of the City of Loveland, on behalf of a grateful community, do hereby extend our sincere thanks for this gift of over \$1.2 million for the benefit of the citizens of Loveland.

Signed this 19th day of April, 2011

Cecil A. Gutierrez, Mayor

**PROCEDURAL
INFORMATION**

Mayor Gutierrez made the following procedural announcement: 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. You 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. Please limit your comments to no more than three minutes.

CONSENT AGENDA

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to speak on any of the items or public hearings listed on the Consent Agenda. F. Lee Severance, 833 E. 33rd Street, asked that Item 8 be removed from the Consent Agenda. Councilor McEwen moved to approve the Consent Agenda with the exception of Item 8. The motion was seconded by Councilor Heckel and a roll call vote was taken with all councilors present voting in favor thereof.

1. MINUTES

- a) Minutes for the March 22, 2011 special meeting were approved.
- b) Minutes for the March 22, 2011 study session were approved.
- c) Minutes for the April 5, 2011 regular meeting were approved.

2. DEVELOPMENT SERVICES

**Municipal Code change – Special Event Defined
Ordinance #5569**

Legislative Action: "AN ORDINANCE AMENDING CHAPTER 12.26 OF THE LOVELAND MUNICIPAL CODE AND OTHER RELATED CODE PROVISIONS TO REPLACE THE TERM SPECIAL EVENT WITH THE TERM LOCAL EVENT TO DISTINGUISH BETWEEN THE CITY'S EVENT PERMITTING PROCESS AND THE STATE'S LIQUOR CODE SPECIAL EVENTS PERMITTING PROCESS" was approved and ordered published on second reading.

3. DEVELOPMENT SERVICES

**Drainage Easement Vacation – Peakview Commercial Park First Subdivision
Ordinance #5570**

Legislative Action: "AN ORDINANCE VACATING A DRAINAGE EASEMENT LOCATED ON LOT 6 BLOCK 1, AMENDED PLAT OF PEAKVIEW COMMERCIAL PARK FIRST

SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

4. DEVELOPMENT SERVICES

Historic Landmark Designation – 1005 North Garfield Avenue

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE REMINGTON HOUSE LOCATED AT 1005 NORTH GARFIELD AVENUE IN LOVELAND, COLORADO" was approved and ordered published on first reading.

5. WATER & POWER

Easement Grant – Public Service Company of Colorado

Resolution #R-22-2011

Administrative Action: Resolution #R-22-2011 granting an easement to Public Service Company of Colorado for installation of facilities within a portion of the City of Loveland's Airport Substation was approved.

RESOLUTION #R-22-2011

A RESOLUTION GRANTING AN EASEMENT TO PUBLIC SERVICE COMPANY OF COLORADO FOR INSTALLATION OF FACILITIES WITHIN A PORTION OF THE CITY OF LOVELAND'S AIRPORT SUBSTATION

WHEREAS, Public Service Company of Colorado ("PSCo") has requested that the City of Loveland grant PSCo an easement for installation of certain facilities within a portion of the City's Airport Substation in order to provide PSCo's customers with electricity; and

WHEREAS, the Power Division reviewed PSCo's request and found that the proposed installation would not affect the City's operations at Airport Substation; and

WHEREAS, City Council desires to grant the requested easement on the terms and conditions set forth in the "Public Service Company of Colorado Easement."

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

Section 1. That the "Public Service Company of Colorado Easement," attached hereto as Exhibit A and incorporated herein by reference ("Easement"), is hereby approved.

Section 2. That the City Manager and the City Clerk are hereby authorized and directed to execute the Easement on behalf of the City of Loveland.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to approve changes to the form or substance of the Easement as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

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

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

6. WATER & POWER

Revocable License to Platte River Authority

Resolution #R-23-2011

Administrative Action: Resolution #R-23-2011 granting a revocable license to Platte River Power Authority to construct and maintain facilities owned by Public Service Company of Colorado and installed within a portion of the city of Loveland's Airport Substation was approved.

RESOLUTION #R-23-2011

A RESOLUTION GRANTING A REVOCABLE LICENSE TO PLATTE RIVER POWER AUTHORITY TO CONSTRUCT AND MAINTAIN FACILITIES OWNED BY PUBLIC SERVICE COMPANY OF COLORADO AND INSTALLED WITHIN A PORTION OF THE CITY OF LOVELAND'S AIRPORT SUBSTATION

WHEREAS, on April 5, 2011, the City of Loveland granted Public Service Company of Colorado ("PSCo") an easement for installation of facilities within a portion of the City's Airport Substation in order to serve PSCo's customers with electricity; and

WHEREAS, PSCo has engaged Platte River Power Authority ("PRPA") to construct and maintain PSCo's facilities within Airport Substation; and

WHEREAS, PRPA has requested that the City grant it a revocable license to access Airport Substation for the purpose of constructing and maintaining PSCo's facilities; and

WHEREAS, City Council desires to grant PRPA a revocable license on the terms and conditions set forth in the "License Agreement."

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

Section 1. That the "License Agreement," attached hereto as Exhibit A and incorporated herein by reference ("License"), is hereby approved.

Section 2. That the Mayor and the City Clerk are hereby authorized and directed to execute the License on behalf of the City.

Section 3. That the Mayor is authorized, following consultation with the City Manager and the City Attorney, to approve changes to the form or substance of the License as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

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

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

7. LIBRARY & MUSEUM

Termination of George K Kroh Charitable Remainder Trust

Resolution #R-24-2011

Administrative Action: Resolution #R-24-2011 of the Loveland City Council consenting to the termination of the designated principal of the George K. Kroh Charitable remainder Trust and accepting a distribution of the assets from said trust to the City of Loveland for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery was approved.

RESOLUTION #R-24-2011

A RESOLUTION OF THE LOVELAND CITY COUNCIL CONSENTING TO THE TERMINATION OF THE DESIGNATED PRINCIPAL OF THE GEORGE K. KROH CHARITABLE REMAINDER TRUST AND ACCEPTING A DISTRIBUTION OF THE ASSETS FROM SAID TRUST TO THE CITY OF LOVELAND FOR THE USE AND BENEFIT OF THE LOVELAND PUBLIC LIBRARY AND THE LOVELAND MUSEUM/GALLERY

WHEREAS, the Trust Agreement of George K. Kroh dated November 18, 1977, as amended (the "Trust Agreement") established the George K. Kroh Charitable Remainder Trust (the "Trust"), which provides that the City of Loveland shall receive an annual distribution of ten percent of the net income of the Trust assets for the use and benefit of the Loveland Public Library, and ten percent of the net income of the Trust assets for the use and benefit of the Loveland Museum/Gallery; and

WHEREAS, the Trust further provides that upon termination of the Trust, the City of Loveland shall receive fifteen percent of the Trust assets for the use and benefit of the Loveland Public Library, and fifteen percent of the Trust assets for the use and benefit of the Loveland Museum/Gallery; and

WHEREAS, the Trustee, Home State Bank, has requested that the City of Loveland, as well as the other principal beneficiaries of the Trust, consent to the termination of the designated principal of the Trust, as permitted by the Trust Agreement, and accept a distribution of their respective allocations of the Trust assets in order to make available remaining funds to community organizations with expressed needs consistent with the purposes of the Trust; and

WHEREAS, even if the designated principal is terminated, the City will still be entitled to an annual distribution of ten percent of the net income of the remaining Trust assets for the use and benefit of the Loveland Public Library, and ten percent of the net income of the remaining Trust assets for the use and benefit of the Loveland Museum/Gallery, until full termination of the Trust by or before 2016; and

WHEREAS, on March 29, 2011, the Cultural Services Board adopted a motion recommending that the City Council consent to the termination of the designated principal of the Trust and accept a distribution of fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Museum/Gallery; and

WHEREAS, on April 13, 2011, the Library Board adopted a motion recommending that the City Council consent to the termination of the designated principal of the Trust and accept a distribution of fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Public Library; and

WHEREAS, the City Council desires to consent to the termination of the designated principal of the Trust and accept a distribution of the Trust assets to the City for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery as being in the best interests of the citizens of Loveland.

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

Section 1. That the City Council hereby consents to the termination of the designated principal of the Trust and accepts a distribution of fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Public Library, and fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Museum/Gallery.

Section 2. That the City Manager, in consultation with the City Attorney, is hereby authorized to execute for both distributions a Receipt and Release in the form attached hereto as Exhibits A-1 and A-2 and incorporated herein by reference, and any other documents required by the Trustee to effectuate the City's consent and acceptance as stated in Section 1 above.

Section 3. That, consistent with the expressed desire of the Trustor, George K. Kroh (the "Trustor"), the City Council hereby affirms the City's intention to use the Trust assets distributed to the City on behalf of the Loveland Public Library for the use and benefit of the Loveland Public Library; provided, however, that said assets shall not be used for ordinary operating expenses. The Library Board shall review any request to appropriate money from the Trust assets to be used for the benefit of the Loveland Public Library and shall advise the City Council with regard to all such requests.

Section 4. That, consistent with the expressed desire of the Trustor, the City Council hereby affirms the City's intention to use the Trust assets distributed to the City on behalf of the Loveland Museum/Gallery for the use and benefit of the Loveland Museum/Gallery, and specifically for the support and encouragement of art exhibitions and for the acquisition of tangible permanent art objects. The Cultural Services Board shall review any request to appropriate money from the Trust assets to be used for the benefit of the Museum/Gallery and shall advise the City Council with regard to all such requests.

Section 5. That, consistent with the expressed desire of the Trustee, the City Council hereby affirms the City's intention to use the Trust assets distributed to the City for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery as a supplement to, and not as a replacement for, funds budgeted and appropriated to the Loveland Public Library and the Loveland Museum/Gallery from the General Fund of the City.

Section 6. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibits A-1 and A-2 are available in the City Clerk's Office

8. DEVELOPMENT SERVICES

TEMPORARY DISCONNECT – MYERS GROUP PARTNERSHIP #949 SECOND SUBDIVISION

1ST Rdg Ord & P.H.

This item was removed from the consent agenda.

9. DEVELOPMENT SERVICES

Annexation & Zoning – Timka First Addition

a) Resolution #R-25-2011

Legislative Action: A Public Hearing for the Timka First Addition Annexation was held and Resolution #R-25-2011 concerning the annexation to the City of Loveland, Colorado, of a certain area designated as "Timka First 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 was approved.

RESOLUTION #R-25-2011

A RESOLUTION CONCERNING THE ANNEXATION TO THE CITY OF LOVELAND, COLORADO, OF A CERTAIN AREA DESIGNATED AS "TIMKA FIRST 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

WHEREAS, on January 12, 2011, a Petition for Annexation was filed by persons comprising more than fifty percent (50%) of the landowners in the area described on Exhibit A, attached hereto and incorporated herein, who own more than fifty percent (50%) of said area, excluding public streets and alleys; and

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

WHEREAS, pursuant to Resolution No. R-16-2011, the City Council found that said petition substantially complies with and meets the requirements of Section 30(1)(b) of Article II of the Colorado Constitution and of §31-12-107(1), C.R.S.; and

WHEREAS, on April 19, 2011, commencing at 6:30 p.m., pursuant to the notice required by §31-12-108, C.R.S., the City Council held a public hearing to determine whether the area proposed to be annexed complies with the applicable requirements Section 30 of Article II of the Colorado Constitution and of §§31-12-104 and 31-12-105, C.R.S., and is eligible for annexation; whether or not an election is required under Section 30(1)(a) of Article II of the Colorado Constitution and of §31-12-107(2), C.R.S.; and whether or not additional terms and conditions are to be imposed; now, therefore,

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

1. The City Council of the City of Loveland makes the following findings of fact:

A. The subject Petition for Annexation was signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed, who own more than fifty percent (50%) of said area, excluding public streets and alleys.

B. Pursuant to Resolution No. R-16-2011, the City Council found that said petition substantially complies with and meets the requirements of Section 30(1)(b) of Article II of the Colorado Constitution §31-12-107(1), C.R.S.

C. Pursuant to Resolution No. R-16-2011, a public hearing was held on March 15, 2011, commencing at the hour of 6:30 p.m., to determine whether the proposed annexation complies with the applicable requirements of Section 30 of Article II of the Colorado Constitution §§31-12-104 and 31-12-105, C.R.S.; whether an election is required under Section 30(1)(a) of Article II of the Colorado Constitution §31-12-107(2), C.R.S.; and whether additional terms and conditions are to be imposed.

D. Notice of said public hearing was published in The Loveland Reporter Herald on March 19 and 26 and April 2 and 9, 2011, in the manner prescribed by §31-12-108(2), C.R.S. The Loveland Reporter Herald is a newspaper of general circulation in the area proposed to be annexed. Copies of the published notices, together with a copy of said resolution and a copy of said petition, were sent by registered mail by the City Clerk to the Board of County Commissioners of Larimer County and to the Larimer County Attorney and to all special districts and school districts having territory within the area proposed to be annexed at least 25 days prior to the date fixed for said hearing.

E. The land to be annexed lies entirely within the City of Loveland Growth Management Area, as depicted in the 2005 Comprehensive Plan, as amended. Therefore, pursuant to Section 3.3.1 of the Intergovernmental Agreement with Larimer County, the annexation impact report requirement of §31-12-108.5, C.R.S. has been waived.

F. The perimeter of the area proposed to be annexed within Serial Parcel 1 is 1966.50 linear feet, of which 331.17 linear feet are contiguous to the City of Loveland. Not less than one-sixth of the perimeter of said area is contiguous with the City of Loveland. The perimeter of the area proposed to be annexed within Serial Parcel 2 is 1966.15 linear feet, of which 331.00 linear feet are contiguous to the City of Loveland. Not less than one-sixth of the perimeter of said area is contiguous with the City of Loveland.

G. A community of interest exists between the area proposed to be annexed and the City of Loveland.

H. The area proposed to be annexed is urban or will be urbanized in the near future, and said area is integrated with or is capable of being integrated with the City of Loveland.

I. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, is divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.

J. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising 20 acres or more and which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the year next preceding the annexation, is included within the area proposed to be annexed without the written consent of the landowner or landowners.

K. No annexation proceedings have been commenced for the annexation to another municipality of part or all of the area proposed to be annexed.

L. The annexation of the area proposed to be annexed will not result in the detachment of the area from any school district and the attachment of the same to another school district.

M. The annexation of the area proposed to be annexed would not have the effect of extending the boundary of the City of Loveland more than three miles in any direction from any point of such boundary in any one year.

N. In establishing the boundaries of the area proposed to be annexed, the entire width of any platted street or alley to be annexed is included within said area.

O. The annexation of the area proposed to be annexed will not deny reasonable access to any landowner, owner of an easement or owner of a franchise adjoining a platted street or alley which is included in said area but which is not bounded on both sides by the City of Loveland.

2. The City Council reaches the following conclusions based on the above findings of fact:

A. The proposed annexation of the area described on Exhibit A complies with and meets the requirements of the applicable parts of Section 30 of Article II of the Colorado Constitution §§31-12-104 and 31-12-105, C.R.S.

B. No election is required under Section 30(1)(a) of Article II of the Colorado Constitution §31-12-107(2), C.R.S.

C. No additional terms and conditions are to be imposed.

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

APPROVED the 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

b) 1st Rdg Ord & P.H.

Legislative Action: A motion making the findings of fact set forth in Section VI of the January 24, 2011 Planning Commission staff report and "AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF LOVELAND, COLORADO, TO BE KNOWN AND DESIGNATED AS "TIMKA FIRST ADDITION" TO THE CITY OF LOVELAND", subject to the terms of annexation set forth in Section III, of Staff memorandum dated April 19, 2011, listed below, was approved and ordered published on first reading.

Terms of Annexation

Planning Commission and City staff recommends the following revised terms of annexation:

1. Upon annexation of the property, all development and redevelopment of the property shall be governed by the Development Standards in Attachment #2, as well as all applicable codes, standards and policies of the City. These Development Standards shall be incorporated into the Annexation Agreement between the Owner and the City.

2. When reviewing and acting upon any application for a use permitted by special review, the City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not meet the intent of the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.

3. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be permitted on this site:

- a. Crematorium
- b. Heavy industrial
- c. Truck stop
- d. Junkyard
- e. Packing facility
- f. Jails, detention and penal center
- g. Outdoor storage as a principle use
- h. Sexually Oriented Businesses
- i. Recycling collection facility attended
- j. Recycling collection facility unattended

4. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses normally permitted by right and all uses normally permitted by special review in the E-Employment District shall also be permitted on this property as specified in Chapter 18.30 of the City of Loveland Municipal

Code. In cases where a use is allowed in the I zone by right but normally requires a special review in the E zone, the uses allowed by right in the I zone shall govern.

Transportation Engineering:

5. All future development within this addition shall comply with the Larimer County Urban Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at the time of a building permit, and/or a site-specific development application. Any and all variances from these standards and plans require specific written approval by the City Engineer.

6. Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layout, street alignments, access locations, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a building permit, and/or a site-specific development application.

7. The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to , or within, this addition that are shown on the adopted Transportation Plan prior to approval of a building permit and/or a site specific development application within this addition. Furthermore, the owner shall dedicate additional right-of-way for SH 402 on any future platting application for the property in order to achieve a 70-foot total half right-of-way on SH 402 adjacent to the property.

8. The developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a building permit, and-or a site specific development application within this addition, the developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.

9. The ultimate roadway improvements, including sidewalk, adjacent to the property for SH 402 shall be designed and constructed by the developer, unless designed and constructed by others. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by the City Engineer. The timing and detailed scope of these improvements will be determined through review and approval of the building permit application and/or a site-specific development application.

10. Any future proposed development within the addition shall submit a Traffic Impact Study and demonstrate compliance with current City Standards at the time of development.

11. Any future proposed development within the addition shall obtain written concurrence from CDOT for access to SH 402.

Water/Wastewater:

12. At the time of Development, the Developer shall, provide the City a Water and Wastewater Impact Design Analysis Report for the Development.

Power:

13. All plats of this property shall include the following note:

"When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to additional services which came into the existence after January 31, 1987, within the territory herein annexed which surcharge will expire ten years after effective date of this annexation."

c) 1st Rdg Ord & P.H.

Quasi-judicial Action: A motion making the findings set forth in Section VI of the January 24, 2011 Planning Commission staff report and "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR "TIMKA FIRST ADDITION" TO THE CITY OF LOVELAND" was approved and ordered published on first reading.

10. DEVELOPMENT SERVICES

Rezone of Property- 1629 West 8th Street

1st Rdg Ord & P.H.

Quasi-judicial Action: A public hearing was held and "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE NORTH

TAFT AVENUE FIRST ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on first reading.

END OF CONSENT AGENDA

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports

- John Metters, citizen, distributed information to City Council regarding fluoride in the water.
- Troy Krenning, citizen, congratulated Council and staff regarding the ACE Manufacturing and Technology Park.

b) Business from Council

McKean

Councilor McKean highlighted activities around the annual spring waterway cleanup event held the previous Saturday.

Shaffer

Councilor Shaffer also commented about the waterway clean-up and expressed appreciation to city staff member Joe Chaplin.

Gutierrez

Mayor Gutierrez expressed appreciation to Rob McDaniel for the Arbor Day activities. He attended the grand opening of Studio Vino and the 8th grade career walking tours held in Loveland. The Mayor and City Manager Cahill will attend Senator Mark Udall's meeting on Thursday, April 21, on the topic of "Winning the Global Economic Race". The Mayor announced Transarrow Helicopter will be relocating to the Fort Collins-Loveland Airport.

c) City Manager Report

None

d) City Attorney Report

None

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. 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 present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

8. DEVELOPMENT SERVICES

TEMPORARY DISCONNECT – MYERS GROUP PARTNERSHIP #949 SECOND SUBDIVISION

1ST Rdg Ord & P.H.

Legislative Action: City Planner Brian Burson introduced this item to Council. This item is a legislative action to adopt an ordinance, on first reading, to temporarily disconnect Outlot B of the Myers Group Partnership #949 Second Subdivision from the City. This will be the first step to prepare for the subsequent annexation of the Motorplex Entry Addition, of which this outlot will be a part. The applicant and sole owner is the City of Loveland. The Mayor opened the public hearing at 7:29 p.m. F. Lee Severance, 833 E. 33rd Street, spoke in opposition to the ordinance. The Mayor closed the public hearing at 7:29 p.m. Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE APPROVING THE DISCONNECTION OF A CERTAIN PARCEL IN THE MYERS GROUP PARTNERSHIP # 949 ADDITION FROM THE CITY OF LOVELAND BOUNDARIES". Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

11. DEVELOPMENT SERVICES

Rialto Bridge Project

Administrative Actions: City Planner Mike Scholl introduced this item to Council. Phil Farley and Troy Peterson were also present. This is an administrative action to consider a resolution and a supplemental appropriation ordinance on second reading.

1. The resolution would authorize the City Manager to sign the Project Development Agreement with the Rialto Bridge LLC. The Agreement and the Staff Report are attached.

2. The supplemental budget appropriation funds the \$700,000 contribution by the Community Foundation. The Community Foundation is funding approximately 3,500 square feet of construction on the 2nd floor. Staff is also asking for an additional \$318,780 to complete the construction and \$178,920 for the construction contingency. The funds will be drawn from the Cultural Services CEFs.

a) Resolution #R-26-2011

Councilor McEwen made a motion to approve Resolution #R-26-2011 approving and authorizing the City Manager to execute the project development agreement for the Rialto Bridge Project. Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-26-2011

A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROJECT DEVELOPMENT AGREEMENT FOR THE RIALTO BRIDGE PROJECT

WHEREAS, the City owns that certain real property known as the Rialto Theater located 228 Fourth Street, Loveland, Colorado (the "Rialto") and the adjacent real property and building located at 224 Fourth Street, Loveland, Colorado (the "City Property"); and

WHEREAS, Rialto Bridge, LLC ("Developer") owns that certain real property and building located at 218 Fourth Street, Loveland, Colorado (the "Developer Property"), which is adjacent to the City Fourth Street Property; and

WHEREAS, City and Developer desire to jointly develop the City Property and the Developer Property (sometimes referred to herein collectively as the "Properties") as an integrated public-private project to complement and supplement the Rialto Theater, including public spaces suitable for utilization by the City as lobby, circulation, and concession areas, "back of house" facilities, mechanical and administrative/operational space for the Rialto Theater, and public office and meeting spaces (the "Public Spaces"), and to create complementary private spaces suitable for private restaurant, and commercial uses ("Private Spaces"). The Public Spaces and Private Spaces, as well as the common areas serving such space, will be located in a new building constructed on the Properties and physically connected to the Rialto Theater, are hereinafter referred to collectively as the "Project"; and

WHEREAS, on June 1, 2010, City Council adopted Resolution #R-21-2010 approving and authorizing the City Manager to execute the Project Design Agreement for the Project, which was executed and dated June 20, 2010 (the "Design Agreement"); and

WHEREAS, the City and Developer have completed the Project Plans under the Design Agreement and desire to enter into the Project Development Agreement attached hereto as Exhibit A and incorporated herein by this reference (the "Agreement") to construct the Project; and

WHEREAS, the Agreement includes a limited Materials Use Tax waiver, as more fully set forth therein; and

WHEREAS, the Project will serve the public purposes of providing significant social, cultural, and economic benefits to the citizens of Loveland, including jobs, economic development and revitalization of the Downtown area, enhanced cultural facilities, and increased tax revenues.

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

Section 1. That the City Council hereby finds that the Project is in the best interests of the public and the City and will serve the public purposes of providing significant social and economic benefits to the citizens of Loveland, including the provision of jobs, economic development, increased tax revenues, and cultural benefits to the citizens of Loveland.

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

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

Section 4. That after execution of the Agreement and following consultation with the City Attorney, the City Manager and the City Clerk are hereby authorized and to: (i) sign the Condominium Declaration attached to the Agreement and the Condominium Map referred to therein, and the City Manager is authorized to agree on the City's behalf to such modifications in form or substance to the Condominium Declaration as the City Manager determines are necessary to effectuate the purposes of this resolution or to protect the interests of the City; and (ii) to execute and deliver such additional agreements, plats, deeds, and documentation and take such action, himself or through duly authorized designees, as may be necessary or appropriate to implement the Agreement and operate the Project within budgets approved and appropriated by Council from time to time.

Section 5. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

- b) Ordinance #5571** Councilor McEwen made a motion to approve and ordered published on second reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE COMMUNITY FOUNDATION CONTRIBUTION AND ADDITIONAL CONSTRUCTION AND CONTINGENCY FUNDING TO THE RIALTO BRIDGE PROJECT". Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

12. FINANCE

REAPPROPRIATION OF 2010 FUNDS (GENERAL FUND & AIRPORT)

Administrative Actions: Assistant City Manager and Finance Director Renee Wheeler introduced this item to Council. The Ordinances reappropriate funding for capital projects and other one-time projects approved but not completed in the prior year and a small number of new projects that were not anticipated at the time of budget adoption. The Mayor opened the public hearing at 8:25 p.m. and hearing no comments closed the public hearing at 8:25 p.m.

- a) 1st Rdg Ord & P.H.** Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET TO REAPPROPRIATE REMAINING FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2010 AND NEW PROJECTS". Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

- b) 1st Rdg Ord & P.H.** Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2010 AND FOR COMPENSATION TO THE PUBLIC WORKS DIRECTOR FOR EXTRA DUTIES". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

At 8:27 p.m. City Council adjourned and reconvened as the Board of Commissioners for the Loveland Urban Renewal Authority (LURA)

13. FINANCE

Reappropriation of 2010 Funds

1st Rdg Ord & P.H.

Administrative Action: Budget Officer John Hartman introduced this item to Council. This is an administrative action. The ordinance reappropriates the remaining balance of funding put in place for the program. Fund balance is available for the appropriation.

The Mayor opened the public hearing at 8:28 p.m. and hearing no comments closed the hearing at 8:28 p.m. Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND URBAN RENEWAL AUTHORITY BUDGET FOR THE FAÇADE GRANT PROGRAM". Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

At 8:30 p.m. the Board of Commissioners for the Loveland Urban Renewal Authority (LURA) adjourned and reconvened as City Council.

14. FINANCE

Employee Merit-Based Recognition Program

Administrative Actions: Assistant City Manager and Finance Director Renee Wheeler introduced this item to Council. This is an administrative action. The positive General Fund budget performance both in terms of revenues in excess of the budget and expenditures below the budget allowed for the 2010 ending fund balance to exceed the projected ending fund balance by \$3.8 million. The proposal is to use one quarter of that additional fund balance to recognize employees with lump sum raises based on performance in 2010. The lump sum raise is preferred to a percentage added to the employees' base pay to prevent cumulative impacts on future year budgets. The Mayor opened the public hearing at 8:32 p.m. and hearing no comments closed the public hearing at 8:32 p.m.

a) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

b) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

c) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND-LARIMER BUILDING AUTHORITY BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

15. DEVELOPMENT SERVICES

Municipal Code Amendments – Appeals Provisions

Legislative Actions: Planning Manager Bob Paulson introduced this item to Council. This item considers the adoption of an ordinance on first reading: (i) amending Title 16 and Title 18 relating to appeals of subdivision, zoning and land use actions; (ii) adding Chapter 18.80 to consolidate and clarify appeal provisions; (iii) amending Chapter 18.60 concerning the Zoning Board of Adjustment; and (iv) amending Chapter 18.52 concerning Supplementary Regulations; and adoption of a resolution amending the appeal provisions in the Site Development Performance Standards and Guidelines to ensure procedural consistency. The Mayor opened the public hearing at 8:50 p.m. Troy

Krenning, Planning Commission member, spoke in favor of Ordinance "B" which retains a Zoning Board of Adjustment Hearing Officer. Buddy Meyers, Planning Commission member spoke in favor of Ordinance "B". Rich Middleton, Planning Commission member spoke in favor of Ordinance "B". The Mayor closed the public hearing at 8:55 p.m. The Planning commission will periodically review decisions made by the hearing officer and determine appropriateness.

a) Ordinance Removed
b) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE AMENDING TITLES 16 AND 18 OF THE LOVELAND MUNICIPAL CODE BY REVISING PROVISIONS OF TITLES 16 AND 18 WHICH RETAIN THE ZONING BOARD OF ADJUSTMENT HEARING OFFICER AND ENACTING A NEW CHAPTER 18.80 REGARDING APPEAL PROVISIONS". Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

c) Resolution #R-27-2011

Councilor McEwen made a motion to approve Resolution #R-27-2011 amending the City of Loveland Site Development Performance Standards and Guidelines adopted October 1989, updated January 2000. Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION # R-27-2011

A RESOLUTION AMENDING THE CITY OF LOVELAND SITE DEVELOPMENT PERFORMANCE STANDARDS AND GUIDELINES ADOPTED OCTOBER 1989, UPDATED JANUARY 2000

WHEREAS, in October 1989 the City adopted Site Development Performance Standards and Guidelines, as amended in August, 2007, that provide supplemental development standards to Title 18, "Zoning," of the Loveland Municipal Code; and

WHEREAS, modification to the Site Development Performance Standards and Guidelines is necessary for updating general provisions, as well as updating procedures for appeals; and

WHEREAS, Section 18.47.020 of the Municipal Code provides that the Site Development Performance Standards and Guidelines may be amended from time to time by resolution of the City Council.

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

Section 1. That Section 5.01 of the City of Loveland Site Development Performance Standards and Guidelines, adopted 1989, as amended in August 2007, is hereby amended as provided in Exhibit A, a copy of which is attached hereto and incorporated herein.

Section 2. That this resolution shall take effect as of the date and time of its adoption.

ADOPTED this 19th Day of April, 2011

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

16. CITY MANAGER

Discussion and consideration of any needed action concerning the ACE Manufacturing and Innovation Park

No discussion or action was considered at this meeting. Councilor McEwen made a motion to call a special meeting for April 26, 2011 at 6:30 p.m. immediately preceding the study session in these Council Chambers. The subject matter is ACE Manufacturing and Innovation Park. Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

ADJOURNMENT

Having no further business to come before Council, the April 19, 2011 Regular Meeting was adjourned at 9:25 p.m.

Respectfully Submitted,

City Council Regular Meeting
April, 19, 2011
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Teresa G. Andrews
Teresa G. Andrews, City Clerk

Cecil A. Gutierrez
Cecil A. Gutierrez, Mayor

