



**MINUTES  
LOVELAND CITY COUNCIL MEETING  
Tuesday, May 2, 2017 CITY COUNCIL CHAMBERS 6:00 PM**

**COUNCIL PRESENT:** Mayor Gutierrez  
Councilors:  
Fogle, Krenning, Ball, Shaffer, Overcash, Clark, Johnson, Olson.

**COUNCIL ABSENT:** None

**1. INTRODUCTION**

**1.1. CALL TO ORDER**

**1.2. PLEDGE OF ALLEGIANCE**

**1.3. ROLL CALL**

**1.4. PROCLAMATIONS AND PRESENTATIONS**

**PRESENTATION**

**1.4.1. YAC APPRECIATION FOR SENDING TO NATIONAL LEAGUE OF CITIES**

Presented by; Mark McKenna and Megan Valier.

**1.4.2 PROCLAMATION**

**KIDS TO PARKS DAY**

Councilor Ball presented the proclamation to Elizabeth Kayl, Parks and Recreation Director.

**1.4.3 PROCLAMATION**

**DRINKING WATER WEEK**

Councilor Krenning presented the proclamation to Lindsey Bashline, Water and Power Customer Relations Specialist.

**1.4.4 PROCLAMATION**

**MUNICIPAL CLERK'S WEEK**

Mayor Gutierrez presented the proclamation to Kirsten Gjelde-Bennett, Acting Deputy Clerk.

**2. CONSENT AGENDA**

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*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. Members of the public 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. Comments will be limited to no more than three minutes, the City Clerk will start the timer once an introduction is made and a buzzer will sound when the three minutes have expired.*

*Items 2.5 and 2.8 were pulled from the Consent Agenda by Councilor Olson.*

Moved by Councilor Shaffer, seconded by Councilor Fogle

***A Motion approving the Consent Agenda, items 2.1 through 2.8 with the exception of Items 2.5 and 2.8.***

**CARRIED UNANIMOUSLY.**

**2.1. CITY CLERK  
APPROVAL OF MINUTES**

Approval of the City Council minutes for the April 4, 2017 Regular Meeting and April 11, 2017 Special Meeting.

***A Motion to Approve the City Council minutes for the April 4, 2017 Regular Meeting and April 11, 2017 Special Meeting and Study Session.***

**CARRIED.**

**2.2. CITY MANAGER  
APPOINTMENTS TO BOARDS AND COMMISSIONS**

This is an item appointing members to the Parks and Recreation Commission and the Transportation Advisory Board

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- 1) A Motion To Reappoint Wendi Cudmore To The Parks And Recreation Commission For A Term Effective Until December 31, 2019***
- 2) A Motion To Appoint Shane McWatters As An Alternate Member On The Parks And Recreation Commission For A Term Effective Until December 31, 2019***
- 3) A Motion To Appoint Salvador Gomez To The Transportation Advisory Board For A Partial Term Effective Until June 30, 2019***

CARRIED.

**2.3. PUBLIC WORKS**

**TAFT AVENUE BRIDGE GRANT APPROPRIATION**

The North Taft Avenue Roadway Widening And Bridge Replacement Project would appropriate the necessary funds to replace structurally deficient bridge over the Big Barnes and to widen the roadway section to the LUCASS standard 4-lane arterial roadway section up to 11th Street. The goals of this project are to replace the structurally deficient bridge, increase capacity, improve safety, provide a higher level of service, improve the ride quality and improve pedestrian and bicycle facilities along the project length.

***A Motion To Adopt, On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2017 City Of Loveland Budget For The North Taft Avenue Bridge Replacement Over Big Barnes Ditch Project***

CARRIED.

**2.4. PUBLIC WORKS**

**BIKE TO WORK MONTH APPROPRIATION OF GRANT FUNDS**

City Council approval is necessary to accept and appropriate \$5,750 in funds granted from sponsor agencies for events to promote, support and celebrate safe bicycling in June 2017. For 2017, the Bike-to-Work-Day Committee worked to expand events and activities into a month-long program related to safe bicycling and secured sponsorship funds from CDOT, Kaiser Permanente and UCHealth. With acceptance and appropriation of donated funds, the number and quality of bicycling events and activities in June will increase significantly compared to those in past years. This year, Bike-to-Work Day is scheduled for June 28, 2017.

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***A Motion To Adopt, On First Reading, An Ordinance Enacting A  
Supplemental Budget And Appropriation To The 2017 City Of Loveland  
Budget For Bike To Work Month***

CARRIED.

**2.5. WATER & POWER**

**SECOND AMENDMENT TO 5TH INTERIM AGREEMENT FOR WINDY GAP  
FIRMING PROJECT**

This item was considered on the Regular Agenda, Item 5.1.1.

**2.6. PUBLIC WORKS**

**CDOT VARIABLE MESSAGE SIGNS INSTALLATION**

The City was awarded Federal Congestion Mitigation and Air Quality Improvement (CMAQ) grant funds to install variable message signs on US34 east of Larimer County Road 3 and on Fairgrounds Avenue north of Crossroads Boulevard. The Intergovernmental Agreement (IGA) between the City and the Colorado Department of Transportation (CDOT) expired on November 29, 2016. City staff was unable to complete the Project as the first construction bid results came in higher than anticipated, creating the need to re-design the Project and re-bid the packet. There was also substantial Traffic Engineering staff turnover at that time. However, grant funds are still available to complete the installation of the signs, and the City and CDOT wish to enter into a new IGA that would allow for completion of the project. Project costs are estimated at \$368,807, of which \$161,513 will be Federal funds, \$33,575 are required City matching funds, and \$173,719 are City overmatch funds. All of these funds were previously appropriated under the original IGA and are currently budgeted and available in 2017. The proposed Resolution would approve and authorize the City Manager to execute the new IGA with CDOT.

***A Motion To Adopt Resolution #R-40-2017, Approving An  
Intergovernmental Agreement Between The City Of Loveland, Colorado  
And The State Of Colorado, Acting By And Through The Colorado  
Department Of Transportation, For The Installation Of Variable Message  
Signs On US Highway 34***

CARRIED.

**2.7. FISCAL ADVISOR**

**MARCH 2017 INVESTMENT REPORT**

The budget projection for investment earnings for 2017 is \$2,167,387. On the portfolio's 2017 beginning balance, this equates to an annual interest rate of 0.98%. Based on the March monthly report, the estimated yield on the fixed

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income securities held by USBank was at 1.39%, for total assets the yield was 1.36%. For March, accounting posted total earnings of \$180,066 to City fund accounts. U.S. short-term Treasury interest rates had moved sharply higher since the second week of November 2016. The end of March estimated market value is \$231.3 million. The total is higher due to the receipt of funds for the downtown parking facility. The portfolio's change in unrealized gain for the March was a decrease in value of \$96,702, increasing the unrealized loss in the portfolio to \$1,775,308. The City's combined fund balances exceed \$200 million and the investment program strives to earn competitive returns within state law and City investment policy guidelines.

*Information Only*

**2.8. FINANCE**  
**MARCH 2017 FINANCE REPORT**

This item was considered on the Regular Agenda, Item 5.1.2.

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

**4. PUBLIC COMMENT**

*Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*

Larry Sarner, Loveland resident, spoke regarding his petition to amend the City Charter. Howard Dotson, Loveland resident, expressed concern regarding Council comments on Mental Health and the homeless.

**5. REGULAR AGENDA**

**PROCEDURAL INFORMATION**

*Anyone in the audience will be given time to speak to any action item on the Regular Agenda before the Council acts upon it. The Mayor will call for public comment following the staff report. 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.*

**5.1. CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA**

**5.1.1. WATER & POWER**

**SECOND AMENDMENT TO 5TH INTERIM AGREEMENT FOR  
WINDY GAP FIRMING PROJECT**

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Larry Howard, Senior Civil Engineer, presented this item to Council. Loveland's portion of the Fifth Interim Agreement costs under this Second Amendment to the Fifth Interim Agreement are projected to be \$1,260,713 during 2017 based upon the City's current subscription of 9,451 acre-feet in the 90,000 acre-foot project. This allocation and cost is shown in Table B to Attachment 2. In January, 2016, Loveland's portion of the Fifth Interim Agreement costs during calendar year 2016 were determined to be \$1,118,956, paid in March, 2016. This was based on Loveland's subscription of 7,000 acre-feet of storage capacity in the 90,000 acre-foot project at that time. Attachment 4 shows a copy of the Fifth Interim Agreement, dated March 1, 2016. On August 30, 2016 Loveland increased its subscription by 2,000 acre-feet to 9,000 acre-feet, by taking over capacity released by the City of Longmont. The increased capacity required an additional payment of \$319,702 in September, 2016, by Loveland, making Loveland's total payment \$1,438,658 during 2016. Attachment 3 shows a copy of the Amendment to the Fifth Interim Agreement, dated August 30, 2016, increasing Loveland's participation from 7,000 acre-feet to 9,000 acre-feet. Loveland's action occurred pursuant to City Council Resolution #R-72-2016, dated August 2, 2016, directing Loveland Water & Power staff to pursue negotiations for an increase in the City of Loveland's participation in the Windy Gap Firming Project from 7,000 acre-feet up to 10,000 acre-feet of storage. A copy of Resolution #R-72-2016 is included with Attachment 3. Loveland gained 451 acre-feet on February 7, 2017, also under the direction provided to staff under Resolution #R-72-2016, referenced above. Minutes of the regular meeting of the Windy Gap Firming Project Participants on that date record a proposed pro-rata allocation of 3,820 acre-feet of unallocated storage space in the Project. An attached table dated January 10, 2017 shows the proposed pro rata allocation for each entity seeking additional storage, including Loveland at 9,451 acre-feet. Attachment 2 includes those minutes with the WGFP Levels of Participation beginning near the bottom of the second page in paragraph VI.A. This information was shared by Northern's staff and discussed by the Board of the Municipal Subdistrict/Northern Colorado Water Conservancy District, but no formal action was requested of the Board, or taken. The Board's approval of this Second Amendment to the Fifth Interim Agreement will indicate its formal recognition of the final levels of Project participation. No Public Commented.

Moved by Councilor Shaffer, seconded by Councilor Clark

***A Motion To Adopt Resolution #R-39-2017, Approving And Authorizing The Execution Of A Second Amendment To The Fifth Interim Agreement With The Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firming Project Water Activity Enterprise, For Continued Participation In The Windy Gap Firming Project.***

CARRIED UNANIMOUSLY.

**5.1.2. FINANCE**

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**MARCH 2017 FINANCE REPORT**

Brent Worthington, Finance Director, presented this item to Council. The Snapshot Report is submitted for Council review and includes the reporting of the City's revenue and expenditures, including detailed reports on tax revenue and health claims, as of March 31, 2017. Citywide Revenue of \$72.5 million is 21.8% of total annual budget. Sales Tax collections in the month of March are 4.4% above March in 2016, and 26.0% of the total annual budget. Building Material Use Tax collections in the month of March are 23.9% above March in 2016, and 19.2% of the total annual budget. Sales and Use Tax collections combined are 25.5% of total annual budget. Citywide total expenditures of \$67.7 million are 27.1% of the total annual budget.

*Information Only*

**5.2. COMMUNITY PARTNERSHIP OFFICE  
PUBLIC COMMENT  
FOOD BANK FOR LARIMER COUNTY**

Prior to Council hearing Item 5.2, Councilor Krenning recused himself, due to a conflict of interest.

Alison Hade, Community Partnership Administrator and Amy Pezzani, Food Bank CEO, presented this item to Council. The Food Bank for Larimer County is seeking \$500,000 as a matching grant and a waiver of \$33,663 in building permit fees from the City of Loveland to support the purchase and remodel of a food distribution warehouse. The objective is to obtain a \$500,000 matching grant and waiver of permit fees totaling \$33,663. A matching grant will help the Food Bank purchase the building in May by increasing the pledged dollars raised prior to closing on May 15, 2017.

No Public Commented.

Discussion ensued regarding the funding source.

Moved by Councilor Shaffer, seconded by Councilor Fogle

*Original Motion:*

***A Motion to Adopt, On Second Reading, Ordinance 6112, Enacting A Supplemental Budget And Appropriation To The 2017 City Of Loveland Budget For The Food Bank For Larimer County***

CARRIED 6 - 2 No Votes: Clark and Olson

Moved by Councilor Johnson, seconded by Councilor Overcash

*Amendment to the Original Motion:*

***A Motion to Amend, On Second Reading, Ordinance 6112, Enacting A Supplemental Budget And Appropriation To The 2017 City Of Loveland***

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***Budget For The Food Bank For Larimer County, Using the Source of  
Funding From Council Special Projects Fund***

CARRIED 6 - 2 No Votes: Clark and Fogle

**5.3. ECONOMIC DEVELOPMENT**

**PUBLIC COMMENT**

**EXCLUSION OF TERRITORY FROM DDA**

Alan Krcmarik, Senior Fiscal Advisor, presented this item to Council. The proposed Ordinance would exercise the City of Loveland home-rule power to exclude certain residential properties that are now located within the Loveland Downtown Development Authority ("DDA" or "Authority") boundaries. The properties to be excluded meet one or a combination of the following criteria: (1) the Property is not currently included in the DDA's long-range plan of development for downtown and, therefore, does not have a natural nexus to the contemplated activities of the DDA; (2) portions of the Property are separated from the core downtown area by physical impediments such as major roadways and railroad lines and, therefore, do not substantially contribute to or benefit from the activities of the DDA; and (3) the Property is comprised of distinct neighborhoods that are not integrated into the DDA and do not provide the same degree of contiguity to the commercial areas of the DDA as those residential areas that are not the subject of this Ordinance. The Ordinance, if approved, will exclude certain residential properties from the existing boundary description of the DDA, approximately 107 residential properties, some with multiple residential apartment units. These properties were determined to be unlikely to receive direct redevelopment or financial benefits from being in the DDA.

Public Comment: Melanie Crandel, Loveland resident, spoke in support of the exclusion of certain property. Gary Lindquist, Ward 2 resident, spoke in opposition of Foundry and DDA. Jim Holly, Loveland resident, expressed concern with property assessment. Jeff Olson, Loveland resident, spoke in opposition to the DDA. Larry Sarner, Ward 2 resident, spoke in opposition. Shawn Wright, Loveland resident, spoke in opposition to the DDA. John Keil, Ward 3 resident, spoke in opposition to the use of TIFs. Roger Wiedelman, Ward 4 resident, spoke in favor of the Foundry and the DDA.

Moved by Councilor Shaffer, seconded by Councilor Fogle

***A Motion To Adopt, On First Reading, An Ordinance Excluding Certain  
Property From The Boundaries Of The Loveland Downtown  
Development Authority***

CARRIED 8 - 1 No Vote: Krenning

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Discussion of Memorandum dated February 28, 2017 regarding the DDA spending \$45.43 of City funding on ballot issues.

Moved by Councilor Krenning, seconded by Councilor Fogle

***A Motion To Release Confidential Memorandum Issued By The City Attorney***

CARRIED UNANIMOUSLY.

**5.4. HUMAN RESOURCES**

**CITY ATTORNEY APPLICANT REVIEW WITH POSSIBLE EXECUTIVE SESSION**

Julia Holland, Human Resources Director, was present for this item. The City Attorney position recruitment began when the job was posted on January 23, 2017. The posting closed on February 20, 2017 and initial interviews were conducted on April 13, 2017. The purpose of the Executive Session is to review and consider applicants for the position of City Attorney before a second round of interviews.

Moved by Councilor Shaffer, seconded by Councilor Clark

***A Motion for the Loveland City Council recess into executive session for the purpose of reviewing applicants and considering related materials for the position of City Attorney, pursuant to City of Loveland Charter section 4-4,***

***To receive information and discuss Personnel matters to include review, evaluation, deliberation, and discussion as authorized by CRS § 24-6-402 (4)(f)(I) and Charter Section 4-4(c)(5), regarding the review of applicants and related materials for the City Attorney position; and as authorized by CRS § 24-6-402(4)(g) and Charter Section 4-4(c)(3)***

***To consider and discuss documents and materials related to these personnel matters that are not subject to public inspection under the Colorado Open Records Act***

***To consider additional matters for which an executive session is permitted under the State statutes concerning the meetings of local public bodies, as authorized Charter Section Charter Section 4-4(c)(6) If required, to discuss matters of attorney-client privilege and to receive legal advice from an attorney representing the City, as authorized by CRS § 24-6-402(4)(b) and Charter Section 4-4(c)(3)***

CARRIED UNANIMOUSLY.

Council recessed into executive session at 9:50 p.m.

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Council reconvened at 10:23 p.m.

Moved by Councilor Shaffer, seconded by Councilor Fogle

***A Motion to Re-open the application process for the City Attorney Position.***

CARRIED UNANIMOUSLY.

Moved by Councilor Shaffer, seconded by Councilor Fogle

***A Motion to extend the meeting to 11:00 p.m.***

CARRIED 7 - 2 No Votes: Olson and Krenning

**5.5. ECONOMIC DEVELOPMENT**

**ACQUISITION OF PROPERTIES OWNED BY LARIMER COUNTY, WITH  
POSSIBLE EXECUTIVE SESSION**

Mike Scholl, Economic Development Manager, presented this item to Council. Staff is seeking direction from City Council on the proposed acquisition of the Larimer County building located at 205 E. 6th Street and the County parking lot at 6th Street and Railroad Avenue. The Executive Session will allow staff to discuss and receive direction from City Council on the proposed acquisition.

Moved by Councilor Shaffer, seconded by Councilor Fogle

***A Motion for the Loveland City Council recess into executive session concerning the possible acquisition of properties owned by Larimer County pursuant to the Colorado Revised Statutes and the City of Loveland Charter***

***To determine a position relative to issues subject to negotiation, to receive reports on negotiation progress and status, to develop negotiation strategy, and to instruct negotiators as authorized by CRS § 24-6-402 (4)(e) and Charter Section 4-4(c)(1);***

***To receive information or discuss regarding the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest, as authorized by CRS § 24-6-402 (4)(a) and Charter Section 4-4(c)(2); and***

***To discuss matters of attorney-client privilege, to receive legal advice from an attorney representing the City, and for matters required by law to be kept confidential as authorized by CRS § 24-6-402 (4)(b) and Charter Section Charter Section 4-4(c)(3)***

CARRIED UNANIMOUSLY.

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Council recessed into executive session at 10:25 p.m.

Council reconvened at 10:58 p.m.

6. REPORTS

No reports were given.

7. ADJOURN

Mayor Gutierrez adjourned the May 2, 2017 Regular Meeting at 11:00 p.m.

Respectfully Submitted,



  
Beverly A. Walker, Acting City  
Clerk

  
Cecil A. Gutierrez, Mayor

