

Commission Members Present: Clinton O'Neill, Dan Herlihey (Vice Chair), Don Cook, Gary Hausman (Chair), Gene Packer, Randy Williams

LUC Commission Members Absent: Bill Szmyd, James Laferriere, John Butler, Matt Elkins

Council Liaison Present: Steve Olson

City Staff Members Present: Brian Gandy, Christine Schraeder, Derek Turner, Frank Lindauer, Jim Lees, John Faulkner, Kevin Gertig (Director), Lynn Valdez, Meg Salmon, Melanie Reeves, Nathan Alburn, Ryan Van Pelt, Tanner Randall, Todd Hanlin

Guest Attendance: Gale Burnhardt

CALL TO ORDER: Gary Hausman called the meeting to order at 3:00 PM.

Item 2.1: Adoption of Minutes – Gary Hausman

This item requested a motion to approve the minutes of the October 19, 2022 meeting.

Recommendation: Adopt A Motion to Approve of the Loveland Utilities Commission Meeting Minutes from October 19, 2022.

Motion: Dan Herlihey made the motion.

Second: Don Cook seconded the motion. The minutes were **approved** unanimously with a **6-0 vote**.

CITIZENS REPORT

Item 3.1 Citizens Report

None.

INFORMATIONAL ITEMS

Item 4.1: Water and Law Legislative Update – Derek Turner

This item provides a brief update on water-related legislation introduced or under discussion by the Colorado General Assembly during the legislative season, water court developments or items of interest in District 4 of Water Division 1 (The Big Thompson and Little Thompson River basins), and Colorado or Loveland-related water news.

Recommendation: Information Only. No Action Required.

Item 4.2: Electric Legislative Update – Derek Turner

This item and Attachment A are intended to give a brief update on electric-related legislation at both the state and federal level. Loveland Water and Power works closely with Platte River Power Authority (PRPA) and its sister cities but relies primarily on the Colorado Association of Municipal Utilities (CAMU) for information on electric-related legislation.

Recommendation: Information Only. No Action Required.

Item 4.3: Water Supply Update – Ryan Van Pelt

This item provides the raw water supply update.

Recommendation: Information Only. No Action Required.

Item 4.4: Financial Report Update – Jim Lees

This item summarizes the preliminary monthly and year-to-date financials for October 2022.

Recommendation: Information Only. No Action Required.

CONSENT AGENDA**Item 5.1: Contract Renewal Award to GE Construction, Inc. for 2023 Indefinite Delivery Substructure Projects – Frank Lindauer**

Each year there are multiple opportunities to use the substructure contract for projects that occur as a result of development, capital construction, emergencies and maintenance. The substructure bid allows contractor augmentation of City crew efforts to install underground conduit systems, street light wires, street lights and vaults. Staff published a request for Statement of Qualifications due October 29, 2020 to pre-qualify contractors to bid on this project. Then, bid documents were sent to pre-qualified contractors directly through our bidding platform. On November 24, 2020, the City of Loveland received electronic bids for the 2021 Indefinite Delivery Substructure Projects. As part of the bid evaluation, staff selected invoices from 2020 ranging from small to large projects to measure the impact of new unit prices to actual project costs. After consideration of the bid responses and the unit prices received, the decision was made to recommend awarding the 2021 contract to GE Construction, Inc. The current contract with GE Construction expires on December 31, 2022.

This year the City anticipates expenditures of approximately \$1,800,000 for small capital projects, 600-amp development-driven extensions, overhead to underground conversions, and development growth. Although the contract is set at a not-to-exceed amount, the City does not guarantee to the contractor that the City will have work available for that amount. The proposed contract amount is budgeted within several capital projects, maintenance, and development-driven projects.

Recommendation: Adopt a Motion Recommending that the LUC Award the 2023 Indefinite Delivery Substructure Projects Contract Renewal to GE Construction, Inc. in an Amount Not to Exceed \$1,800,000.00, and Authorize the City Manager to Execute the Contract on Behalf of the City, Following Consultation with the City Attorney, and to Modify the Contract in Form or Substance as Deemed Necessary to Protect the Interests of the City.

Motion: Dan Herlihey made the motion.

Second: Don Cook seconded the motion. The motion was **approved** unanimously with a **6-0 vote**.

Item 5.2: Contract Renewal Award to Colorado Boring for 2023 Indefinite Delivery Boring Projects – Frank Lindauer

Each year there are multiple opportunities to use the directional bore contract for projects that occur as a result of development, capital construction, emergencies and maintenance. The directional bore contract allows contractor augmentation of City crew efforts to install underground conduit systems, street light wires, street lights and vaults. Staff published a request for Statement of Qualifications due October 29, 2020 to pre-qualify contractors to bid on this project. Then, bid documents were sent to pre-qualified contractors directly through our bidding platform. On November 24, 2020, the City of Loveland received electronic bids for the 2021 Indefinite Delivery Boring Projects. As part of the bid evaluation, staff selected invoices from 2020 ranging from small to large projects to measure the impact of new unit prices to actual project costs. After consideration of the bid responses and the unit prices received, the decision was made to recommend awarding the 2021 contract to Jacobs Investments LLC, dba Colorado Boring Company. This contract expires on December 31, 2022.

In 2022, the City anticipates expenditures of approximately \$1,000,000.00 for small capital projects, 600-amp development-driven extensions, overhead to underground conversions, and development growth. Although the contract is set at a not-to-exceed amount, the City does not guarantee to the contractor that the City will have work available for that amount. The proposed contract amount is budgeted within several capital projects, maintenance, and development-driven projects.

Recommendation: Adopt a Motion Recommending that the LUC Award the 2023 Indefinite Delivery Boring Projects Contract to Jacobs Investments LLC dba Colorado Boring in an Amount not to Exceed \$1,000,000.00 and Authorize the City Manager to Execute the Contract on Behalf of the City, Following Consultation with the City Attorney, and to Modify the Contract in Form or Substance as Deemed Necessary to Protect the Interests of the City.

Motion: Dan Herlihey made the motion.

Second: Don Cook seconded the motion. The motion was **approved** unanimously with a **6-0 vote**.

Item 5.3: 29th Street P2 Pump Station Construction Phase Services – John Faulkner

The 29th Street P2 Pump Station Construction budget allocation was approved by City Council and LUC in September and October 2022. Within that approved budget, the City accounted for construction phase services with the design engineer HDR Engineering (HDR). HDR's overall pump station design budget was \$380,200 for the P2 Pump Station. The City has decided to request HDR provide additional services during the construction phase which consist of field observation, weekly construction meeting attendance, submittal review, verification of conformance with plans and specifications, and preparation of record drawings. HDR's scope for construction phase services is in the amount of \$200,340, which when added together with the original design contract is \$580,540, which requires approval from LUC because the total amount will exceed \$500,000.

Recommendation: Adopt a motion recommending that the LUC approve a change order to the contract for Construction Phase Services with HDR Engineering to increase the not-to-exceed contract amount to \$580,540 and authorize the City Manager to sign the change order on behalf of the City.

Item 5.3 was pulled from the consent agenda so that it could be voted on without Dan Herlihey.

Motion: Don Cook made the motion.

Second: Randy Williams seconded the motion. The motion was **approved** unanimously with a 5-0 vote. *Dan Herlihey recused himself from this item as an employee of HDR.*

REGULAR AGENDA

Item 6.1: Loveland's Reusable Water Portfolio, Reusable Water Leasing, and Request for Lease of Reusable Water from Coulson Excavating Company – Derek Turner

Loveland holds a unique portfolio of reusable water rights, a portfolio that will be bolstered by approval of a pending decree for quantification of reusable water in Loveland's Case No. 18CW3193. That case, once the decree is signed by the Water Court, provides a methodology to quantify the available reusable water from (1) Loveland's water treatment plant process, (2) irrigation by municipal customers with reusable water supplies, and (3) Loveland's reusable wastewater effluent following indoor municipal uses. Loveland has several long-term commitments to lease reusable water supplies to other parties, provides reusable water to augment evaporative and out-of-priority depletions for Parks and Recreation Department ponds and irrigation operations, and uses its reusable water to replace return flow obligations to the river as required by Loveland change of use decrees. Based on Loveland's analysis of its current needs and reusable commitments, and its available and anticipated reusable water supplies, Loveland has opportunities to make available additional amounts of reusable water available for long term trade, lease, or sale. Based on data from 2018-2021, the City has available an additional 525 acre-feet per year, on average. If the City were to have had its lawn irrigation return flow credits available for use during that time period, the City would have had on average 725 acre-feet per year available. The City's raw water operations can also be adjusted to make available additional amounts of reusable water each year, in the event such operation is advantageous to the City or required by the terms of lease agreements with the City.

Among its current long-term reusable water leases is 100 acre-feet to Coulson Excavating Company (Coulson), approved by the Loveland City Council in 1998. As part of a Water Court application for an augmentation plan to replace evaporative depletions from former gravel pits in the Loveland water service area, Coulson is seeking from Loveland a lease of an additional forty acre-feet per year of reusable water. In exchange for the lease of additional water, Coulson has offered a compensation package that includes:

1. Dedication of 75 Acre-feet of Water Bank credits owned by Coulson. Water Bank credits are transferable credits that represent obligations to serve water to new development. Dedication of these credits back to the City is the equivalent of eliminating an obligation for Loveland to serve 75 acre-feet of municipal water for new taps.
2. Transfer of the Osborn Irrigation System water right (priority No. 88). This water right has historical use for irrigation on lands near the Big Thompson River to the east of the Water Reclamation Facility. Coulson has filed a change of this water right in Water Court, and transferring ownership to the City will avoid the change in use and offer multiple opportunities for the City's ownership of the right, including protection of existing passive water uses on property owned by Open Lands.
3. Option Agreement for the City's purchase of more than 100 acres owned by Coulson near I-25 on County Road 20E. This parcel is within the Big Thompson River corridor and has value to the City's Open Lands Division for future conservation and river corridor trails purposes.

Importantly, under the terms proposed by the parties, Coulson would also agree to perpetually restrict the additional reusable water to the use of replacement of evaporative depletions of the Gardels Pits and Pfeiff/Willow Bend Pond (located on land owned by or under contract for acquisition by the City), In that sense, the lease would be dedicated to maintaining water in ponds on lands owned and operated for the benefit of Loveland residents as Open Lands amenities.

Based on the consideration offered by Coulson, Loveland staff believe the proposal satisfies the criteria of the LUC's long term augmentation lease policy, attached as Attachment B. City Council must approve any long-term lease of raw water. Staff are recommending that the LUC recommend City Council's approval of the long-term lease based on the terms proposed, as will be documented in a long-term water lease agreement between the City and Coulson.

Recommendation: Approve a motion recommending that City Council approve by resolution a long-term lease to Coulson Excavating Company of forty acre-feet of fully reusable water.

Motion: Gene Packer made the motion.

Second: Dan Herlihey seconded the motion. The motion was **approved** unanimously with an **5-0 vote**. *Randy Williams abstained from voting on this item.*

Item 6.2: Change the Date of the December LUC Meeting – Kevin Gertig

With potential holiday conflicts in mind, Director Kevin Gertig is requesting permission from the Commission to hold the December LUC Meeting one week earlier; on Wednesday, December 14, 2022, rather than the scheduled meeting date of Wednesday, December 21, 2022.

Recommendation: Adopt a motion that the LUC approve the date change to the December LUC Meeting from December 21, 2022 to December 14, 2022.

Motion: Dan Herlihey made the motion.

Second: Don Cook seconded the motion. The motion was **approved** unanimously with an **6-0 vote**.

STAFF REPORT

Item 7.1: Water Court Update – Derek Turner

Colorado is alone among all US states in adjudicating rights to water through the judicial branch of government. Any request to change any component of a water right, or new water right, requires approval by a Colorado Water Judge that presides over the entire river basin (here, the South Platte River basin). Parties file an application, and any other party (including the State and Division Engineers, who administer all water rights) must file a "statement of opposition" to participate in the case.

Loveland routinely participates in water court actions involving any Big Thompson River water uses. This presentation will provide a brief overview of the water court process and summarize each of the Water Court actions that Loveland is currently engaged in, and provide a discussion of a recent water court action (a change case filed by the Town of Windsor) that resulted in a unique multi-party settlement. The presentation will not divulge confidential attorney-client information concerning Loveland participation in the cases, but will provide a summary of the details of the applications, the issues involved, and Loveland's interests in participating in the case.

Recommendation: Staff item only. No action required.

Item 7.2: Water Treatment Plant Control Room Modifications Construction Update – Brian Gandy

Project Manager Brian Gandy will provide a brief update to the Water Treatment Plant Control Room Modifications project.

Recommendation: Staff item only. No action required.

COMMISSION & COUNCIL REPORTS

Item 8.1: Commission Reports

Dan Herlihey: None.

Gene Packer: Gene virtually attended a conference a few weeks ago that he found interesting. He mentioned that indigenous people have no representation in the Colorado River. He would like to do additional research on this.

Bill Szmyd: N.A.

Clinton O'Neill: Clinton notified the Commission that his resignation from LUC comes as a result of accepting a position with Loveland Water and Power (LWP) as the Manager of Energy Resources which will begin on November 28th. The past 18 months as a member of the LUC have been rewarding, challenging, and a great learning experience leading to my new role with LWP. I wish to thank you and all my fellow LUC members for all your help, professional courtesy, and support.

Don Cook: Don participated in the 'Meet the Candidates' presentation on Monday, November 7th for the Energy Resources Manager. Don was impressed with the overall proceedings and felt that all the candidates did a great job.

Gary Hausman: Clint O'Neill has submitted his letter of resignation to the Commission due to the conflict of being hired as the Energy Resources Manager for Loveland Water & Power. His resignation is effective on November 18, 2022. Gary thanked Clinton for his time served on the Commission and looks forward to working with him as a staff member for the City.

John Butler: N.A.

Matt Elkins: N.A.

Randy Williams: Randy had a question for Steve regarding the redrawing of the boundaries.

James Laferriere: N.A.

Council reports

Steve Olson: The week of October 25th we had a presentation to Council to discuss Ward boundaries. Your current Ward for the City might be changing. 2 options for boundaries were presented and Council is taking another look at the boundaries to find a better solution. During City Council last night (November 15, 2022) there were some title changes and appropriation changes that will affect the Utility. Councilor Olson attended 2 water-related conferences in the past weeks. Both conferences emphasized that we have a water problem. Not only surface water is diminishing, but ground water is also diminishing.

DIRECTOR'S REPORT

Item 9.1: Director's Report

City Council will be hosting a meeting in December where they will request Commission participation to weigh in on Redistricting. We would like to have 2 or 3 volunteers to notify of this meeting as we receive more information. Melanie will coordinate with these volunteers once we have a definitive date and time.

Please see the attached 29th Street Lift Station Improvements.

Colorado Municipal League: 2022 In Person Effective Governance Workshop

When: December 1, 2022

Where: CML, 1144 Sherman St. Denver, CO 80203

Why: During the Effective Governance workshop, you'll learn about how to effectively govern as a municipal elected official with topics ranging from engaging with media to open meetings.

ADJOURN: The meeting was adjourned at 5:06 PM.

Respectfully submitted,
Melanie Reeves
Recording Secretary
Loveland Utilities Commission /s/ Gary Hausman, Chair

