

**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, Johnson, Shaffer and Solt.

**PROCLAMATION** Councilor McKean read a proclamation declaring June 7, 2011, as "National Trails Day". The proclamation was received by Parks & Recreation Planner Janet Meisel-Burns. She also announced the grand opening of the underpass on N. Hwy 287 will be held June 7, 2011 at 4:15 p.m.

**PROCLAMATION**

**WHEREAS** the City of Loveland recognizes the importance of recreation and active living by providing opportunities for walking, biking and enjoying the outdoors and  
**WHEREAS** the City started the development of the recreation trail system in 1990 and over the last 21 years has constructed 17.5 miles of trail; and

**WHEREAS** More than 280,000 people used the City of Loveland trail system in 2010; and  
**WHEREAS** the City received more than \$600,000 in Federal funding for the new underpass at North US 287 and 64th Street to improve safety and connectivity of the trail system and the City has spent Conservation Trust (Colorado Lottery) dollars to fund the construction of the trail system; and

**WHEREAS** To recognize the significance of the City recreation trail system and the American Hiking Society's National Trails Day annual trail awareness program to celebrate the 200000+ miles of trails in our country.

**NOW, THEREFORE, we, the City Council of Loveland, do hereby proclaim that June 7, 2011**

**NATIONAL TRAILS DAY**

in Loveland, Colorado, and in so doing, urges all citizens to join in a national celebration to protect healthy living, encourage the protection of outdoor spaces and educate adults and youth on the importance of trails.

Signed this 17th day of May, 2011

Cecil A. Gutierrez,  
Mayor

**PROCLAMATION** Councilor Klassen read a proclamation declaring May 15, 2011 as "Peace Officers' Memorial Day". The proclamation was received by Sgt Phil Metzler.

**PROCLAMATION**

**WHEREAS** The Congress and President of the United States have designated May 15 as Peace Officers' Memorial Day, and the week in which May 15 falls as National Police week; and

**WHEREAS** the members of the law enforcement agency of the Loveland Police Department play an essential role in safeguarding the rights and freedoms of the City of Loveland; and

**WHEREAS** it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

**WHEREAS** the men and women of the law enforcement agency of Loveland Police Department unceasingly provide a vital public service;

**NOW, THEREFORE, we, the City Council of the City of Loveland, call upon all citizens of Loveland and upon all patriotic, civil and educational organizations to observe the week of May 15-21, 2011, as Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their**

communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

We further call upon all citizens of Loveland to observe Sunday, May 15th, as

**PEACE OFFICERS' MEMORIAL DAY**

in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

In witness thereof, I have hereunto set my hand and caused the Seal of Loveland to be affixed.

Signed this 17th day of May, 2011

Cecil A. Gutierrez  
Mayor

**PRESENTATION**

Larimer County Sheriff Justin Smith introduced himself to Council and confirmed the commitment between the Sheriff's department and the City of Loveland.

**PRESENTATION**

Vaughn Baker, from Rocky Mountain National Park provided a spring park update.

**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. Councilor Johnson moved to approve the Consent Agenda. The motion was seconded by Councilor McEwen and a roll call vote was taken with all councilors present voting in favor thereof.

**1. MINUTES**

- a) Minutes for the April 26, 2011 special meeting were approved.
- b) Minutes for the April 26, 2011 study session were approved.
- c) Minutes for the May 3, 2011 regular meeting were approved.

**2. POLICE**

**Municipal Code Amendment - Panhandling  
Ordinance #5584**

Legislative Action: "AN ORDINANCE AMENDING CITY CODE SECTION 9.30.030 CONCERNING PANHANDLING AND SOLICITATIONS ON OR NEAR PUBLIC STREETS AND HIGHWAYS" was approved and ordered published on second reading.

**3. PUBLIC WORKS**

**Contract Amendment #2 – City Property N. Taft Avenue  
Ordinance #5585**

Administrative Action: "AN ORDINANCE APPROVING AMENDMENT NUMBER TWO TO CONTRACT TO BUY AND SELL CITY PROPERTY LOCATED AT 905, 915, 925, 933 AND 935 N. TAFT AVENUE" was approved and ordered published on second reading.

#### **4. CITY MANAGER**

##### **Appointment to North Front Range Metropolitan Organization Air Quality Technical Committee**

###### **Motion**

Administrative Action: A motion to appoint Irene Fortune as the City of Loveland representative to the North Front Range Air Quality Technical Committee was approved.

#### **5. WATER & POWER**

##### **Appointment to Platte River Power Authority Board of Directors**

###### **Motion**

Administrative Action: A motion appointing Steve Adams to serve as the appointed director from Loveland on the Platte River Power Authority Board of Directors commencing May 18, 2011 and expiring December 31, 2013, and authorizing the Mayor to sign the Mayor's Certificate confirming the appointment of a director to Platte River Power Authority was approved.

#### **6. DEVELOPMENT SERVICES**

##### **Municipal code Amendment Title 6 Animals**

###### **1<sup>st</sup> Rdg Ord & P.H.**

Legislative Action: A public hearing was held and "AN ORDINANCE AMENDING TITLE 6 OF THE LOVELAND MUNICIPAL CODE REGARDING ANIMALS BY ADDING A NEW SECTION 6.16.170 TO REQUIRE PROPER TETHERING OF ANIMALS AND A NEW SUBSECTION G. TO SECTION 6.20.010 TO REQUIRE ADEQUATE FENCING FOR ANIMALS" was approved and ordered published on first reading.

#### **7. DEVELOPMENT SERVICES**

##### **Petition for Annexation Motorplex Entry Addition**

###### **Resolution #R-30-2011**

Legislative Action: Resolution #R-30-2011 finding a certain Petition for Annexation known as Motorplex Entry Addition, filed April 28, 2011, to be in substantial compliance with Section 30 of Article II of the Colorado Constitution and with the Requirements of §31-12-107(1), C.R.S.; and establishing a Date, Time, and Place for a hearing to determine whether the proposed annexation complies with the applicable requirements of Sections 31-12-104 and 31-12-105, C.R.S., and is eligible for annexation to the City of Loveland, Colorado was approved.

###### **RESOLUTION #R-30-2011**

A RESOLUTION FINDING A CERTAIN PETITION FOR ANNEXATION KNOWN AS MOTORPLEX ENTRY ADDITION, FILED APRIL 28, 2011, TO BE IN SUBSTANTIAL COMPLIANCE WITH SECTION 30 OF ARTICLE II OF THE COLORADO CONSTITUTION AND WITH THE REQUIREMENTS OF §31-12-107(1), C.R.S.; AND ESTABLISHING A DATE, TIME, AND PLACE FOR A HEARING TO DETERMINE WHETHER THE PROPOSED ANNEXATION COMPLIES WITH THE APPLICABLE REQUIREMENTS OF SECTIONS 31-12-104 AND 31-12-105, C.R.S., AND IS ELIGIBLE FOR ANNEXATION TO THE CITY OF LOVELAND, COLORADO

WHEREAS, on April 28, 2011, a Petition for Annexation was filed with the City Clerk by persons alleging to comprise more than fifty percent (50%) of the landowners in the area described on Exhibit A, attached hereto and incorporated herein, who assert ownership of 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; and

WHEREAS, the City Council has determined that said Petition for Annexation is in substantial compliance with Section 30(1)(b) of Article II of the Colorado Constitution and of §31-12-107(1), C.R.S.; and

WHEREAS, the City Council desires to set a date, time, and place for public hearing to determine whether the proposed annexation complies with Section 30 of Article II of the Colorado Constitution and the applicable requirements of §§31-12-104 and 31-12-105, C.R.S., and is eligible for annexation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Loveland, Colorado, that:

1. The City Council hereby finds and determines:

(a) That a Petition for Annexation has been filed with the City Clerk signed by persons alleging to comprise more than fifty percent (50%) of the landowners who assert ownership of more than fifty percent (50%) of the area described on Exhibit A, attached hereto and incorporated herein, excluding public streets and alleys;

(b) That said Petition requests the City of Loveland to annex said area; and

(c) 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.

2. Pursuant to §31-12-108, C.R.S., a public hearing is scheduled for June 21, 2011, at the hour of 6:30 p.m., for the purpose of enabling the City Council to determine whether the area proposed to be annexed complies Section 30 of Article II of the Colorado Constitution and with the applicable requirements 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. Said hearing shall be held at the Loveland Municipal Complex, 500 East Third Street, Loveland, Colorado.

3. The City Clerk shall give notice of said hearing in the manner prescribed by §31-12-108(2), C.R.S.

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

APPROVED the 17th day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

## **8. PARKS & RECREATION**

### **Residential Lease Agreements**

#### **Resolution #R-31-2011**

Administrative Action: Resolution #R-31-2011 approving residential lease agreements with Adam Clark and Greg Hays was approved.

#### **RESOLUTION #R-31-2011**

A RESOLUTION APPROVING RESIDENTIAL LEASE AGREEMENTS WITH ADAM CLARK AND GREG HAYS

WHEREAS, the City of Loveland owns a house located at 1211 D. Big Thompson Canyon, Loveland, Colorado 80537 (the "Park House") on the grounds of the City of Loveland Viestenz-Smith Mountain Park (the "Park"); and

WHEREAS, the City of Loveland also owns a house located at 1702 North Cleveland, Loveland, Colorado 80538 (the "Cemetery House") on the grounds of the City's Loveland Burial Park (the "Cemetery"); and

WHEREAS, the City desires to lease the Park House to Adam Clark ("Clark"), a City employee working for the Parks & Recreation Department whose job site is located at the Park and for whom residence in the Park House is a condition of employment; and

WHEREAS, the City desires to lease the Cemetery House to Greg Hays ("Hays"), a City employee working for the Parks & Recreation Department whose job site is located at the Cemetery and for whom residence in the Cemetery House is a condition of employment; and

WHEREAS, the City has negotiated a Residential Lease Agreement with Clark (the "Park House Lease") and a Residential Lease Agreement with Hays (the "Cemetery House Lease") whereby the City will lease to and Clark and Hays will lease from the City, the Park House and the Cemetery House, respectively, on a month-to-month basis for so long as Clark and Hays are each employed by the City in their respective positions, unless is terminated by either party in accordance therewith.

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

Section 1. That the Park House Lease to Clark attached hereto as Exhibit A and incorporated herein by reference is hereby approved.

Section 2. That the Cemetery House Lease to Hays attached hereto as Exhibit B and incorporated herein by this reference is hereby approved.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to modify the Park House Lease and the Cemetery House Lease, in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 4. That the City Manager and the City Clerk are hereby authorized and directed to execute the Park House Lease and the Cemetery House Lease on behalf of the City of Loveland.

Section 5. That in accordance with C.R.S. § 24-18-201, Clark shall execute and deliver to the City Council a disclosure notice as set forth in Exhibit B of the Park House Lease concurrently with Clark's execution of the Park House Lease.

Section 6. That in accordance with C.R.S. § 24-18-201, Hays shall execute and deliver to the City Council a disclosure notice as set forth in Exhibit B of the Cemetery House Lease concurrently with Hays' execution of the Cemetery House Lease.

Section 7. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 17th day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibits A and B are available in the City Clerk's Office

## **9. AIRPORT**

### **CH2M Hill, INC CONTRACT AMENDMENT #13**

#### **Motion**

Administrative Action: A motion approving Amendment No. 13 to contract between CH2M Hill, Inc and the Cities of Loveland and Fort Collins for construction management services for the runway 15.33 rehabilitation and runway safety area improvements AIP 3-08-0023-29 at the Fort Collins-Love3land Municipal Airport, and authorizing the City Manager to execute Amendment No. 13 was approved.

## **10. PUBLIC WORKS**

### **Supplemental Appropriation Traffic Signal Updates**

#### **1<sup>st</sup> Rdg Ord & P.H.**

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR TRAFFIC SIGNAL UPGRADES IN THE US 34, WILSON AVENUE, AND TAFT AVENUE CORRIDORS" was approved and ordered published on first reading.

## **11. PUBLIC WORKS**

### **Message Signage and Traffic Signal Improvements**

#### **1) Resolution #R-32-2011**

Administrative Action: Resolution #R-32-2011 approving an Intergovernmental Agreement between the City of Loveland, Colorado and the Colorado Department of Transportation for variable message signage In I-25 / US 34 and the I-25 / Crossroads areas was approved.

#### **RESOLUTION #R-32-2011**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR VARIABLE MESSAGE SIGNAGE IN I-25/US 34 AND THE I-25/CROSSROADS AREAS

WHEREAS, the City of Loveland desires to the Install variable message signage improvements in the I-25 / US 34 and I-25 / Crossroads areas In Loveland (the "Project"), which is to be funded by federal-aid funds administered and made available through the State of Colorado, acting through the Colorado Department of Transportation ("CDOT"); and

WHEREAS, federal-aid funds are available for the Project in the amount of \$370,000; and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement, a copy of which is attached hereto Exhibit A and incorporated herein by this reference (the "Agreement"), to define the division of responsibilities with regard to the Project; and

WHEREAS, as governmental entities in Colorado, the City of Loveland and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the Intergovernmental Agreement in the form substantially similar to that attached hereto as Exhibit A and incorporated herein by reference, is hereby approved and the City Manager is authorized, following consultation with

the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City

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

Section 3. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 17th day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

**2) Resolution #R-33-2011**

Administrative Action: Resolution #R-33-2011 approving an intergovernmental Agreement between the City of Loveland, Colorado and the Colorado Department of Transportation for traffic responsive signal timing improvements in the I-25 / US 34 and Crossroads / Centerra areas was approved.

**RESOLUTION #R-33-2011**

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR TRAFFIC RESPONSIVE SIGNAL TIMING IMPROVEMENTS IN THE I-25/US34 AND CROSSROADS/CENTERRA AREAS

WHEREAS, the City of Loveland desires to the Install traffic responsive signal timing plans and improvements in the I-25 / US 34 and Crossroads Boulevard/Centerra areas in Loveland (the "Project"), which is to be funded by federal-aid funds administered and made available through the State of Colorado, acting through the Colorado Department of Transportation ("CDOT"); and

WHEREAS, federal-aid funds are available for the Project in the amount of \$130,000; and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement, a copy of which is attached hereto Exhibit A and incorporated herein by this reference (the "Agreement"), to define the division of responsibilities with regard to the Project; and

WHEREAS, as governmental entities in Colorado, the City of Loveland and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the Intergovernmental Agreement in the form substantially similar to that attached hereto as Exhibit A and incorporated herein by reference, is hereby approved and the City Manager is authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City

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

Section 3. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 17th day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

**3) 1<sup>st</sup> Rdg Ord & P.H.**

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR INSTALLATION OF VARIABLE MESSAGE SIGNAGE AND TRAFFIC RESPONSIVE SIGNAL TIMING PLANS AND IMPROVEMENTS" was approved and ordered published on first reading.

## **12. PUBLIC WORKS**

### **Supplemental Appropriation - Improvements to Transit Center & Bus Replacement**

**1<sup>st</sup> Rdg Ord & P.H.**

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR IMPROVEMENTS TO THE ORCHARDS REGIONAL TRANSIT CENTER AND THE REPLACEMENT AND RETROFIT OF ONE BUS WITH LIGHTNING HYBRID" was approved and ordered published on first reading.

## **13. WATER & POWER**

### **Municipal Code Amendment – Commercial Wastewater Charge**

**1<sup>st</sup> Rdg Ord & P.H.**

Legislative Action: A public hearing was held and "AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT SECTION 13.08.100 CONCERNING THE WASTEWATER CHARGE AND AUTHORIZING A REFUND TO CERTAIN NONRESIDENTIAL WASTEWATER CUSTOMERS WHO RECEIVE METERED WATER SERVICE FROM NON-CITY PROVIDERS" was approved and ordered published on first reading.

## **14. DEVELOPMENT SERVICES**

### **Fee Waivers for Food Bank for Larimer County**

**Resolution #R-34-2011**

Administrative Action: Resolution #R-34-2011 waiving certain development fees for construction of the tenant finish at the Food Bank for Larimer County facility located at 2600 N. Lincoln Avenue in Loveland, Colorado was approved.

RESOLUTION #R-34-2011

A RESOLUTION WAIVING CERTAIN DEVELOPMENT FEES FOR CONSTRUCTION OF THE TENANT FINISH AT THE FOOD BANK FOR LARIMER COUNTY FACILITY LOCATED AT 2600 N. LINCOLN AVENUE IN LOVELAND, COLORADO

WHEREAS, the Food Bank for Larimer County has requested the waiver of certain City-imposed development fees for construction of the tenant finish at its facility located at 2600 N. Lincoln Avenue in Loveland, Colorado, legally described as Lot 2, Block 1, Ferrero 1st Addition, Amended Lots 1 & 2, Block 1, City of Loveland, County of Larimer, State of Colorado (the "Facility"), construction of which is to begin in 2011; and

WHEREAS, Section 16.38.075 of the Loveland Municipal Code provides that the City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the City upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts; and

WHEREAS, the Food Bank of Larimer County is willing and able to enter into a development agreement with the City whereby it will construct the tenant finish at the Facility; and

WHEREAS, the City Council finds that the waiver of development fees that will result from adoption of this Resolution will provide a not-for-profit facility open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, and that such facility relieves the pressures of growth on City-provided facilities and does not create growth or growth impacts.

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

Section 1. That development fees, including without limitation all building permit fees, plan review fees, and any and all other fees due and payable between permit application and final certificate of occupancy (excluding capital expansion fees, system impact fees, raw water fees, tap fees, or any other enterprise fees), in an amount not to exceed \$7,727.04, that are payable to the City for construction of the tenant finish at the Facility are hereby waived.

Section 2. That pursuant to Section 16.38.075, no reimbursement to the capital expansion fund or any enterprise fund by the general fund is necessary because the development fees waived in Section 1 above do not include capital expansion fees, system impact fees, raw water fees, tap fees, or any other enterprise fees.

Section 3. That the fee waiver set forth in Section 1 above is conditioned upon the City, through its City Manager, and the Food Bank for Larimer County entering into a development agreement, which agreement shall provide for the waiver

of said fees in an amount not to exceed \$7,727.04 in exchange for construction of the tenant finish at the Facility, as well as such other conditions as the City Manager deems necessary.

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

ADOPTED this 17th day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

## **END OF CONSENT AGENDA**

## **CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.**

### **CITY COUNCIL**

#### a) Citizens' Reports

Ralph Trenary, Chair of the Citizens' Financial Advisory Commission (CFAC), spoke to Council on the relationship between the 2010 Quality of Life Survey and the 2011 Financial Sustainability Forums. His key points were: Reduction in public safety and infrastructure services and/or quality of the existing infrastructure should be exempt from budget reduction, but under current circumstances not necessarily receive any increase in their current budget levels. Do not reduce the City's focus on economic development. Increase the recovery of Planning Department Costs, eliminate/reduce/shorten the period of sales tax "breaks", and considerate a moderate increase in those fees that provide revenue for the General Fund. Beyond these, there is nothing to suggest that the CFAC proposals summarizing the results of the Forums and the FSCS that have been previously presented to Council should be amended.

#### b) Business from Council

Johnson

Councilor Johnson stated there are a number of openings on Loveland's Board and Commissions. The last day to apply is May 27th.

Shaffer

Councilor Shaffer mentioned she would not be in attendance at the May 24<sup>th</sup> Special Meeting and Study Session.

Gutierrez

Mayor Gutierrez mentioned he attended a number of functions over the past few weeks.

#### 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**

#### **15. DEVELOPMENT SERVICES**

##### **MUNICIPAL CODE AMENDMENT OFF-TRACK BETTING FACILITIES**

1<sup>ST</sup> Rdg Ord & P.H.

Legislative Action: City Planner Kerri Burchett introduced this item to Council. This item is a legislative action to adopt an ordinance on first reading amending Title 18 relating to off-track betting facilities. The proposed code amendment for off-track betting facilities provides a definition, clarifies what zone districts the use is permitted and establishes parameters under which the use is considered a use by right or a use by special review. An off-track betting facility is generally defined as a business that accepts wagers on horse and greyhound races away from a racetrack. The use is licensed and regulated by



the State's Division of Gaming and the Colorado Racing Commission. The Planning Division has recently received inquiries regarding the establishment of such a facility within the City. As the Municipal Code is silent with respect to this land use, the codification of the use is necessary. The Planning Commission conducted a public hearing on April 25, 2011 and is recommending approval of the amendment by a vote of 7 to 2. The Mayor opened the public hearing at 7:23 p.m. and hearing no comments closed the hearing at 7:24 p.m. Councilor Johnson made a motion to approve and ordered published on first reading "AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE TO ALLOW FOR OFF-TRACK BETTING FACILITIES IN CERTAIN DISTRICTS WITHIN THE CITY OF LOVELAND". Councilor Klassen seconded the motion. Councilor Shaffer moved to amend the Ordinance by having the Special Review Use be required for any Off-Track Betting application. Councilor Heckel seconded the motion and a roll call vote was taken with seven Councilors voting in favor and Councilors Solt and McEwen voting against. A roll call vote was taken on the original motion as amended by Council, with five Councilors present voting in favor and Councilors Gutierrez, Shaffer, Solt and McEwen voting against. The motion as amended passed.

## **16. DEVELOPMENT SERVICES**

### **Loveland Classical School**

#### **1<sup>ST</sup> Rdg Ord & P.H.**

Legislative Action: City Planner Troy Bliss introduced this item to Council. Also present were Dustin Jones, charter school consultant, Tamara Cramer associated with the charter school and City Engineer Dave Klockeman. This item is a legislative action for adoption of an ordinance on first reading to amend The Church at Loveland Addition Annexation Agreement. The agreement pertains to a property located north of 14th Street S.W. between Angora Drive and South County Road 21 west of South Wilson Avenue at 3835 14th Street S.W. The property is approximately 5.9 acres in size and zoned B – Developing Business. The current use on the property is the Church at Loveland. The applicant is Loveland Classical School represented by Tamara Cramer. The owner of the property is CDF Holdings, LLC. The Mayor opened the public hearing at 7:55 p.m. Ron McCrimmon, vicinity property owner, spoke in opposition. Heather Jackson, spoke in support. Shelly McCrimmon spoke in opposition. Rhonda James, vicinity property owner, spoke in support. Rebecca Paulia, spoke in support. Rob McCrimmon spoke in opposition. Brandi Dill spoke in support. Andrew Gilmer spoke in support. Josh Reynolds spoke in support. The Mayor closed the hearing at 8:22 p.m. Councilor Johnson made a motion to approve and ordered published on first reading "AN ORDINANCE APPROVING AN AMENDMENT TO THE ANNEXATION AGREEMENT FOR CERTAIN PROPERTY LOCATED WITHIN THE CHURCH AT LOVELAND ADDITION, CITY OF LOVELAND, COUNTY OF LARIMER, COLORADO". Councilor Klassen seconded the motion and a roll call vote was taken with eight Councilors present voting in favor and Councilor Shaffer voting against.

## **17. CITY MANAGER'S OFFICE**

### **Annual Inflation Increases in Capital Expansion Fees**

#### **1<sup>ST</sup> Rdg Ord & P.H.**

Administrative Action: Executive Fiscal Advisor Alan Krcmarik introduced this item to Council. This is an administrative action to consider an ordinance on first reading to repeal Ordinance No. 5540. Ordinance No. 5540 suspended the annual inflation increases to the capital expansion fees for 2011 pending the outcomes of a public comment process that was completed in April, 2011. The inflationary increases based on the construction cost index would have been 8.62%. Based on the suspension there was no increase in capital expansion fees for 2011. If this Ordinance is approved by a majority of Council, the fee increases would be effective beginning July 1, 2011. The

Mayor asked staff to look at the Capital Expansion Fee levels for the Police Range and Fire Station. The City Manager stated staff would look at devising methods for new growth to pay for operation and maintenance in 2012. The Mayor opened the public hearing at 9:21 p.m. Ann Harroun, 3321 Apple Ave, spoke in support. Bob Massaro, 4250 Terrell, spoke in support. The Mayor closed the hearing at 9:26 p.m. Councilor Johnson made a motion to approve and ordered published on first reading "AN ORDINANCE REPEALING ORDINANCE NO. 5540 WHICH SUSPENDED THE ANNUAL INFLATION INCREASES IN CAPITAL EXPANSION FEES PURSUANT TO SECTION 16.38.110 OF THE LOVELAND MUNICIPAL CODE FOR 2011" Councilor Rice seconded the motion and a roll call vote was taken with five Councilors present voting in favor and Councilors Klassen, Heckel, Johnson, and Rice voting against. The motion passed.

#### **18. CITY MANAGER**

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

Discussion was held regarding details of the ACE project. Council took no action at this meeting.

#### **19. HUMAN RESOURCES**

##### **Annual Evaluation Redevelopment Process**

###### **Motion**

Administrative Action: Human Resources Director Julia Garcia introduced this item to Council. This is an administrative action to discuss and receive direction from Council regarding the annual performance evaluation redevelopment process used for appointed City officials. Councilor Johnson made a motion to appoint Councilor Johnson and Councilor Rice to a subcommittee along with Mayor Gutierrez to develop a new evaluation process for appointed City officials. Councilor McEwen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

#### **20. HUMAN RESOURCES**

##### **Executive Session for the purpose of discussing the City Manager's six month evaluation and discussion of lump sum merit distributions**

At 10:45 p.m. Councilor Johnson moved for City Council to go into an executive session as authorized in CRS Sections 24-6-402(4)(f) and (4)(g) and in Loveland Charter Sections 4-4©(5) and ©(6) for the purposes of considering the City Manager's 6-month evaluation and lump-sum merit payments to the Municipal Judge and City Attorney for their 2010 performance and, in connection with these purposes, to receive and discuss documents not subject to public inspection under the Colorado Open Records Act, such as work-product documents. Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof. Council reconvened at 10:57 p.m.

#### **21. HUMAN RESOURCES**

##### **Lump Sum Merit Distributions**

Administrative Action: Human Resources Director Julia Garcia introduced this item to Council. This is an administrative action to approve the distribution of lump sum merit payments based on performance for the City Attorney and Municipal Judge.

###### **a) Resolution #R-35-2011**

Councilor Johnson made a motion to approve Resolution #R-35-2011 of the Loveland City Council regarding the compensation of the City Attorney giving the City Attorney a one-time merit based payment of 2.5% of the City Attorney's current annual salary. Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-35-2011

A RESOLUTION OF THE LOVELAND CITY COUNCIL REGARDING THE COMPENSATION OF THE CITY ATTORNEY

WHEREAS, on April 23, 2001, the City of Loveland ("the City") and John Duval entered into an Agreement appointing John Duval ("Duval") as Loveland's City Attorney effective May 8, 2001 (the "Agreement"); and

WHEREAS, on March 2, 2004, the City and Duval entered into that certain "First Addendum to Employment Agreement" (the "First Addendum") in which paragraph 6.B. of the Agreement was amended to provide a severance payment after Duval's initial three years of employment with the City; and

WHEREAS, in January of 2005, the City and Duval entered into that certain "Second Addendum to Employment Agreement" (the "Second Addendum") in which paragraph 4.B. of the Agreement was amended to provide that the City's contribution to Duval's 401a plan was increased from two and one-half percent (2.5%) of Duval's annual salary to three percent (3%) of Duval's annual salary; and

WHEREAS, on March 3, 2009 City Council adopted Resolution #R-20-2009 Increasing the compensation of Duval based on its annual evaluation of Duval in his capacity as City Attorney; and

WHEREAS, on November 3, 2009, City Council adopted Resolution #R-107-2009 that decreased the compensation of Duval through the use of four furlough days based on the economic downturn and to be consistent with the 2010 budget which reduced pay to most city employees through the implementation of four furlough days; and

WHEREAS, on December 7, 2010, City Council adopted Resolution #R-107-2009 that increased Duval's vacation benefits by 5 days annually and increased the annual maximum vacation accrual carryover from 480 hours to 520 hours, as reflected in the "Third Addendum to Employment Agreement" (the "Third Addendum") and excluded furlough days from Duval's compensation; and

WHEREAS, on May 3, 2011, City Council adopted ordinances providing for an employee merit-based recognition program due to the positive 2010 General Fund budget performance and now undertakes consideration of a similar increase in compensation for the City Attorney; and

WHEREAS, the City and Duval desire to amend the Agreement as previously amended by the First Addendum, Second Addendum, and Third Addendum to increase Duval's compensation for 2011 with a one-time, merit-based payment of 2.5 percent (2.5%) of Duval's current annual base salary as reflected in the "Fourth Addendum to Employment Agreement" (the "Fourth Addendum") attached hereto as Exhibit A and incorporated by reference herein.

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

Section 1. The Fourth Addendum is hereby approved and the Mayor is authorized to enter into the Fourth Addendum on behalf of the City to increase Duval's compensation for 2011 with a one-time merit-based payment of 2.5 percent (2.5%) of Duval's current annual base salary.

Section 2. Except as amended by this Resolution and the First Addendum, Second Addendum, and Third Addendum, Duval's compensation and benefits as set forth in the Agreement shall remain unchanged and in full force and effect.

Section 3. That the Agreement, as amended by the First Addendum, Second Addendum, Third Addendum and Fourth Addendum is hereby reaffirmed and ratified.

Section 4. Adequate cash reserves have been and shall be placed irrevocably in the City budget to be held for any severance payment made necessary pursuant to the terms of the Agreement.

Section 5. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED this 17<sup>th</sup> day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

**b) Resolution #R-36-2011**

Councilor Johnson made a motion to approve Resolution #R-36-2011 of the Loveland City Council regarding the compensation of the Municipal Judge giving the Municipal Judge a one-time merit based payment of 1.75% of the Municipal Judge's current annual salary. Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-36-2011

A RESOLUTION OF THE LOVELAND CITY COUNCIL REGARDING THE COMPENSATION OF THE MUNICIPAL JUDGE

WHEREAS, on February 2, 1999, the City of Loveland (the "City") and William E. Starks ("Starks") entered into an agreement appointing Starks as Loveland's Municipal Judge for a two-year term effective February 15, 1999; and

WHEREAS, on February 20, 2001, the City and Starks entered into a second agreement reappointing Starks as Loveland's Municipal Judge for a second two-year term effective February 15, 2001 (the "Agreement"); and

WHEREAS, on February 4, 2003, the City and Starks entered into that certain "Addendum to Employment Agreement" (the "First Addendum") amending the Agreement to reflect Starks' reappointment for a third two-year term effective February 15, 2003; and

WHEREAS, in January of 2005, the City and Starks entered into that certain "Second Addendum to Employment Agreement" (the "Second Addendum") amending the Agreement to reflect Starks' reappointment for a fourth two-year term effective February 15, 2005; and

WHEREAS, on February 6, 2007, the City Council adopted Resolution #R-7-2007 reappointing Starks to a fifth two-year term effective February 15, 2007 as reflected in the "Third Addendum to Employment Agreement" which the City and Starks have entered into (the "Third Addendum"); and

WHEREAS, on February 17, 2009, the City Council adopted Resolution #R-13-2009 reappointing Starks to a sixth two-year term effective February 15, 2009 as reflected in the "Fourth Addendum to Employment Agreement" which the City and Starks have entered into (the "Fourth Addendum"); and

WHEREAS, on March 3, 2009 the City Council adopted Resolution #R-19-2009 increasing the compensation of Starks based on its annual evaluation of Starks in his capacity as Municipal Judge; and

WHEREAS, on November 3, 2009, the City Council adopted Resolution #R-106-2009 that decreased the compensation of Starks through the use of four furlough days based on the economic downturn and to be consistent with the 2010 budget which reduced pay to most city employees through the implementation of four furlough days; and

WHEREAS, on December 7, 2010, City Council adopted Resolution #R-68-2010 reappointing Starks to a seventh two-year term effective February 15, 2011, as reflected in the "Fifth Addendum to Employment Agreement" (the "Fifth Addendum") and excluded furlough days from Starks' compensation; and

WHEREAS, on May 3, 2011, City Council adopted ordinances providing for an employee merit-based recognition program due to the positive 2010 General Fund budget performance and now undertakes consideration of a similar increase in compensation for the Municipal Judge; and

WHEREAS, the City and Starks desire to amend the Agreement as previously amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum, and Fifth Addendum to increase Starks' compensation for 2011 with a one-time, merit-based payment of 1.75 percent (1.75%) of Starks' current annual base salary as reflected in the "Sixth Addendum to Employment Agreement" (the "Sixth Addendum") attached hereto as Exhibit A and incorporated by reference herein.

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

Section 1. The Sixth Addendum is hereby approved and the Mayor is authorized to enter into the Sixth Addendum on behalf of the City to increase Starks' compensation for 2011 with a one-time, merit-based payment of 1.75 percent (1.75%) of Starks' current annual base salary.

Section 2. That the Agreement, as amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum, Fifth Addendum and Sixth Addendum is hereby reaffirmed and ratified.

Section 3. Except as amended by this Resolution and the Sixth Addendum, Starks' compensation and benefits as set forth in the Agreement and Resolution #R-19-2009 shall remain unchanged and in full force and effect.

Section 4. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED this 17<sup>th</sup> day of May, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

**May 24, 2011 Special Meeting**


**Motion**

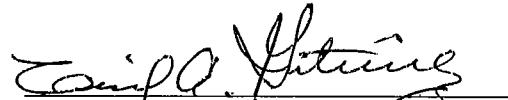
Councilor Johnson moved to start the May 24, 2011 special meeting (called at the May 3, 2011 Regular Meeting) at 6:00 pm with an Executive Session to consider the City Manager's six month evaluation. Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

**ADJOURNMENT**

Having no further business to come before Council, the May 17, 2011 Regular Meeting was adjourned at 11:14 p.m.

Respectfully Submitted,

  
\_\_\_\_\_  
Teresa G. Andrews, City Clerk

  
\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

