

**Commission Members Present:** Bill Szmyd, Clinton O'Neill, Dan Herlihey (Chairman), Don Cook (Vice Chairman), Gene Packer, Randy Lee Williams

**LUC Commission Members Absent:** Craig Bialy, Gary Hausman

**Council Liaison Present:** Steve Olson

**Council Liaison Absent:** Andrea Samson

**City Staff Members Present:** Andy Fayram, Tim Bohling, Aaron Rodriguez, Adam Bromley, Chad Birgenheier, Jim Lees, Melanie Reeves, Nathan Alburn, Noah Cycil, Catharine Kellogg, Tasha Stewart, Todd Hanlin, Bryan Easterly, Tracey Hewson, Ryan Van Pelt

**Guest Attendance:** None

#### CALL TO ORDER

**CALL TO ORDER:** Dan Herlihey called the meeting to order at 3:02 PM.

#### ADOPTION OF MINUTES

**Item 2.1: Adoption of Minutes – Dan Herlihey**

This item requested a motion to approve the minutes of the August 20, 2025 meeting.

**Recommendation:** Adopt A Motion to Approve of the Loveland Utilities Commission Meeting Minutes from August 20, 2025.

**Motion:** Don Cook made the motion.

**Second:** Gene Packer seconded the motion. The minutes were **approved** with a **6-0 vote**.

#### CITIZENS REPORT

**Item 3.1: Citizens Report**

Commissioner **Dan Herlihey** received email correspondence from citizen **Gale Bernhardt**, regarding Cash-in-lieu (CIL) which was addressed during regular agenda Item 5.3 - 2026 City of Loveland Utility Rates, Charges and Fees. The two emails from Gale Berhnardt are attached (**Attachments A and B**).

#### INFORMATIONAL ITEMS

**Item 4.1: Water Treatment Plant Daily and Monthly Flow Report – Chad Birgenheier**

This item provides an update on the Loveland Water Treatment Plant daily and monthly flows for the month of August 2025.

**Discussion:** Bill Szmyd inquired what the capacity of the plant is and also about peak flows nearing 80% capacity. Chad Birgenheier confirmed that the Water Treatment Plant capacity is 38 million gallons per day (MGD) and noted that the utility saw a peak flow just below 26 MGD, but this peak flow was inflated due to filling tanks for maintenance on Sed 2. Actual peak flow is around 25 MGD.

**Recommendation:** Information Item Only. No Action Required.

#### **Item 4.2: Financial Report Update – Jim Lees**

This item summarizes the preliminary monthly and year-to-date financials for August 2025.

**Discussion:** Don Cook wanted to know if Jim Lees or Aaron Rodriguez have any concerns with revenues for Electric or Water. Jim Lees noted that Electric is within budget, there are some concerns with water being below budget, particularly for residential areas that will need to be considered for future budgets.

**Recommendation:** Information Item Only. No Action Required.

#### **Item 4.3: Utility Financial Dashboards – Aaron Rodriguez**

This agenda item shows the Utility Financial Dashboards based on Year to Date financial and operational data.

**Recommendation:** Information Item Only. No Action Required.

### **REGULAR AGENDA**

#### **Item 5.1: Loveland Utilities-USGS Cooperative Monitoring Program Signatory Authority for the City Manager - Andy Fayram**

The City of Loveland has partnered with the U.S. Geological Survey (USGS) for more than 30 years to operate a stream and precipitation gage, and since 2021 the agreement has also supported the collection of source water quality data through the City's cooperative monitoring program. Due to rising costs associated with inflation, expanded partner involvement, additional parameters of emerging regulatory or operational concern, and declining federal USGS matching funds, this agreement is expected to exceed \$250,000 in the near future. The City Manager's current approval limit under Resolution #R-121-2020 is \$250,000. Therefore, future agreements would require City Council approval, even though the overall program budget has already been separately approved by Council. To streamline contracting, maintain program continuity, and align with current city procurement guidance while ensuring fiscal oversight, we request that the City Manager be authorized to execute this intergovernmental agreement without a specific dollar limit in the resolution, with all expenditures remaining within the budgeted amount approved annually through the City Council budget process. No additional utility funds are requested. This request is solely a logistical business and contracting modification rather than a funding increase.

**Discussion:** Bill Szmyd wanted to know how many sites are tested. Andy Fayram noted that the standard USGS sampling effort is 10 months per year at each of 9 sites. Bill also wanted to know if the USGS selected the sites or if we do. Andy clarified that the City has ultimate authority to include or exclude sites but USGS offers input into the site selection process.

**Recommendation:** Adopt a Motion to Recommend that City Council Approve a Resolution to Authorize the City Manager to Execute the Annual U.S. Geological Survey Cooperative Water Quality Monitoring Joint Funding Agreement on Behalf of the City of Loveland, without a Dollar Limit in the Resolution, Provided Expenditures Remain Within the Program Budget Approved Annually by City Council.

**Motion:** Don Cook made the motion.

**Second:** Gene Packer seconded the motion. The motion was **approved** with a 6-0 vote.

#### **Item 5.2: Water Efficiency and Landscape Code Updates – Catharine Kellogg**

The City of Loveland Water Resources Division is proposing updates to several sections of the Municipal Code and related programs to improve clarity, enforcement, and alignment with the 2020 Water Efficiency Plan. These revisions modernize outdated provisions, strengthen water waste enforcement, expand the City Manager's authority during shortages, formalize Hydrozone Program standards, and update definitions. Collectively, these changes provide the City with enforceable tools to support long-term water efficiency and conservation goals.

**Discussion:**

**Randy Williams** wanted to know how the Water Resources group has connected with the public that will be affected by changes to this program. **Catharine Kellogg** noted that we connect with the public regularly and that this new tool will serve as a resource to help guide Hydrozone participants and other customers who will be impacted by the changes. She also shared that staff have received input from these participants and customers as part of the process.

**Bill Szmyd** wanted to know how the city monitors and penalizes citizens who do not adhere to the regulations. **Catharine Kellogg** explained that city staff are working to create a standard operating procedure for how to handle water wasting, which includes educating the customer, issuing a warning, and finally issuing a financial penalty.

**Recommendation:** Adopt a Motion to Support the Proposed Water Efficiency Municipal Code Changes for City Council's Consideration.

**Motion:** Don Cook made the motion.

**Second:** Bill Szmyd seconded the motion. The motion was **approved** with a 6-0 vote.

#### **Item 5.3: 2026 City of Loveland Utility Rates, Charges and Fees – Jim Lees**

The purpose of this item is to ask the Loveland Utilities Commission (LUC) to adopt a motion recommending that City Council approve the proposed changes to the City of Loveland Utility Rates, Charges and Fees for 2026.

**Discussion:** Dan Herlihey received two emails from citizen Gale Bernhardt dated September 14, 2025, and September 16, 2025 regarding Cash-in-lieu values. These emails were added to the official record and noted in these minutes as **Attachments A and B**.



**Recommendation:** Adopt a motion recommending that City Council approve the proposed changes in the City of Loveland Utility Rates, Charges and Fees for 2026.

**Motion:** Don Cook made the motion.

**Second:** Randy Williams seconded the motion. The motion was **approved** with a **6-0 vote**.

#### STAFF REPORT

##### Item 6.1: Loveland Water AMI Project – Bryan Easterly

This brief overview outlines the upcoming Automated Metering Infrastructure (AMI) project, highlighting its key features and benefits—such as improved accuracy, real-time monitoring, and faster leak detection. It also addresses budget considerations, projected costs, and funding challenges. A summary of the project timeline and its overall impact on the water department and community will be provided.

Bryan Easterly also noted that the city was awarded \$2.2 million dollars in additional funding/grant money the day before the LUC meeting and was unable to update the presentation. However, with those additional funds, we anticipate a shortened timeline for the project.

**Discussion:** Don Cook had questions regarding how the Water AMI system was utilized, specifically if a new SCADA system was needed for the process. Bryan Easterly noted that a SCADA system is not needed for this. The new system is data-driven by usage and is then input into the CIS/billing system.

Bryan Easterly also gave an update on how old meters would be removed and replaced with new meters. He stated that meters that are less than 8-years old will only need a wire connection to be compatible with the AMI system. Older meters would need to be replaced.

Randy Williams inquired about the battery power required for AMI systems and indicated that staff will need to maintain/replace the batteries. Bryan Easterly confirmed that the batteries for the new meters have a warranty for 20-years of use.

**Recommendation:** Staff item only. No action required.

#### COMMISSION & COUNCIL REPORTS

##### Item 7.1: Commission and Council Report – Melanie Reeves

Discuss events that the Loveland Utility Commission Council members attended, special topics and any City Council items related to the Utility from the past month.

- Matt Elkins resigned his position on the Loveland Utilities Commission effective September 10, 2025, due to a new career opportunity. Matt has served on the commission since July 2021, and we are truly appreciative of his service!
- 2026 Work Plan Sessions
  - Commissioners met on August 21, 2025 to discuss the work plan and will meet again on Monday, September 15, 2025 to finalize the plan. We will bring a draft of the plan to the commission meeting in October for review and approval.

**Commission Reports:**

**Dan Herlihey:** Dan and Don both wanted to give a shout-out to Aaron Rodriguez, Jim Lees and Melanie Hobart for their presentation to City Council last night. It was approved unanimously and very well done!

**Gene Packer:** Gene toured the Chimney Hollow site this morning. He reported that they are still not filling the reservoir as they continue to research the Uranium issue.

**Bill Szmyd:** Bill Szmyd would like to share a video with the commission that he saw on YouTube from the Chimney Hollow project that he found very interesting!

**Don Cook:** Don was at the Corn Roast Parade in August and appreciated the Pulse float! He also participated in the Northern Water East to West Slope tour and really enjoyed it! He highly recommended it!

**Gary Hausman:** N/A

**Randy Williams:** Randy had a follow-up to the comments that Don made regarding the planning and foresight needed to build the water portfolio that we have now.

**Craig Bialy:** N/A

**Clinton O'Neill:** None.

**Council Reports:**

**Steve Olson:** Councilor Olson stated that City Council discussed a sales tax addition to help address the homeless issue within the community. Unfortunately, the item failed to pass at Council. Councilor Olson also continues to have concerns with flood plain issues in the 402 Corridor.

**Andrea Samson:** N/A

**DIRECTOR'S REPORT**

**Item 8.1: Director's Report – Sharon Israel**

1. We encourage you to view Loveland's Latest for September: Five City Updates You Need To Know! This monthly video series highlights five things happening around the city: [Loveland's Latest](#)
2. Recruiting Update: We are interviewing three finalists for the Deputy Director position tomorrow!
3. Update on the City Council Meeting on September 16, 2025, where the Utilities presented a first reading of Scalable Impact Fees and Scalable Water Rights Dedication Requirements, Ordinance First Reading. Presenters - Jim Lees, Melanie Hobart, and Aaron Rodriguez
4. Please see our [Loveland Water and Power 2024 Annual Report](#)! And discussion of future reports. Dan Herlihey wanted to know if we have a way to determine how many times the report is viewed. Bill Szmyd noted that it is well-written and he read it one time, but it isn't necessary. Councilor Olson requested an Annual Report for the City rather than by department. We also feel that there

are other areas where the community is getting information now – like the Loveland's Latest videos that have highlighted items from the Utility each month.

5. The Water Leadership Summit, hosted by the Colorado Water Center, is a one-day event that equips community members with the knowledge, skills, and resources to engage in water decision-making and take action on issues that shape Colorado's water future. This event is specifically tailored to those people who serve on boards, commissions, or in elected office!
  - a. Event information:
    - i. Date: September 23, 2025
    - ii. Location: [CSU Spur, Hydro Building, 4777 National Western Dr, Denver, CO 80216](https://watercenter.colostate.edu/water-leadership-summit/)
    - iii. Time: 8am – 5pm
    - iv. Cost: Free
    - v. Register using this link: <https://watercenter.colostate.edu/water-leadership-summit/>
6. Update on the Cascade Campus building – an appraisal for the building came in this week and we will continue to move forward with the closing! The sale price of the building is \$12 million and the appraisal came in at just over \$13 million.
7. Water Project Updates for August
8. Electric Project Updates for September
9. Water and Electric Meter Sets for August

ADJOURN: The meeting was adjourned at 5:06 p.m.

Respectfully submitted,  
Melanie Reeves  
Recording Secretary  
Loveland Utilities Commission /s/ Dan Herlihey, Chair



**Attachments:**

- Attachment A – Email from Gale Bernhardt dated 9/14/2025
- Attachment B – Email from Gale Bernhardt dated 9/16/2025

# Attachment A

**From:** [DANIEL HERLIHEY](#)  
**To:** [Melanie Reeves](#)  
**Subject:** [External] Fwd: Loveland is intentionally undervaluing water and citizens  
**Date:** Tuesday, September 23, 2025 5:13:58 PM

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Bernhardt Email #1

----- Original Message -----

From: Gale Bernhardt <gale@galebernhardt.com>  
To: "danherlihey@comcast.net" <danherlihey@comcast.net>,  
"steve.olson@cityofloveland.org" <steve.olson@cityofloveland.org>  
Date: 09/14/2025 10:43 AM MDT  
Subject: Loveland is intentionally undervaluing water and citizens

Dan, Steve,

I am sending this to you ahead of the Utilities Committee meeting this upcoming week so you can contemplate a fair CIL price.

There are only two items that are irreplaceable for the City of Loveland – land and water. Every other item that built this city can be replaced with materials or humans from several sources. To name a few, these items include brick, mortar, lumber, steel and even the humans that make this city great. All these items are replaceable; land and water are not. The market forces the city to pay market value for land, but water is a different story. First, some background for this story. Cash-in-lieu (CIL) money collected from developers is used to purchase new raw water rights, pay for loans on existing water storage facilities and to pay for the construction of new storage facilities, to name a few. The claimed Loveland creed is to “have development pay it’s way.”

As a condition of development, developers must bring raw water to the city or purchase raw water for a market-value price. Through 2020, the CIL fee was based upon the current market value of Colorado-Big Thompson (C-BT) Units with a small additional factor included for administrative time.

Throughout 2020, and in prior years, the market value for C-BT was increasing. At the end of 2020, people (primarily developers and the Construction Advisory Board) cried out that the increasing price of raw water would kill development in the city. Now, people claim the same thing about other construction items – but developers must pay those prices and pass them along to buyers of homes that are sold for fair market value. The market price of water was too expensive, people claimed. With the C-BT calculation method, the CIL value would have been \$62,589 per acre-foot in January of 2021.

Because of the outcry that C-BT was too expensive and the city was restricted and could not purchase more C-BT units, people claimed that the CIL formula needed to be changed and changed immediately. The goal, of course, was to drive the price of CIL down to make it more palatable for developers. A new formula was devised by staff:

$(\$7,511 \times 1.5 \times 3.12) + \$5,000 = \$40,150$  per acre-foot, the new January 2021 CIL price.

- **\$7,500** was the estimated cost to build Chimney Hollow Reservoir (or the cost to build new water storage). This was a major motivator to change the formula – base CIL on the cost of building new storage
- **1.5** was an escalator factor due to the economies of scale. Smaller reservoirs will cost more to build.
- **3.12** was the average firming ratio of native ditches
- **\$5,000** was the average price per acre-foot to purchase native ditch water from the ditches accepted for City of Loveland development.

Oh yes! A \$20,000+ decrease per acre-foot in CIL was deemed excellent by developers, this price they could most certainly make work.

Fast forward to 2025. I approached the Utilities Commission and pointed out that the estimated cost of the new NISP water storage system is \$2.2 billion dollars, to store 215,600 acre-feet or a price of \$10,204 per acre-foot. Using this updated cost to build a

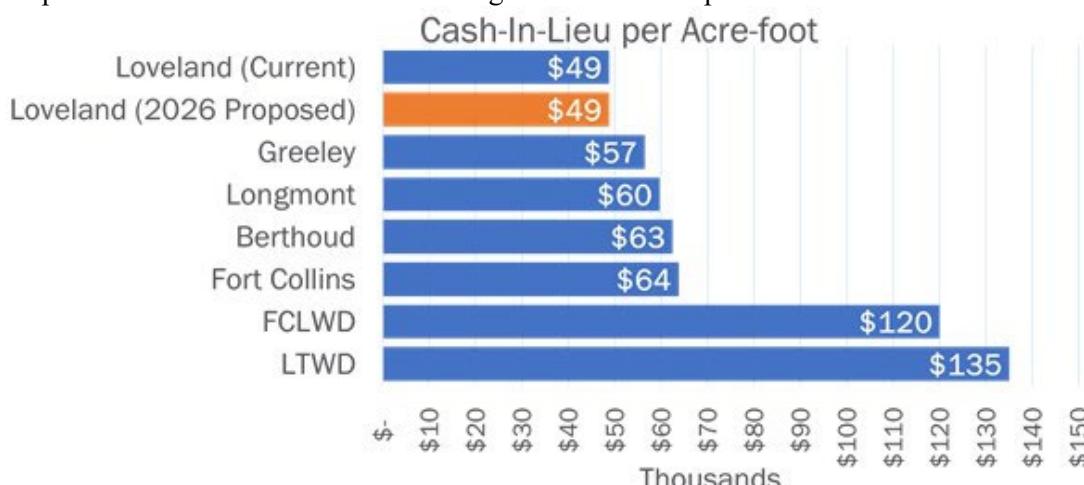
# Attachment A

new storage reservoir for the City of Loveland would yield a CIL value of \$52,755 per acre-foot.

When I checked back a week or so ago with staff to see if any thought had been put into updating the CIL value for 2026 based on NISP construction costs, they said no. We will keep the current values in the formula and not increase the price of CIL. They claimed that the NISP project is a very complicated project and not comparable for Loveland. How does staff know this? Does staff know what the next storage project looks like? No. Do they know if it might be more expensive than NISP? No.

I can only suspect that “people” do not want any price increase to CIL. Why would they? The price of water in Loveland remains lower than the surrounding area and certainly developers will not decrease the price of housing – they will reap current market value for the price of homes.

Even the small increase in CIL to \$52,755, using the current formula does not put us at competitive market value with surrounding cities and water providers. Please see below.



Is this pricing strategy fair to the current citizens of Loveland? Why should we carry the price of development on our backs? Why should we discount the value of water – one of only two critical capital assets – so that “people” don’t complain? And, the City of Loveland can purchase more Colorado-Big Thompson water. Maybe we should return to that formula? It is certainly more transparent.

I was told by staff that Loveland remains competitive for developers because Loveland charges more in other fees. Now this is interesting. The city makes a conscious decision to devalue an asset not only owned by the City of Loveland, but owned individuals and families that have dedicated water to the City of Loveland Water Bank. The price charged for CIL directly affects the value of the water in the Water Bank (otherwise known as development credits) for these citizens. Is it fair to devalue CIL and the Water Bank assets (owned by individual citizens), only to charge more in other areas solely controlled by the city? Is this fair?

When did the city change strategy and decide to charge the lowest amount compared to surrounding cities? Are we going to do this for staff wages as well? Try to be at the bottom of the market? What will this do to the quality of life for the citizens of Loveland?

I urge you to not undervalue our water assets and charge a fair, appropriate fee for CIL. Doing anything less is a slap in the face to the citizens of Loveland as well as citizens that have dedicated water to the Water Bank.

Sincerely,

Gale Bernhardt

\*\* The CIL issue will come before the Utilities Commission on September 17<sup>th</sup> and will be presented to City Council on October 7<sup>th</sup>. Other water rates and fees come before City Council on September 16<sup>th</sup>.

# Attachment B

**From:** [DANIEL HERLIHEY](#)  
**To:** [Melanie Reeves](#)  
**Subject:** [External] Fwd: RE: Loveland is intentionally undervaluing water and citizens  
**Date:** Tuesday, September 23, 2025 5:16:07 PM

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Bernhardt Email #2

----- Original Message -----

From: Gale Bernhardt <gale@galebernhardt.com>  
To: DANIEL HERLIHEY <danherlihey@comcast.net>  
Date: 09/16/2025 3:45 PM MDT  
Subject: RE: Loveland is intentionally undervaluing water and citizens

Hi Dan,

Unfortunately, I am out of town and cannot attend the meeting. By sending the note to you (feel free to forward to anyone you please) I was hoping the commission (representing citizens) could address the issue.

I have spoken with staff about the CIL calculation issues numerous times over the past four years and have basically received lip service. (No calculation method is perfect. Oh, we will address it with the next Spronk study – that was due to occur two years ago, but higher priorities always seem to come up, etc etc.) That is the reason I came to LUC in the summer.

I didn't realize until late last week that it would be on the agenda tomorrow night, until I followed up with staff to see if they discussed my concerns. I didn't have time to try to assemble a message to as many Water Bank people as possible. At this point, few know of the issues. Unfortunately, when we went through all of this recalculation method in 2020-2021, I pointed out that Water Bank shareholders never have any input to the process. At that time, Joe Bernosky (sp?) said, "Oh, great idea. We will reach out to them before formulas or rates change." That never happened. Water Bank owners simply get notified of what action the city has taken.

As you can tell, I'm quite frustrated by this. The current formula and calculation method is far from transparent. Can you find the current "going price" for native ditch water? I suspect not. The city may as well pick a number from the sky.

Thanks for listening and being a voice for citizens.

Gale

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**From:** DANIEL HERLIHEY <danherlihey@comcast.net>  
**Sent:** Tuesday, September 16, 2025 1:55 PM  
**To:** Gale Bernhardt <gale@galebernhardt.com>  
**Subject:** Re: Loveland is intentionally undervaluing water and citizens

## Attachment B

Hello Gale,

Thank you for your email and associated information. As you mentioned, this item will come before the Utilities Commission tomorrow (9/17). It is a portion of Item 5.3 on the Regular Agenda. I wanted to check with you to see if you plan to attend the meeting, and if so do you plan to address the Commission on this matter? You are welcome to bring any slides, etc. that you would like to display. The agenda packet is now posted on the City's website and you can view Staff's presentation there.

I hope to see you tomorrow.

Regards,

Dan

Dan Herlihey  
[danhherlihey@comcast.net](mailto:danhherlihey@comcast.net)

970-631-7899 Mobile

On 09/14/2025 10:43 AM MDT Gale Bernhardt <[gale@galebernhardt.com](mailto:gale@galebernhardt.com)> wrote:

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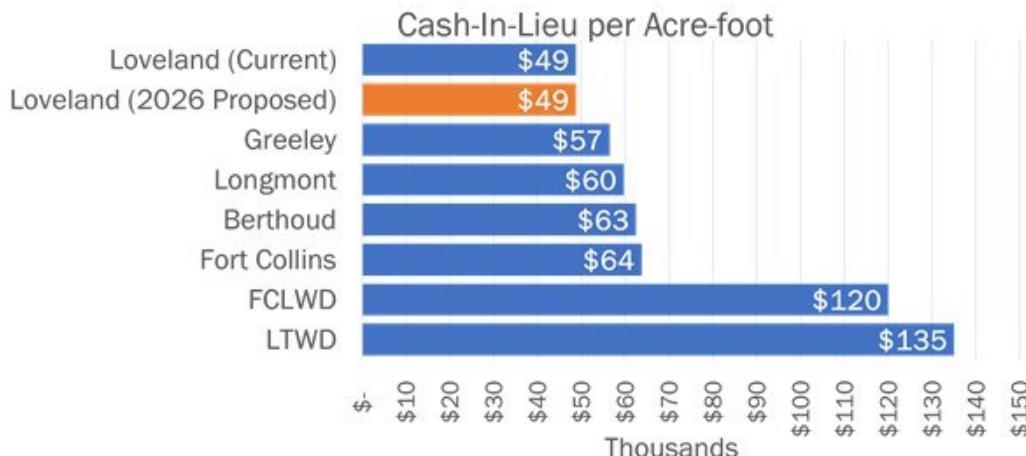
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