

MINUTES
LOVELAND CITY COUNCIL MEETING
TUESDAY, AUGUST 6, 2013
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

6:30 P.M. REGULAR MEETING - City Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll was called and the following responded: Councilors Farley, Klassen, Shaffer, Fogle, Taylor, Clark, Trenary, McKean and Mayor Gutierrez.

Consensus of Council was to remove items #18, 19 and 20 at the request of City Manager Bill Cahill.

PROCLAMATION DECLARING THE SECOND WEEKEND IN AUGUST AS “LOVELAND ART WEEKEND”. Councilor Shaffer read the proclamation for the record which was accepted by representatives from the Loveland Sculpture Invitational, Sculpture in the Park, and Art in the Park.

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 remove any of the items or public hearings listed on the Consent Agenda. Councilor Fogle asked that Item #13 be removed from the Consent Agenda. **Councilor Shaffer moved to approve the Consent Agenda with the exception of Item #13. Councilor Farley seconded the motion, which was carried with all councilors voting in favor thereof.**

1. CITY MANAGER

(presenter: Bill Cahill)

BOARDS & COMMISSION APPOINTMENTS

A motion appointing recommended members to the Community Marketing Commission, Construction Advisory Board, Golf Advisory Board, Transportation Advisory Board, Visual Arts Commission and Volunteer Firefighters' Pension Board of Trustees

This is an administrative action recommending appointment of members.

- Motion to appoint Ben Price and Peggy Ziglin and to reappoint Brad Shannon to the Community Marketing Commission, each for a full term effective until June 30, 2016 was approved.
- Motion to appoint Miki Roth to the Community Marketing Commission for a partial term effective until June 30, 2014 was approved.
- Motion to appoint Christine Forster as an Alternate member of the Community Marketing Commission for a term effective until June 30, 2014 was approved.
- Motion to reappoint Keith Benner, David Stamps and Christopher Rosenberger to the Construction Advisory Board, each for a term effective until June 30, 2016 was approved.
- Motion to appoint Jerry Weitzel to the Golf Advisory Board for a partial term effective until December 31, 2013 was approved.
- Motion to reappoint Bruce Croissant and Daniel Hill to the Transportation Advisory Board, each for a full term effective until June 30, 2016 was approved.
- Motion to appoint Charlie Jackson to the Visual Arts Commission for a partial term effective until December 31, 2013 was approved.
- Motion to reappoint Mike Alexander and Arthur Erickson as City Council Appointed members of the Volunteer Firefighters' Pension Board of Trustees, each for a full term effective until June 30, 2017 was approved.

2. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)
GATEWAY PLANNED UNIT DEVELOPMENT GENERAL DEVELOPMENT PLAN AMENDMENT

A motion to approve and order published on second reading Ordinance # 5792 Amending the Gateway Planned Unit Development General Development Plan, City of Loveland was approved.

This is a quasi-judicial action to adopt an ordinance on second reading amending the Gateway General Development Plan (GDP). This will allow an increase in maximum density on Gateway Parcel A-1 from 16 units/acre to 22 units/acre and will increase the overall maximum number of multifamily residential units allowed in the GDP from 500 to 586. City Council unanimously approved the ordinance on first reading at the July 16, 2013 regular meeting.

3. **DEVELOPMENT SERVICES** (presenter: Kerri Burchett)
DAKOTA GLEN PUD - FIRST AMENDMENT (#P-98)

A motion to approve and order published on second reading Ordinance # 5793 Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for "Dakota Glen PUD - First Amendment (#P-98)", Approving the First Amendment to the Preliminary Development Plan for the Dakota Glen PUD was approved.

This is a quasi-judicial action to amend the Dakota Glen PUD Preliminary Development Plan. The amendment would allow the construction of an above ground public utility facility and natural gas pipeline within the PUD boundaries. The property is located

north of and adjacent to 14th Street SW and west of South Wilson Avenue. The applicant is Public Service Company of Colorado. City Council unanimously adopted the ordinance on first reading on July 16, 2013.

4. **DEVELOPMENT SERVICES** (presenter: Troy Bliss)
AIRPARK NORTH ADDITION AMENDMENT
A motion to approve and order published on second reading Ordinance #5794 Amending Ordinances 3380 and 3381 to Modify a Condition Set Forth Therein Pertaining to the Annexation and Zoning of the Airpark North Addition to the City of Loveland, Larimer County, Colorado was approved.
This is a legislative action to adopt an ordinance on second reading modifying a condition on the annexation and zoning of the Airpark North Addition. City Council unanimously adopted the ordinance on first reading at the July 16, 2013 regular meeting.
5. **DEVELOPMENT SERVICES** (presenter: Bethany Clark)
SUPPLEMENTAL APPROPRIATION FOR CONSULTING SERVICES FOR HIGHWAY 287 BUSINESS DEVELOPMENT CORRIDOR
A motion to approve and order published on second reading Ordinance # 5795 Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for Consulting Services to Develop the Highway 287 Business Development Corridor Plan was approved.
This is an administrative action to appropriate \$150,000 for consulting services to assist in developing a Highway 287 Business Development Corridor Plan. In January of 2012, City Council held their annual Council Advance to set the priorities for the year. One of the goals the Council set as a priority was to "Develop a Highway 287 Business Development Plan" to guide its development and improve the quality of development along the corridor. This goal was carried through as a priority in the 2013 annual Council Advance. As one of the main corridors into Loveland's downtown, the Highway 287 corridor has great potential for redevelopment and becoming a gateway to Downtown Loveland. The plan will serve as a guide for residents, property owners, developers, City staff, and elected officials in making good land use, design, and development decisions in the corridor. Funding is from reserves, which reduces the flexibility for funding other potential needs. The ordinance was unanimously passed on first reading by City Council on July 16, 2013.
6. **PUBLIC WORKS** (presenter: Ken Cooper)
SUPPLEMENTAL APPROPRIATION FOR PRELIMINARY PROGRAMMING AND DESIGN OF THE PUBLIC SAFETY TRAINING CAMPUS
A motion to approve and order published on second reading Ordinance # 5796 Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for Preliminary Programming and Design of the Public Safety Training Campus was approved.
This is an administrative action to appropriate \$310,000. The ordinance appropriates funding from reserve funds for preliminary program and design of the Police Training Facility. Full design and construction of the facility are programmed in 2016-2019 in three phases in the 2014 Capital Program. The project is funded with reserves in the Police Capital Expansion Fee Fund that reduce the flexibility for use on other projects. City Council unanimously approved this ordinance on first reading at the July 16, 2013 regular meeting.

7. **PUBLIC WORKS** (presenter: Dave Klockeman)
SUPPLEMENTAL APPROPRIATION FOR SIGN AND SIGNAL MAINTENANCE
A motion to approve and order published on second reading Ordinance # 5797 Enacting a Supplemental Budget And Appropriation to the 2013 City of Loveland Budget for Sign and Signal Maintenance on State Highways was approved.
This is an administrative action. The ordinance appropriates \$36,720 of additional revenue from a contract increase with the Colorado Department of Transportation (CDOT) for traffic sign, traffic signal, and pavement marking maintenance on State Highways within the City. The ordinance was approved unanimously on first reading by City Council at the July 16, 2013 meeting.
8. **CITY MANAGER** (presenter: Rod Wensing)
SPECIAL MEETING REQUEST FOR AUGUST 13, 2013
A motion Setting a Special Meeting for August 13, 2013 of City Council, for the Purpose of Holding an Executive Session in Order to Receive a Report from the City Attorney and Outside Legal Counsel Regarding the City's Franchise Agreement with Comcast and to Instruct City Negotiators Going Forward was approved.
This is an administrative action. The motion will set a special Council meeting and waive the required notice in the City Charter 4.2(b).
9. **DEVELOPMENT SERVICES** (presenter: Alison Hade)
PUBLIC HEARING
HUD ANNUAL ACTION PLAN
A motion to adopt a Resolution #R-55-2013 of the City Council of the City of Loveland, Colorado Approving a Community Development Block Grant Annual Action Plan and Grant Application for 2013 – 2014 was approved.
This is an administrative action. The resolution approves the 2013-2014 Community Development Block Grant (CDBG) Annual Action Plan. Adoption of the plan will allow the City to receive and distribute CDBG funds.
10. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Randy Mirowski)
INTERGOVERNMENTAL AUTOMATIC MUTUAL AID AGREEMENT- ESTES VALLEY
A motion to adopt a Resolution #R-56-2013 Approving an Intergovernmental Automatic Mutual Aid Agreement Between the Loveland Fire Rescue Authority and the Estes Valley Fire Protection District was approved.
This is an administrative action. The resolution approves an intergovernmental automatic mutual aid agreement between the Loveland Fire Rescue Authority (LFRA) and the Estes Valley Fire Protection District. The agreement was approved by the LFRA Board on July 11, 2013. The intergovernmental agreement that established the LFRA requires that auto and mutual aid agreements be approved by the City.
11. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Randy Mirowski)
INTERGOVERNMENTAL AUTOMATIC MUTUAL AID AGREEMENT- JOHNSTOWN
A motion to adopt a Resolution #R-57-2013 Approving an Intergovernmental Automatic Mutual Aid Agreement Between the Loveland Fire Rescue Authority and the Johnstown Fire Protection District was approved.
This is an administrative action. The resolution would approve an intergovernmental automatic mutual aid agreement between the Loveland Fire Rescue Authority (LFRA) and the Johnstown Fire Protection District. The agreement was approved by the LFRA Board on July 11, 2013. The intergovernmental agreement that established the LFRA

requires that auto and mutual aid agreements be approved by the City.

12. **PARKS & RECREATION** (presenter: Janet-Meisel-Burns)
AMENDMENTS TO SERVICE CONTRACT FOR MEHAFFEY PARK PROJECT

1. **A motion to Amend the Services Contract with Logan Simpson Design, Inc., to Increase the Fees for Mehaffey Park Design and Engineering Services from a “not to Exceed Amount of \$714,000” to a “not to Exceed Amount of \$769,623” and to Authorize the City Manager to Execute the Contract Amendment on Behalf of the City was approved.**

This is an administrative action. Logan Simpson Design, Inc. has completed the Mehaffey Park Design & Master Plan and had to re-design and modify plan outside of their original scope. The amended contract will address the fee increases and set aside an allowance for construction administration during the yearlong construction process. These fees are typical for similar park construction projects. Staff feels additional administrative fees will be needed to complete the construction of the park. These fees will be billed on a time and materials basis.

2. **A motion to Authorize the City Manager to Amend the Contract with ECI, Site Construction Management, Inc. as the Construction Manager/General Contractor (CM/GC) for the Guaranteed Maximum Price (GMP #1) of \$2.9 Million for Site Work and to Initiate Construction of the Mehaffey Park Project was approved.**

This is an administrative action. Environmental Concerns, Inc., Site Construction Management, Inc. has completed the competitive bidding process to determine the Guaranteed Maximum Price for the construction of Mehaffey Park. The recommended action includes initiating construction of site work including: over lot grading, erosion control, primary and partial electric, all wet utilities and mobilization. This will be GMP #1 with a second GMP to be considered upon completion of an additional bid review.

No supplemental funding is required for the design fee increases or GMP #1 Award Construction. The Mehaffey Park Project has a current budget of \$7,669,500 sufficient for both administrative actions.

13. **CITY CLERK** (presenter: Terry Andrews)
EMERGENCY ORDINANCE AMENDING CHAPTER 12.30 TEMPORARY VENDORS LICENSING

This item was removed from the Consent Agenda.

14. **WATER & POWER** (presenter: Russel Jentges)
WHEELING AGREEMENT AMONG CITY, PSCo, & PLATTE RIVER POWER AUTHORITY

- A motion to adopt a Resolution #R-58-2013 Approving a Wheeling Agreement Among the City of Loveland, Public Service Company of Colorado, and Platte River Power Authority was approved.**

This is an administrative action. The resolution would approve a new Wheeling Agreement among the City, Public Service Company of Colorado (PSCo), and Platte River Power Authority (Platte River). This Wheeling Agreement will replace the existing agreement among the parties dated June 20, 2005. Both PSCo and Platte River have approved and signed the Wheeling Agreement. The Power Enterprise will benefit from this approval of the wheeling agreement by updating the rates and fees charged to PSCo for the use of our equipment and services. Pursuant to City Code, all utility rates, charges, and fees must be approved by City Council upon two readings of the

resolution. Because the Wheeling Agreement sets an electric rate for PSCo, this resolution is being presented to City Council for two readings.

15. **PUBLIC WORKS** (presenter: Ken Cooper)
SUPPLEMENTAL APPROPRIATION FOR THE SERVICE CENTER PHASE III EXPANSION PROJECT

A public hearing was held and a motion to approve and order published on first reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for the Service Center Phase III Expansion Project was approved.

This is an administrative action. The ordinance appropriates funds to complete the project at the amount of bid price. Total project cost is expected to be \$14,912,060. City Council previously appropriated project funding of \$11,017,540, so an additional \$3,894,520 is now required to complete the project. Public Works enterprise funds and general government capital expansion fees may be used for this additional appropriation request. The funding for the project is from reserves of \$3,499,520 from the General Government CEF Fund and \$395,000 from the Solid Waste Enterprise Fund and reduces the flexibility to complete other projects.

END OF CONSENT AGENDA

CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

CITY COUNCIL

- a. **Citizens' Report** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*

Mark Malone, 5626 Lakeview, expressed appreciation to Council for the release of the building permits for Lakeview Development.

Commandant of the Marine Corps League, Thomas Buchanan, 910 W 8th announced 500 flags had been honorably retired with the help of the Loveland Fire Department and the US Army 409th Engineers Division.

- b. **Business from Council** *This is an opportunity for Council Members to report on recent activities or introduce new business for discussion at this time or on a future City Council agenda.*

Fogle: Announced the Duck Race on August 24, 2013 at the Corn Roast Festival.

Taylor: Announced the 4H Jr. Livestock Sale, Wednesday, August 7, 2013, 4:30-10pm at the Ranch, Larimer County Fair.

Shaffer: Commented on the Metropolitan Planning Organization (MPO) Meeting regarding Impact 64; Thanked Dave Klockman of the Technical Advisory Committee; Announced CDOT Meeting on August 22, 2013 held at the Weld County Service Center regarding economic development around I-25; Loveland Housing Authority (HACOL) is seeking Board Member applicants; Promoted "Night on the Town".

Trenary: Announced Boards & Commissions still have openings.

Clark: Chamber of Commerce (COC) is hosting the Corn Roast Festival on August 23-24, 2013; Pro Cycling Challenge Tour through Loveland on August 24, 2013; Loveland Center of Business Development quarterly report discussion.

Klassen: Attended a ribbon cutting for Baskin Robbins at their new location; Attended ribbon cutting for Dairy Queen celebrating 50 years.

Farley: Announced Sculpture Weekend; Dedication for 3D Printers on August 15, 2013 at the Library; Sculpture installation models on display at the museum; Proceeds of the Duck Race will provide for every 3rd grader in the Thompson School District to receive a new dictionary; Tharp Cabinets to offer a job fair.

Mayor Gutierrez:

Mentioned 4H Chair Board, Gil Barena for great work and Savannah Martinez as 2013 Fair Queen; Recycle Bank asking for residents to sign up; Announced August 12, 2013 Crime Lab Ribbon Cutting as a regional collaboration effort; Platte River Power Authority Retreat; Water & Power Director, Steve Adams received a grant award of 1.08 million for Wastewater Treatment Plant Improvements by the State of Colorado.

c. City Manager Report

Announced Fire Chief, Randy Mirowski will be recognized by peers at the International Fire Chief Conference Meeting in Chicago.

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 quorum 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

**13. CITY CLERK (presenter: Terry Andrews)
EMERGENCY ORDINANCE AMENDING CHAPTER 12.30 TEMPORARY VENDORS
LICENSING**

This is a legislative action. City Manager, Bill Cahill introduced this item to Council. The ordinance will authorize the City Clerk to issue to ice cream truck operators a temporary license to sell their products from the City's streets. The licensees will not be allowed to sell product within City parks or on roads adjacent to City parks. Licensees will be subject to all other restrictions in Code Chapter 12.30 for vendors, as well as, additional restrictions in the ordinance. Mayor Gutierrez opened the public hearing at 7:27 p.m. and with no further public comment, the hearing was closed at 7:27 p.m. Police Chief, Luke Hecker spoke about law enforcement's role regarding this issue. Discussion ensued. **Councilor Shaffer moved to approve and order published on first and only reading Emergency Ordinance #5798 of the City Council of the City of Loveland Authorizing the City Clerk to Issue Temporary Vendors Licenses Under Code Chapter 12.30 to Persons Operating Ice Cream Trucks. Councilor Farley seconded the motion, which carried with all councilors voting in favor thereof.**

**16. CITY CLERK (presenter: Terry Andrews)
APPROVAL OF CITY COUNCIL MEETING MINUTES
1. Council Minutes from the July 9, 2013 Study Session.**

This is an administrative action to approve the July 9, 2013 Study Session Minutes. Councilor Fogle was absent. **Councilor Shaffer moved to approve the July 9, 2013 Study Session meeting minutes. Councilor Trenary seconded the motion, which carried with all councilors present voting in favor thereof and Councilor Fogle abstaining.**

2. Council Minutes from the July 16, 2013 Regular Meeting.

This is an administrative action to approve the July 16, 2013 Regular Meeting Minutes. Councilor McKean was absent. **Councilor Shaffer moved to approve the July 16, 2013 meeting minutes. Councilor Farley seconded the motion, which carried with all councilors present voting in favor thereof and Councilor McKean abstaining.**

17. **ECONOMIC DEVELOPMENT** (presenter: Marcie Erion)
INCENTIVE AGREEMENT FOR SCHLOSSER SIGNS, INC.
This is an administrative action. Business Development Specialist, Marcie Erion, Schlosser Signs, Inc., Owner, Carla Schlosser and Water & Power Director, Steve Adams were present to answer questions. Erion introduced this item to Council. Schlosser Signs is requesting an incentive not to exceed \$15,000 to upgrade electrical service at their new branch location, 418 E. 3rd Street. This includes a new transformer bank, frame, new pole, and installation of a new secondary cable. These expenditures will arise as part of their company expansion downtown. According to City Council Economic Incentive Policy, agreements that do not exceed \$20,000 may be presented to Council without a prior informational meeting. The City of Loveland will fund no more than \$15,000 from the Economic Development Incentive Fund contingent upon the purchase of the new facility. **Councilor Shaffer moved to approve Resolution #R-59-2013 Approving an Incentive Agreement for Schlosser Signs, Inc. Councilor Klassen seconded the motion, which carried with all councilors voting in favor thereof.**
18. **DEVELOPMENT SERVICES** (presenter: Greg George)
OIL & GAS FILING FEES
This item was removed from the agenda at the request of the City Manager.
19. **DEVELOPMENT SERVICES** (presenter: Greg George)
OIL & GAS CAPITAL EXPANSION FEES
This item was removed from the agenda at the request of the City Manager.
20. **DEVELOPMENT SERVICES** (presenter: Greg George)
PUBLIC HEARING
OIL & GAS OVERLAY ZONES AMENDMENT
This item was removed from the agenda by the request of the City Manager.
21. **CITY MANAGER** (presenter: Bill Cahill)
CITIZEN REQUEST: LETTER TO GOVERNOR HICKENLOOPER REGARDING
HB 13-1224 & HB 13-1229
A motion to approve the Written Request from Local Businesses for Council to
Send a Letter to the Governor's Office Urging a Stay of Enforcement Regarding
HB 13-1224 and HB 13-1229
This is an administrative action. City Manager, Bill Cahill introduced this item to Council. Council is asked to consider the attached letter from several concerned local shooting-sports businesses regarding the implementation of HB 13-1224 and HB 13-1229. Council previously approved a related letter on HB 13-1224. The requesting local

businesses ask that the effects of both laws be considered together.

If the Council desires to send a letter, two options are attached:

Option A is drafted by staff and uses the Tall Guns material as an attachment.

Option B was submitted by Councilor McKean. Council McKean requested Council consider Option A, submitted by the City Manager.

Tall Guns, LLC Owner, Buddy Meyers gave a presentation on the economic impacts of the two laws on business owners within the City of Loveland. Police Chief, Luke Hecker spoke and Larimer County Sheriff, Justin Smith spoke on the impacts to law enforcement agencies of the two laws. The following speakers encouraged Council to forward the letter to Governor Hickenlooper requesting the stay on enforcement of the two new laws: Residents: Jeremy Batman, Nicholas Allan Batman, age 10, Carol Dowding, 3214 Ivory Court, Dallas Benton, 501 Sunny Slope, Justin Lople and Jonathan Rosenberg of 908 S. Edinburg; and City of Loveland business owners Ed and Steve Klen, Front Range Club; John Bund, Jensen Arms; Ed Shultz, 2nd Amendment, 418 8th Street. And County Resident Jim Parina, 27660 Hopi Trail. **Councilor Shaffer moved to approve the letter known as Option A with the insertion of a paragraph outlining the concerns expressed by Chief Hecker. Councilor McKean seconded the motion. Councilor Farley moved to approve an amendment to the motion to add an additional paragraph describing the economic impact with reflected data given at the meeting by the business owners. Councilor McKean seconded the motion, which carried with all councilors voting in favor. Councilor considered the original motion as amended.**

22. **CITY ATTORNEY**

(presenter: John Duval)

ACTIONS RELATING TO AMENDMENT 64 MARIJUANA ESTABLISHMENTS

City Attorney, John Duval introduced this item to Council. This is a legislative action to adopt on first reading an ordinance adding a new Chapter 7.65 to the Loveland Municipal Code to prohibit marijuana establishments from being licensed, located and operated within the City. Police Chief, Luke Hecker spoke regarding the issue. Mayor Gutierrez opened up the public hearing at 10:39 p.m. With no further public comment, Mayor Gutierrez closed the public hearing at 10:39 p.m. **Councilor Shaffer moved to approve and order published on first reading an Ordinance to Add a New Chapter 7.65 to the Loveland Municipal Code to Prohibit Marijuana Establishments from Being Licensed, Located and Operated within the City of Loveland. Councilor McKean seconded the motion, which carried with all councilors voting in favor thereof.**


ADJOURNMENT

Having no further business to come before Council, the August 6, 2013 Regular Meeting was adjourned at 10:49 pm.

Respectfully Submitted,


Teresa G. Andrews, City Clerk




Cecil A. Gutierrez, Mayor

