



**MINUTES**  
**LOVELAND CITY COUNCIL MEETING**  
**Tuesday, April 2, 2019 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 PROCLAMATION**

**PROCLAMATION DECLARING APRIL 12, 2019 AS ARBOR DAY**

Councilor Wright presented the proclamation to Jeff Caputo and Dan Willadsen.

**1.5 PROCLAMATION**

**PROCLAMATION DECLARING APRIL AS LOVELAND POETRY MONTH**

Councilor Ball presented the proclamation to B.J. Clark, Susan Ison, Nancy Jakobsson, Lynn Kincanon, Diane Lapierre, Emily Rogers Ramos, and the newly appointed poet laureate, Veronica Patterson.

**1.6 PROCLAMATION**

**PROCLAMATION DECLARING APRIL 2019 AS FAIR HOUSING MONTH**

Councilor Johnson presented the proclamation to Jerry Beers.

**1.7 PROCLAMATION**

**PROCLAMATION DECLARING APRIL 2019 AS PARKINSON'S  
AWARENESS MONTH**

Councilor Olson presented the proclamation to Marilyn Baker and Chris Hagaseth.

**PROCEDURAL INFORMATION**

**2. PUBLIC COMMENT**

Roger Wiedelman, Ward 4, stated he had attended a community values meeting on March 28 at which sales tax for home consumption was discussed.

Galon Lyle, Loveland resident, requested an update on the disclosure of CEF's on the city website; Acting Finance Director Krcmarik stated that it was about complete.

**3. CONSENT AGENDA**

**3.1 CITY CLERK  
APPROVAL OF MINUTES**

Approval of the City Council minutes for the February 26, 2019 Study Session and the March 5, 2019 Regular Meeting.

*A Motion to Approve the City Council minutes for the February 26, 2019 Study Session and the March 5, 2019 Regular Meeting.*

CARRIED.

**3.2 CITY CLERK  
MOTION TO CALL FOR A SPECIAL MEETING ON APRIL 9, 2019 FOR THE CITY ATTORNEY'S QUARTERLY PERFORMANCE REVIEW WITH A POSSIBLE EXECUTIVE SESSION**

This item provides a motion calling for a Special Meeting on April 9, 2019. If approved, the City Clerk shall call for a Special Meeting on April 9, 2019 at 6:00 PM for items to be noticed at least twenty-four hours in advance. The item currently anticipated is the City Attorney's Review.

*A Motion To Direct The City Clerk To Call For A Special Meeting To Be Held On April 9, 2019 At 6:00 PM For The Purpose of Conducting the City Attorney's Review With Possible Executive Session*

CARRIED.

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

This item is the recommendation to City Council to appoint a member to the Disabilities Advisory Commission.

*A Motion To Appoint Lisken Hays To The Disabilities Advisory Commission For A Term Effective Until June 30, 2021*

CARRIED.

**3.4 LOVELAND POLICE DEPARTMENT  
PULLED FROM AGENDA PRIOR TO MEETING:  
AN ORDINANCE PROHIBITING THE FAILURE TO APPEAR IN LOVELAND MUNICIPAL  
COURT DURING ALL STAGES OF LITIGATION**

This item was pulled from the agenda on April 1, 2019 by the City Manager.

**3.5 PUBLIC WORKS  
PUBLIC HEARING  
AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO  
THE 2019 CITY OF LOVELAND BUDGET FOR THE REPORTER HERALD BUILDING  
AND PARKING LOT ACQUISITION WITH A RESOLUTION APPROVING THE  
CONTRACT**

Several months ago, staff briefed the Mayor and City Council about potential properties available that matched well with the City's future project and program needs. The City is now in a position to move forward with the recommended purchase of the Reporter Herald building and parking lot, pending transfer of identified funding into a project account. The anticipated costs for the purchase will be \$3,145,000 including closing costs.

The objective is to secure Mayor and City Council approval to transfer identified, available funding into a project account so that the process to purchase the property can proceed, and to approve the purchase contract. The purchase of property will allow the City to ultimately expand the Loveland Museum and in the interim the building will be used for temporary flexible office space for staff of all departments as needed. It will also be used for programs, meetings, classes, and events related to the cultural services department.

City Council heard the first reading of this ordinance at the March 19, 2019 Regular Meeting where it passed on the Regular Agenda with a 7-0 vote.

*A Motion to Adopt, On Second Reading, Ordinance No. 6288 Enacting A Supplemental Budget And Appropriation To The 2019 City Of Loveland Budget For The Reporter Herald Building And Parking Lot Acquisition*

CARRIED.

*A Motion to Adopt Resolution #R-36-2019 Approving A Contract To Buy And Sell Real Estate (Commercial) For The Purchase Of The Reporter-Herald Building And Parking Lots*

CARRIED.

**3.5 PUBLIC WORKS**

**RESOLUTION AUTHORIZING A NOTICE OF AWARD FOR THE 2019  
STORMWATER MAINTENANCE PROJECTS, PROJECT NO SW1905 TO DEFALCO  
CONSTRUCTION CO. OF LONGMONT COLORADO AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE CONTRACT**

The purpose of the item is to award the construction contract to Defalco Construction Co. in the amount of \$992,395.22 to construct the 2019 Stormwater Maintenance Projects, which consist of several drainage improvements, infrastructure repair, and stormwater quality projects throughout the City of Loveland. This work plan is bid annually, with sealed bids publicly opened on March 7, 2019. Out of five bidders, Defalco Construction Co. was the lowest responsible bidder.

Construction is anticipated to begin immediately after the contract documents have been signed and will continue through the summer and fall of 2019. The contractor will be retained under contract through 2020 in order to respond to any unforeseen emergency situations regarding aging stormwater infrastructure. This is a normal and customary annual contract that is bid.

*A Motion to Adopt Resolution #R-37-2019 Authorizing Award Of The 2019 Stormwater Maintenance Construction Contract*

CARRIED.

**3.6 MUNICIPAL COURT**

**RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF LOVELAND AND THE CITY OF FORT COLLINS FOR SHARING  
JUDICIAL SERVICES**

This item would provide a solution in situations where the municipal judge of either city is not available due to a conflict of interest, illness or other reason and the deputy judge is also not available to allow either City to provide judicial services keeping the court processes running smoothly and without delays. The intergovernmental agreement allows for the sharing of judicial services between Loveland and Fort Collins in case of an emergency or conflict of interest so that the municipal court could continue to function without disruption.

*A Motion to Approve Resolution #R-38-2019 Approving An Intergovernmental Agreement Between The Cities Of Loveland And Fort Collins For Sharing Of Judicial Services*

CARRIED.

**3.7 COMMUNITY PARTNERSHIP OFFICE**

**RESOLUTION WAIVING CERTAIN DEVELOPMENT FEES FOR THE CONSTRUCTION  
OF SEVEN RESIDENCES BY LOVELAND HABITAT FOR HUMANITY**

Loveland Habitat for Humanity is requesting a waiver of development fees totaling \$190,599 for the construction of seven homes to be built in 2019. This request includes \$79,964 in fees that require repayment and \$110,635 in fees that do not.

The Community Housing Development Fund will have a balance of \$730,821 after this request.

*A Motion To Adopt Resolution #R-39-2019 Waiving Certain Development Fees For The Construction Of Seven Residences By Loveland Habitat for Humanity*

CARRIED.

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

**5. MOTION TO ADOPT THE CONSENT AGENDA**

Moved by Councilor Clark and second by Councilor Olson

*Motion To Adopt The Consent Agenda, Items 3.1 to 3.8 with the exception of 3.4*

CARRIED UNANIMOUSLY 9-0.

**6. REGULAR AGENDA  
PROCEDURAL INFORMATION**

**6.1 LOVELAND POLICE DEPARTMENT  
PUBLIC COMMENT**

**AN ORDINANCE AMENDING CHAPTER 7.50 CONCERNING TOBACCO  
PRODUCTS AND MINORS**

Steve Adams, City Manager, addressed Council regarding this item and reported that on February 12, through a Rule of 4, Council requested staff to research the issue of vaping, including age, policies and procedures, etc. Over 20 stakeholder groups have been identified that want to be part of the process which will take approximately four to five months. Staff will be back for a bigger discussion regarding this issue in the late summer.

The City seeks to provide clarity in the City Code regarding a juvenile defendant's culpability for using or possessing electronic smoking devices and associated accessories containing nicotine. In addition, retailers of "tobacco products", electronic smoking devices, and associated accessories containing nicotine will have clear guidance regarding what is unlawful to sell to a minor in the City.

The proposed ordinance will provide the Loveland Police Department and the Loveland City Attorney's Office with unambiguous language to successfully prosecute juvenile defendants who use, possess, or consume electronic smoking devices and associated accessories containing nicotine.

Master Sargent Rob Rabson reviewed the power point presentation included in the packet noting the last time the ordinance was updated was 1997. Sargent Rabson explained that things have changed since 1997, particularly with the younger generation. The current definition in the municipal code does not cover what the police department is currently dealing with. The goal is to bring the city ordinance up to date and clarify what tobacco products are.

Councilor Olson expressed concern with using the term "tobacco products" as nicotine is contained in other products.

Council went on to discuss various areas of the topic:

- Receipt of phone calls from individuals/groups concerned with penalizing kids as opposed to retailers; we don't want to be penalizing behavior that is being encouraged by adults.
- The only thing being changed is the definition. The laws are stricter now than in the past; how will making it stricter make it better.
- Requested that when the topic comes back that information will be provided for how the various efforts have reduced use.
- This is an effort to keep everyone accountable, including the youth.
- In the past, the Youth Advisory Commission had taken up the issue of e-cigarettes and requested Council to take action on an ordinance. Half of the ordinance was adopted with no smoking on city property. The concern at the time was "freedom of choice".
- How vaping is currently being controlled and what would be done differently if the ordinance was approved.
- The data being collected by the vaping industry is being used for marketing. Mayor Marsh inquired what the harm would be to wait to discuss this issue until all of the data is collected and presented in four months. Assistant City Attorney Vince Junglas stated the risk is that if the issue were to be litigated.

Jan Marchesci, Larimer County Department of Health and Environment - Tobacco Prevention Program, addressed Council and stated that Colorado leads the nation in vaping rates. Options for youth vaping issues were brought forwarded and it was noted that Larimer County will be included on the upcoming discussions related to youth vaping. Communities are using local control for licensing purposes for retail sale of vaping with the intention to limit youth access.

Sargent Rabson stated he believes the solution is part of a community effort through parents, police, courts, and education. The ordinance is already in place and staff is looking for the definition change of tobacco.

Mayor Marsh opened the meeting for public comment.

Jane Collins expressed concern with criminalizing youth. She encouraged law enforcement to ask the youth what is going on with their life.

Jodi Radke, Regional Director for the Tobacco Free Kids campaign. She stated that the goal is to reduce the use rate of tobacco in kids. Their approach is different as they oppose possession and use laws. Other options include changing the age for purchase to 21, raising the price on tobacco products and/or having strong licensure requirements. She recommended Council not approve the ordinance.

Bob Lucero stated that penalizing the kids is not the right way to go and recommended partnering with the school system to create an educational method to get the information out.

Roger Weidelman stated that where the problem addressed is the accessibility. It is the source where there should be constraints or limitations.

Mayor Marsh closed public comment.

Council provided comments related to the ordinance that included adoption of the ordinance would not make charges any harsher and that they were looking forward for the information that would be provided in four months.

Councilor Olson noted that he rejects the notion that kids are victims; it is a matter of accountability. He stated that smoking product should not be what we are addressing - it is the smoking behavior. He will not be supporting ordinance.

Mayor Marsh stated that she does not support the ordinance as she believes the issue needs to be presented once all the research has been done related to vaping, licensing, etc.

Moved by Councilor Clark and seconded by Councilor Olson.

*A Motion To Adopt, On First Reading, An Ordinance Amending Chapter 7.50 Of the Loveland Municipal Code Concerning Tobacco Products and Minors*

CARRIED 7-2

No votes: March, Olson.

## 6.2 ECONOMIC DEVELOPMENT

### PUBLIC COMMENT

#### **AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2019 CITY OF LOVELAND BUDGET FOR #LIVELOVELAND**

Kelly Jones, Economic Development Director, presented this item to Council. It is a request for \$100,000 in funding for the #LiveLoveland campaign. This initiative grew out of the Loveland Strategic Partnership (LSP), a non-profit made up of many different segments of the community from government to non-profit, education, arts, business, faith and quality of life. #LiveLoveland was created specifically to engage citizens in their community and highlight community pride through a variety of tactics. #LiveLoveland's current year budget is \$200,000. This group plans to continue ongoing fundraising to reach eventual

sustainability. While businesses, non-profits, and other external entities may request funding through the Community Request for Assistance process, due to the timing, need, and dollar amount requested, staff recommended this request be brought forward as a standalone item.

Prior to this request, discussions occurred regarding whether the #LiveLoveland group should go through the new Community Request for Assistance Application. It was decided by the City Manager's office staff that due to timing and #LiveLoveland's current calendar year need, that a City Council process was warranted instead.

Jessica Hawkins, Loveland Downtown Partnership, reviewed the power point presentation included in the council packet noting this was the second year of a 3-year pilot program. Key achievements were noted including cross sector collaboration, positivity and increase engagement in the movement and project.

Three sectors presented in support of the project: faith sector, arts sector and nonprofit sector. During the second year the project group will be using photo booth opportunities, sharing stories and finding opportunities to work together – bring long time residents and new ones together. They will continue to work their online presence.

Mindy McCloughan, Loveland Chamber of Commerce, responded to questions from Council regarding changing of the culture of Loveland and measuring the success of the project. It was noted that this was a three-year pilot program (ends in 2020) after which the program will be evaluated for continuation. Ms. McCloughan stated that the goal is to create a better future for our community and youth.

Ms. McCloughan reported that one of the strategic initiatives is hosting a Chamber Day this fall, which will be about businesses, and incorporating them into the community.

Mayor Marsh inquired about bringing in the I Love Loveland entity to get them on board with this effort. Ms. McCloughan stated that they have extended requests to work with I Love Loveland that have been declined.

Return on investment on the project can be found through the number of volunteers and the hours committee; 600 people have contributed 72,000 hours on this project. United Way volunteer hours are gauged at \$23 per hour which would equate to \$1.6M in volunteer hours for #LiveLoveland.

Council noted that in 2018 the request was funded by \$47,500 from the economic development incentive fund, \$47,500 from the council reserve fund and \$5,000 from lodging tax and inquired why the funding sources had changed. Steve Adams, City Manager, stated that due to the nature of the project it is believed it is a community wide program so this year the request is set up to be funded with \$95,000 from the council reserve fund and \$5,000 from lodging tax. Council discussed using general fund monies for the project and



requested a policy on how Council is notified of recommended uses of the council special project fund.

Mayor Marsh opened the meeting for public comment.

Jane Collins, Loveland resident, expressed several concerns including that the organization does not have enough diversity and that a culture shift could bring higher taxes and an unaffordability for citizens to live in Loveland. She was also concerned with the lack of detail in the budget.

Lynn Reynolds St. John, Loveland resident, stated she was a volunteer for I Love Loveland for 5 years and they didn't ask the city for \$100,000; they did the work for Loveland. She does not support the ordinance.

Mayor Marsh closed public comment.

Moved by Councilor Fogle and seconded by Councilor Clark.

*A motion to amend the ordinance to fund the project with the general fund instead of the council reserve fund.*

FAILED 3-6.

Yes votes: Fogle, Clark, Olson

No votes: Johnson, Overcash, Jersvig, Marsh, Ball, Wright

Councilor Jersvig motioned to postpone the ordinance consideration until June due to budget considerations; the motion failed for a lack of a second.

Council discussed the importance of the project, how it creates positive energy in the community and encouraged others to participate and get involved.

Moved by Councilor Clark and seconded by Councilor Johnson.

*A Motion to Adopt, On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2019 City of Loveland Budget For #LiveLoveland.*

CARRIED UNANIMOUSLY 9-0.

### **6.3 LOVELAND FIRE RESCUE AUTHORITY**

#### **PUBLIC COMMENT**

#### **A SUPPLEMENTAL APPROPRIATION ORDINANCE TO THE 2019 CITY OF LOVELAND BUDGET FOR FIRE STATION NO. 7 STAFFING**

Steve Adams, City Manager, addressed Council regarding the source of funds identified in the ordinance. Staff recommended the entire amount be taken from the TABOR excess fund and delete the amount coming from the council reserve fund.

Mark Miller, Fire Chief, presented stating that the Loveland Fire Rescue Authority is seeking a supplemental appropriation in the amount of \$656,289 to fund 12 firefighters for Fire Station No. 7. Funding includes protective equipment and training. Funding for the positions begins July 29, 2019. LFRA will train all candidates in-house, in an effort to reduce costs. Nine positions are needed to meet the minimum staffing requirements, and three additional "rover" positions are included to cover overtime costs. A more detailed explanation of the staffing request was included in the staff memo. Fire Station No. 7 is located at 2927 North County Road 27, just to the north of Big Thompson Elementary school. This station will have significant positive impact on response and additional resources for fire/incidents in the City as well as the rural areas of Loveland.

Chief Miller stated a purpose of the fire station would be to fill a gap in emergency response to west Loveland and allows more City fire resources to remain in their districts. They are requesting the City of Loveland to fund \$659,289 for 12 full time employees; Loveland Rural Fire District will fund their portion of \$144,064.

Moved by Councilor Clark and seconded by Councilor Johnson.

*A motion to amend the Supplemental Appropriation Ordinance to the 2019 City of Loveland Budget for Fire Station No. 7 Staffing to fund the entire request using TABOR excess funds*

CARRIED UNANIMOUSLY 9-0.

Mayor Marsh opened the meeting for public comment.

Jeff Swanty, Chairman of the Loveland Fire Rescue Authority, spoke in support of the ordinance.

Moved by Councilor Clark and seconded by Councilor Ball.

*A Motion to Adopt, On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2019 City Of Loveland Budget For Fire Station #7 Staffing*

CARRIED UNANIMOUSLY 9-0.

Moved by Councilor Jersvig and seconded by Councilor Johnson.

*A Motion To Remove Items 7.1 And 7.2 From The Agenda.*

CARRIED UNANIMOUSLY 9-0.

**6.4 CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA**

**7. NO-ACTION ITEMS**

**7.1 FINANCE  
INVESTMENT REPORT - FEBRUARY**

Through February, the market value of the City's investment portfolio is \$223,024,651. The budget revenue projection for the full year of 2019 was set at \$3,319,680. So far this year, actual interest received is \$96,832 behind schedule. Using the portfolio's beginning year balance, the rate needed to reach the annual interest earning target is 1.43%. The annualized interest rate at the end of February reached 1.96%. For the month, accounting staff posted \$194,181 to various fund accounts. The year to February month-end total is \$456,353. U.S. short-term (under five years) Treasury interest rates have moved slightly higher in February.

The Federal Open Market Committee increased the federal funds rate in December, the fourth increase of 2018. Due to softening growth rates in Europe, Japan, and China, The Fed decided not to raise rates in March and indicated that they would probably not raise rates for the rest of 2019.

The Fed is watching economic conditions closely and also paying very close attention to the yield curve. When very short-term interest rates (3 months) are higher than the longer term rates (10 years), the yield curve is "inverted." On Friday, March 22, the three month Treasury was higher than the 10-year, so a technical inversion has occurred

*This item was removed from the agenda.*

**7.2 FINANCE  
FINANCE REPORT - FEBRUARY**

The Snapshot Report is submitted for City Council review and includes the reporting of the City's revenue and expenditures, including detailed reports on tax revenue and health claims, as of February 28, 2019. Citywide Revenue of \$46.8 million is 12.2% of total annual budget. Sales Tax collections February YTD are 2.7% above February 2018 YTD, and 18.3% of the total annual budget. Building Material Use Tax collections for February are 54.6% below February 2018 YTD, and 6.2% of the total annual budget. Sales and Use Tax collections combined are 17.0% of total annual budget. Citywide total expenditures of \$37.0 million are 13.2% of the total annual budget.

*This item was removed from the agenda.*

**8. REPORTS**

**8.1 BUSINESS AND REPORTS FROM CITY COUNCIL**

Councilor Clark commented on the purchase of the Reporter Herald building and suggested that in order to encourage RV's to come into downtown Loveland to designate part of that parking lot for that use.

Councilor Jersvig requested to have the Finance and Investment Reports be placed back on the Consent Agenda; Councilor Olson requested a quarterly presentation of the same reports.

Councilor Olson provided information regarding the water conference he had attended and noted the need for a stronger water conservation program and recommended the city become a member of the WaterNow Alliance.

**8.2 CITY MANAGER REPORT**

City Manager Adams reminded Council of the Department of Local Affairs meeting at 10 am on Wednesday.

**8.3 CITY ATTORNEY REPORT**

There was no report from the City Attorney.

**9. ADJOURN**

Mayor Marsh adjourned the Regular City Council Meeting of April 2, 2019 at 10:30 p.m.

Respectfully Submitted,



*Patti Garcia*  
Patti Garcia, City Clerk

*Jack Marsh*  
Jack Marsh, Mayor