

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, Taylor, Farley, Klassen, Shaffer, Trenary, McKean, McEwen and Fogle.

PRESENTATION Pam Shaddock, the Regional Director of the Northeast Office of U.S. Senator Mark Udall presented a Resolution to Mayor Cecil Gutierrez and Chief Randy Mirowski honoring the Loveland Fire Department for fighting Wildfires outside their district in 2011.

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

1. CITY CLERK
Approval of Council Minutes
Motion

Administrative Action: A motion approving Council minutes from the January 3, 2012 regular meeting was approved.

2. CITY MANAGER
Board & Commission Appointments
Motion

Administrative Action: City Council approved the following appointments:
Cultural Services Board: Louise Kauffman and Ginger Klein were appointed, each for terms effective until December 31, 2015.
Library Board: Amy Cohen was appointed to a term effective until December 31, 2016. Louise Lucke was appointed as Alternate member, for a term effective until December 31, 2012.

3. FIRE & RESCUE
Municipal Code Amendment – International Fire Code, 2009 Edition
Ordinance #5659

Legislative Action: A public hearing was held and "AN ORDINANCE REPEALING AND REENACTING CHAPTER 15.28 OF THE CITY OF LOVELAND MUNICIPAL CODE

REGARDING THE FIRE CODE AND ADOPTING BY REFERENCE THERETO THE INTERNATIONAL FIRE CODE, 2009 EDITION" was approved and ordered published on second reading.

4. FINANCE

2012 Supplemental Appropriation- Financial Administrative Changes

Ordinance #5660

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO REORGANIZE THE UTILITY BILLING, CUSTOMER SERVICE AND METER READING FUNCTIONS WITHIN THE GENERAL FUND UNDER THE FINANCE DEPARTMENT-REVENUE DIVISION" was approved and ordered published on second reading.

5. FINANCE

2011 Supplemental Appropriation – Special Improvement District #1

Ordinance #5661

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO REORGANIZE THE UTILITY BILLING, CUSTOMER SERVICE AND METER READING FUNCTIONS WITHIN THE GENERAL FUND UNDER THE FINANCE DEPARTMENT-REVENUE DIVISION" was approved and ordered published on second reading.

6. WATER & POWER

Conversion of Colorado-Big Thompson Water Shares

Resolution #R-5-2012

Administrative Action: Resolution #R-5-2012 of the Loveland City council authorizing an application to, and contract with, the Northern Colorado Water Conservancy District for beneficial use of 790 acre-feet of Colorado-Big Thompson Project Water was approved.

RESOLUTION #R-5-2012

A RESOLUTION OF THE LOVELAND CITY COUNCIL AUTHORIZING AN APPLICATION TO, AND CONTRACT WITH, THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR BENEFICIAL USE OF 790 ACRE-FEET OF COLORADO-BIG THOMPSON PROJECT WATER

WHEREAS, pursuant to the Water Conservancy Act of Colorado, Title 37, Article 45, C.R.S., the City Council of the City of Loveland, a Colorado municipal corporation, must apply to the Board of Directors of the Northern Colorado Water Conservancy District ("District") for a contract for the beneficial use of Colorado-Big Thompson Project water within the boundaries of the District on an annually-renewable basis under C.R.S. § 37-45-131 in order to obtain the perpetual right to use said water.

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

Section 1. That the City of Loveland has determined to apply for a contract providing for the beneficial use of seven hundred ninety (790) acre-feet of Colorado-Big Thompson Project water from the District within the boundaries of the District.

Section 2. That the Director of the Department of Water and Power is hereby authorized and directed to apply to the Board of Directors of the District for a contract providing to the City the beneficial use of said water upon the terms prescribed by said Board in the manner and form attached hereto as Exhibit A and incorporated herein by reference ("Application").

Section 3. That the Director of the Department of Water and Power is hereby authorized to execute the Application any other documents required by the District to effectuate the contract.

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

ADOPTED this 17th day of January, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

7. DEVELOPMENT SERVICES

Supplemental Appropriation – State Historical Grant (Pulliam Building) 1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL FUND GRANT TO FUND A STRUCTURAL ASSESSMENT OF THE PULLIAM BUILDING" was approved and ordered published on first reading.

8. FINANCE

Loveland and Rural Consolidated Volunteer Fire Department Pension Plan

Resolution #R-6-2012

Administrative Action: Resolution #R-6-2012 authorizing an increase in benefits for the Loveland and Rural Consolidated Volunteer Fire Department Pension Plan effective January 1, 2012 was approved.

RESOLUTION #R-6-2012

A RESOLUTION AUTHORIZING AN INCREASE IN BENEFITS FOR THE LOVELAND AND RURAL CONSOLIDATED VOLUNTEER FIRE DEPARTMENT PENSION PLAN EFFECTIVE JANUARY 1, 2012

WHEREAS, the Loveland and Rural Consolidated Volunteer Fire Department Pension Plan (Fire and Police Pension Association Plan # 5153-5) is a pension plan created and existing pursuant to C.R.S. 31-30-1101, et seq., for the purposes of providing retirement benefits to qualifying volunteer firefighters and their survivors (the "Pension Fund"); and

WHEREAS, the Pension Fund is funded through contributions from the City of Loveland (the "City"), the State of Colorado, and the Loveland Rural Fire Protection District (the "LRFPD"); and

WHEREAS, retirement benefits under the Pension Fund have not increased since 2008 when pursuant to Resolution #R-18-2008, the City Council approved a retirement benefit increase from \$500/month to \$600/month for volunteer firefighters with at least 20 years of service, a prorated increase for those with at least 10 years, but less than 20 years of service, and an increase in survivor and funeral benefits effective January 1, 2008; and

WHEREAS, proposed changes to the Pension Fund benefits were considered within the biannual actuarial report identified as the Fire and Police Pension Association Actuarial Valuation as of January 1, 2011 – Loveland and Rural Consolidated Volunteer Fire Department Pension fund prepared by Gabriel Roeder Smith and Company (the "Report"); and

WHEREAS, on November 10, 2011, the Consolidated Volunteer Fire Department Pension Board of Trustees unanimously approved a motion to recommend a benefit increase commencing on January 1, 2012 that includes (1) an increase from \$600/month to \$650/month for volunteer firefighters with at least 20 years of service, (2) a prorated increase for those with at least ten years, but less than 20 years of service, and (3) an increase in survivor and funeral benefits as identified in the Report's Proposed Plan B of the Actuarial Valuation Information Checklist which is attached hereto as Exhibit A and incorporated by reference herein; and

WHEREAS, on January 5, 2012, the Loveland Rural Fire Protection District Board reviewed and voted to approve the proposed increase; and

WHEREAS, the increase in the benefit amount is not effective until and unless the City agrees to the proposed change in benefits as provided by C.R.S. 31-30-1122(1); and

WHEREAS, the City Council desires to increase the Pension Fund benefit effective January 1, 2012 with benefits to such date, and as required by C.R.S. 31-30-1122(1), having reviewed the pertinent sections of the Report, specifically the Comparison of Actuarial Results Based on Alternate Benefit Levels, attached hereto as Exhibit B and incorporated by reference herein, and confirmed that the proposed benefit increase is actuarially sound.

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

Section 1. That the City Council hereby authorizes an increase in the Pension Fund benefit amount as set forth in the Proposed Plan B of the Actuarial Valuation Information Checklist of Exhibit A with an effective date of January 1, 2008, and with benefits effective to such date.

Section 2. That the City Manager is authorized to take all appropriate steps to implement such benefit increase.

Section 3. That this Resolution shall be effective upon the date and time of its adoption.

ADOPTED this 17th day of January, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

9. FINANCE

2012 Contract for Tree Trimming and Removal Services

Motion

Administrative Action: A motion to award the 2012 contract for tree trimming and removal services to Asplundh Tree Experts Company in an amount not to exceed \$650,000 and to authorize the City Manager to execute the contract was approved.

10. FINANCE

Supplemental Appropriation – Costs incurred with Agilent Property Purchase

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO APPROPRIATE A PORTION OF THE PROCEEDS FROM THE AGILENT PROPERTY SALE" was approved and ordered published on first reading.

11. ECONOMIC DEVELOPMENT

Supplemental Appropriation of Developer Funds (Rialto Bridge Project)

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO APPROPRIATE THE DEVELOPER'S CONTRIBUTION TO THE RIALTO BRIDGE CONSTRUCTION PROJECT" 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

b) Business from Council

Reester

Public Works Director Keith Reester gave Councilors hats as a thank you for their support in the 2011 fall snowstorms.

Trenary

Councilor Trenary attended a program at the DeVinci Institute in Louisville. He mentioned on a February 7th meeting hosted by Colorado Manufacturing for Manufacturing and Technology regarding the ACE Regional Innovation Cluster. The Larimer County Workforce Center sponsored Employer's Roundtable for February 22 will address a skills gap in the employee base.

McKean

Councilor McKean mentioned an article in the latest issue of "Trailer Life" Magazine on bringing your 5th wheel to Loveland which was very complimentary.

Fogle

Councilor Fogle congratulated Jim Cox with the Historic Preservation Commission regarding an article in the Reporter Herald on the Olson Farm.

- Klassen Councilor Klassen shared positive comments about his attendance at an Economic Forecasting Outlook conference at the University of Northern Colorado in Greeley along with Councilor Farley.
- Farley Councilor Farley mentioned in the real estate portion of the Economic Forecasting Outlook conference it was stated the most exciting event in Northern Colorado this year was the Rocky Mountain Center for Innovation and Technology. On Friday night he attended the grand opening at the Loveland Museum of Richard Schilling's "Portraits of the Prairie" art exhibit and the public launch of the new website created by the Creative Sector Development Commission "lovelandarts.org". Also mentioned was the new artwork installed at the Library and the benefits of the Home Energy Audit provided for \$70 by the City of Loveland's Water & Power Department.
- Shaffer Councilor Shaffer also attended the art openings at the Loveland Museum and mentioned the great turnout for the Friday Night on the Town event. She attended the "36 Commuter Solution" legislative breakfast.
- Taylor Councilor Taylor thanked Fort Collins 4th grader, Sam Tollison, for his efforts in getting the Governor to declare a Cinnamon Roll Day. Councilor Taylor mentioned the cultural heritage in Northern Colorado that underlies this occasion.
- Gutierrez Mayor Gutierrez thanked all those involved in the Martin Luther King, Jr celebration on Monday night. He also reminded Council of the Advance meeting on Saturday starting at 8:00 am at the Foote Gallery.
- c) City Manager Report City Manager Cahill asked Council members to please sign up if interested in the February 3rd seminar hosted by the Colorado Municipal League on effective governance.
- 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

12. WATER & POWER

2012 Raw Water Master Plan Resolution #R-7-2012

Legislative Action: Water & Power Director Steve Adams introduced this item to Council. This is a legislative action to adopt the 2012 Raw Water Master Plan and to amend the 2005 Comprehensive Master Plan by addition of the 2012 Raw Water Master Plan as a functional (component) plan element. Scott Bray, 2586 Eldorado Springs, Loveland gave a brief presentation to Council titled "2005 to Present Native Water Transactions". Discussion ensued. Councilor McEwen moved to direct staff to remand this item, along with Mr. Bray's proposal back to the Loveland Utilities Commission and to the Construction Advisory Board to look at the impacts to the current owners of water stored

in the City's water bank and to bring back to Council for consideration at a future date. Councilor Farley seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof. Mayor Gutierrez stated questions from Council should be directed to Water & Power Director Steve Adams and to copy the City Manager and the City Attorney.

13. ECONOMIC DEVELOPMENT

Downtown Development Recruitment

Motion

Administrative Action: City Planner Mike Scholl introduced this item to Council. This is An administrative action to adopt a Downtown Developer Recruitment Program and approve the Downtown Request for Expression of Interest (RFEI). The RFEI was created in response to Council's direction to provide an open and transparent process for developer solicitation in Downtown. The program and the RFEI provide a continuous recruitment process with streamlined and uniform requirements that provide an easy entry for developers interested in the Downtown market. Council requested staff to produce an information report of submittals under this new RFEI for Council. Councilor McEwen moved to adopt a Downtown Developer Recruitment Program as presented and authorize a Request for Expression of Interest. Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

14. CITY MANAGER

Proposed Executive Session to receive advice from Legal Counsel concerning *Klen v. City of Loveland* lawsuit

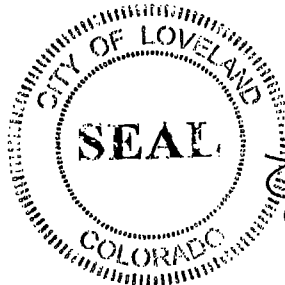
At 9:11 p.m., Councilor McEwen moved that the City Council go into executive session, as authorized in CRS Sections 24-6-402(4)(b), (4)e and (4)(g) and in City Charter Sections 4-4(c)(1), (c)(3) and (c)(6). This executive session will address a lawsuit currently pending in Colorado Federal District Court, *Klen v. City of Loveland*, together with such other matters as may relate to or affect this lawsuit. The purposes of the executive session will be to receive legal advice from the City's legal counsel, including from attorney Tom Lyons; and since this lawsuit is a matter that may become subject to negotiations: to receive reports concerning any negotiation discussions; to develop the City's negotiation positions and strategies; and to instruct the City's negotiators concerning those positions and strategies. In addition, documents and records related to this lawsuit may be considered that are protected by the mandatory non-disclosure provisions of the Colorado Open Records Act, including, without limitation, work product documents. Councilor Shaffer seconded the motion which carried with all present voting in favor thereof. Council reconvened into the regular meeting session at 11:12 p.m.

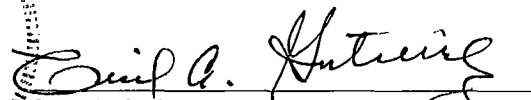
ADJOURNMENT

Having no further business to come before Council, the January 17, 2012 Regular Meeting was adjourned at 11:12 p.m.

Respectfully Submitted,


Teresa G. Andrews, City Clerk




Cecil A. Gutierrez, Mayor