



WESTMINSTER
COLORADO

JANUARY 12, 2004
7:00 P.M.

CITY COUNCIL AGENDA

NOTICE TO READERS: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
 - A. Center for Digital Government Award
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
 - A. Mechanical Engineering for HVAC Upgrade at City Hall
 - B. Contract for General Contractor for City Hall HVAC and Space Re-Allocation
 - C. Jefferson County Property Tax Payment Authorization
 - D. Purchase of Replacement Backhoe
 - E. Huron Street Utility Relocation Costs
 - F. Open Space Acquisition of Approx. 1.5 Acres Plus Improvements located on Wadsworth Boulevard
 - G. Utility easement to Xcel Energy/Public Service Company
 - H. \$42,000 transfer into the City's Open Space Revenue Fund and Land Purchases Account
 - I. Trade of Fire Department Air Compressor
 - J. Ratification of Purchase of Excess Workers' Compensation Insurance
 - K. Microsoft Software Upgrades
 - L. CB No. 85 re Vacation of Rights-of-way Highlands at Westbury (Hicks-McNally)
 - M. CB No. 86 re Vacation of Easements for Bradburn Subdivision (Dittman-McNally)
9. Appointments and Resignations
 - A. Resolution No. 1 re Appointments to Boards & Commissions
 - B. Rocky Flats Coalition of Local Governments Appointments
10. Public Hearings and Other New Business
 - A. CONTINUED Public Hearing re 1st Amended PDP for Mandalay Town Center
 - B. 1st Amended PDP for Mandalay Town Center Continuance
 - C. Councillor's Bill No. 1 re Pollutant Limitations Amendment
 - D. Councillor's Bill No. 2 re Dissolution of Sheridan Park General Improvement District
 - E. Approval of Modified Northgate Center Predevelopment Agreement
 - F. Resolution No. 2 re Transportation Equity Funding
 - G. Councillor's Bill No. 3 re Growth Management Program Amendment
 - H. Resolution No. 3 re Year-End Contingency Transfers
 - I. Councillor's Bill No. 4 re FY2003 Budget Amendment
 - J. Catellus Land Renegotiation

11. Old Business and Passage of Ordinances on Second Reading

- A. CB No. 81 re Annexation of Chamberlain Property (Dittman-Dixion)
- B. CB No. 82 re CLUP Amendment for Chamberlain Property (Dittman-Dixion)
- C. CB No. 83 re Zoning of Chamberlain Property (Dittman-Dixion)
- D. CB No. 84 re Revisions to Public Land Dedication (Hicks-McNally)

12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business

- A. City Council
- B. Executive Session
 - 1. Business Assistance Package
 - 2. Proposed Urban Renewal Area

13. Adjournment

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A. The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B. Any person wishing to speak other than the applicant will be required to fill out a "Request to Speak or Request to have Name Entered into the Record" form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C. The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D. The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E. When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F. City Staff enters A copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G. The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H. Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I. All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J. Final comments/rebuttal received from property owner;
- K. Final comments from City Staff and Staff recommendation.
- L. Public hearing is closed.
- M. If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 12, 2004 AT 7:35 P.M.

PLEDGE OF ALLEGIANCE

Mayor Moss led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL

Mayor Moss, Mayor Pro-Tem McNally, Councillors Dittman, Dixon, Hicks, Kauffman and Price were present at roll call. J. Brent McFall, City Manager; Martin McCullough, City Attorney; and Richelle Work, Acting City Clerk, were also present. Absent None.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by McNally to approve the minutes of the meeting of December 22, 2003 with no additions or corrections. The motion carried unanimously.

CENTER FOR DIGITAL GOVERNMENT AWARD

Mayor Ed Moss presented the Center for Digital Government's "Digital Cities Survey" award to David Puntenney in recognition of the success that the City of Westminster has achieved in the use of Information Technology.

CITY COUNCIL COMMENTS

Mayor Moss commented on the Open Space Acquisition on Old Wadsworth on the agenda tonight, which has an old well and was an original Stage Coach stop; and that the Sheridan Park General Improvement District will be dissolved tonight.

Councillor Hicks asked citizens to watch the legislative session and the issues dealing with Home Rule cities.

Councillor Kauffman commented on the Fire Department Air Compressor trade with Keensberg Fire Department.

CONSENT AGENDA

The following items were considered as part of the consent agenda: Mechanical Engineering for HVAC Upgrade at City Hall with Integrated Mechanical Services, Inc. for \$72,343; Contract Authorization for General Contractor for the City Hall HVAC and Space Re-Allocation Capital Improvement Projects for \$1,362,087; Jefferson County Property Tax Payment Authorization for \$84,115.15; Purchase of Replacement Backhoe with Honnen Equipment for \$ 128,293; Huron Street Utility Relocation Costs for \$ 990,000; Open Space Acquisition of Approximately 1.5 Acres Plus Improvements along Walnut Creek Open Space Corridor located on Wadsworth Boulevard for \$ 335,000; Grant of Easement to Xcel Energy/Public Service Company for a Utility Line Across Big Dry Creek Open Space Between 112th Avenue and 120th Avenue in the area of Lowell Boulevard; \$42,000 transfer from 136th Avenue Interchange Project account to Open Space Account; Trade of Fire Department Air Compressor to the Keensberg Volunteer Fire Department for a new SuperVac 18'' ventilation fan and 100' of 5'' fire hose; Ratification of Purchase of Excess Workers' Compensation Insurance for \$ 95,414; Microsoft Software Upgrades for \$ 254,263; CB No. 85 re Vacation of Rights-of-way Highlands at Westbury; and CB No. 86 re Vacation of Easements for Bradburn Subdivision.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

Mayor Pro-Tem McNally moved, seconded by Dittman to adopt the consent agenda items as presented. The motion carried unanimously.

RESOLUTION NO. 1 APPOINTMENTS AND REAPPOINTMENT TO BOARDS & COMMISSIONS

Councillor Dittman moved, seconded by Dixon to adopt Resolution No. 1 making reappointments of Gerald Nordmark, and Raymond Selix to the Board of Adjustment; Steve Fenimore and Jonathan Talbott to the Board of Building Code Appeals; Denis DuFresne, Maryann Maher, Jeanne Nearing, and William Noonong to the Election Commission; Lisa Bressler and Yvonne Martin to the Environmental Advisory Board; Dennis White to the Human Services Board; Beverly Bishop, Roman Kohler, and Angela Ricker (moved from Alternate to Regular member) to the Library Board; Ed Getsch, Sandra Goodwin, Randal Tucker, and Deborah Jones (alternate) to the Open Space Advisory Board; Ronald Mayoral and Stephanie Marlin (moved from alternate to regular member) to the Parks and Recreation Advisory Board; David Jones, Wesley Underwood, Stacy Worthington, and Candee Wells (alternate) to the Personnel Board; Joseph Barsoom, Martha Brundage, Joseph Burt (alternate), Joe McConnell (alternate) to the Planning Commission; Frank Jaime, Donna McMillan, Nancy Peters, and Bill DeVoe (alternate) to the Special Permit and License Board; Jara Raphaelson, Glenda Slater, Susan Smith, Pat Wales, and Bruce Vezina (alternate) to the Transportation Commission with terms of office to expire December 31, 2005; and Tim McClung (moved from Alternate to regular member) to the Board of Adjustment with term of office to expire December 31, 2004; and making new appointments of Edwin Ulmer and Brian Whitford (alternate) to the Board of Adjustment; Forrest Flannigan (alternate) and Jason Gilbert (alternate) to the Board of Building Code Appeals; Mike Litzau and Mary Lindsay (alternate) to the Environmental Advisory Board; Stephen Graziano, April Luber, Henry Sand, Betty Roan, Linda Cherrington, Bill Teter, Kaaren Hardey, and Patti Kinnear to the Historic Landmark Board; Harold Armenta to the Human Services Board; George Kieffer and Paula Saunders (alternate) to the Library Board; Alberto Garcia (alternate) and W.J. Peniston (alternate) to the Parks and Recreation Advisory Board with terms of office to expire on December 31, 2005. The motion carried with a dissenting vote from Hicks.

ROCKY FLATS COALITION OF LOCAL GOVERNMENTS APPOINTMENTS

Councillor Hicks moved, seconded by Dittman to reappoint City Councillor Samantha Dixon as the City's representative to the Rocky Flats Coalition of Local Governments (RFCLOG) Board of Directors, appoint Councillor Jo Ann Price as the 1st Alternate, and re-appoint Director of Public Works and Utilities Ron Hellbusch as the 2nd Alternate. The motion carried unanimously.

CONT'D PUBLIC HEARING RE PDP MANDALAY TOWN CTR/VESTED RIGHTS AGREEMENT

At 7:46 p.m. the public hearing was opened for the First Amended Preliminary Development Plan and Vested Rights Agreement for Mandalay Town Center. Mayor Moss stated that the public hearing would be continued. The public Hearing was declared closed at 7:47 p.m.

FIRST AMENDED PDP AND VESTED RIGHTS AGREEMENT FOR MANDALAY TOWN CENTER

Councillor Kauffman moved, seconded by Price to continue the public hearing and action on the proposed amended Preliminary Development Plan and the Vested Rights Agreement to the City Council Meeting on February 23, 2004. The motion carried unanimously.

COUNCILLOR'S BILL NO. 1 RE POLLUTANT LIMITATIONS AMENDMENT

Brent McFall City Manager, stated this item did not need to be an emergency ordinance, so this would be first reading tonight. Councillor Dittman moved, seconded by Dixon, to pass Councillor's Bill No. 1 on first reading amending the Specific Pollutant Limitations for industrial dischargers to the City's sanitary sewer system. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE DISSOLUTION OF SHERIDAN PARK GID

At 7:48 p.m. the public hearing was opened on the Dissolution of Sheridan Park GID. There were no comments. The public hearing was declared closed at 7:48 p.m.

COUNCILLOR'S BILL NO. 2 RE DISSOLUTION OF SHERIDAN PARK GID

Councillor Dixon moved, seconded by Hicks, to pass Councillor's Bill No. 2 as an emergency ordinance approving the dissolution of Sheridan Park General Improvement District effective December 31, 2003. City Attorney, Martin McCullough stated that the December 31, 2003 date should be removed. The amendment was made and agreed to by the maker and second of motion. Upon roll call vote, the motion carried unanimously.

APPROVAL OF MODIFIED NORTHGATE CENTER PREDEVELOPMENT AGREEMENT

Councillor Dittman moved, seconded by Hicks, to approve a Pre-Development Agreement with Southwestern Investment Group related to the redevelopment of the Northgate shopping center and adjoining vacant land at the southeast corner of 72nd Avenue and Federal Boulevard. This Agreement shall replace the existing Pre-Development Agreement approved on November 26, 2001. Mark Campbell, Southwest Investment Group, addressed Council. Don McPherson, 7071 Canosa Ct, and Gary Scofield, 7130 Canosa Ct, addressed Council on concerns on this project. The motion carried unanimously.

RESOLUTION NO. 2 RE TRANSPORTATION FUNDING EQUITY

Councillor Kauffman moved, seconded by McNally to adopt Resolution No. 2 in support of a balanced and equitable allocation of State transportation revenues that would ensure that each of the State's transportation planning regions would receive no less than 90 percent of the estimated value of revenues contributed from that region. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 3 RE GROWTH MANAGEMENT PROGRAM AMENDMENT

Mayor Pro-Tem McNally moved, seconded by Dittman, to pass Councillor's Bill No. 3 on first reading amending Title 11, Chapter 3 of the Westminster Municipal Code pertaining to the South Westminster Residential Project definition within the Growth Management Program. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 3 RE YEAR-END CONTINGENCY TRANSFERS

Councillor Dixon moved, seconded by McNally to adopt Resolution No. 3 authorizing the transfer of \$240,500 from the 2003 General Fund contingency account and \$110,000 from the 2003 Utility Fund contingency account into various operating budgets. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 4 RE FY2003 BUDGET AMENDMENT

Councillor Dixon moved, seconded by Dittman to pass Councillor's Bill No. 4 on first reading amending the FY2003 budgets of the General, Utility, General Capital Improvement and Fleet Maintenance Funds. Upon roll call vote, the motion carried unanimously.

CIRCLE POINT AGREEMENT WITH CATELLUS CORPORATION

Councillor Dittman moved, seconded by Kauffman to authorize the City Manager to sign an agreement with Catellus Corporation for the turn back of the Circle Point West Parcel and the purchase by Catellus Corporation of the remaining land in the Circle Point Development in substantially the same form as the draft contract attached to this agenda memorandum. The motion carried unanimously.

SECOND READING CB NO. 81, 82, 83 RE CHAMBERLAIN PROPERTY

Councillor Dittman moved, seconded by Dixon to continue the approval of Councillor's Bills 81, 82, and 83 on the Chamberlain property to the City Council Meeting on February 23, 2004. The motion carried unanimously.

SECOND READING OF CB NO. 84 RE CODE REVISIONS FOR PUBLIC LAND DEDICATION

Councillor McNally moved, seconded by Hicks, to pass Councillor's Bill No. 84 on second reading repealing Title XIII, Chapter 4, W.M.C., and amending Title XI, Chapter 6, Section 8, W.M.C. regarding revisions to dedication of land for public purposes. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

Mayor Moss stated there would be an executive session to discuss a Business Assistance Package, a proposed Urban Renewal Area, an economic development matter, attorney-client matter, and personnel matter.

ADJOURNMENT:

The meeting was adjourned at 8:35 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Center for Digital Government Award

Prepared By: David Puntenney, Information Technology Director

Recommended City Council Action

Mayor Ed Moss is requested to present the Center for Digital Government's "Digital Cities Survey" award to David Puntenney in recognition of the success that the City of Westminster has achieved in the use of Information Technology.

Summary Statement

The Mayor is asked to present, on behalf of City Council, the Center for Digital Government's "Digital Cities Survey" award that recognizes the success the City of Westminster has achieved in using Information Technology to streamline operations and deliver quality services to its citizens and customers.

This award was originally presented to member of Council and Staff at the National League of Cities conference in Nashville by Microsoft Corporation.

This is the second year in a row that the City has scored in the top ten Cities in this nationwide competition.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

There are no policy issues associated with this action.

Alternative

There are no alternatives associated with this action.

Background Information

The Center for Digital Government, a national research and advisory institute on information technology for government and education, conducts an annual nationwide digital survey to examine and assess how City governments are utilizing information technology to operate and deliver quality service to their customers and citizens. The survey examines City government information technology strategic plans, web site services and information, technology applications for public safety, and geographic information system (GIS) usage. Westminster online web services such as; utility billing inquiry and payment capabilities, recreation class registration, City calendars, job applications, sales tax return filing and access to other services and information were all examined and considered during the survey process.

Despite an increase in the number of survey participants in the 2003 survey, Westminster ranked seventh nationally when compared to other Cities with a population size of 75,000-124,999 residents, remaining in the top ten for the second consecutive year. Mayors, City Managers and Chief Information Officers in more than 300 cities across the nation were invited to participate in the survey.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Mechanical Engineering for HVAC Upgrade at City Hall

Prepared By: Ken Quenzer, Facilities Manager

Recommended City Council Action

1. Based on the report and recommendation of the City Manager, determine that the public interest will be best served by awarding the contract for City Hall HVAC design services to Integrated Mechanical Services, Inc.
2. Ratify the expenditure and authorize the City Manager to execute a contract with Integrated Mechanical Systems, Inc. to serve as the Mechanical Engineer for \$65,773 with a 10% contingency for the design and retrofit project for the City Hall HVAC system and charge the expense to the General Capital Improvement Fund City Hall Account HVAC Upgrade.

Summary Statement

- In March 2002, requests for proposals were sent to three mechanical engineering firms in order to obtain bids for a performance study of the City Hall existing HVAC system components and make recommendations for a new or retrofit system.
- The low bidder, Integrated Mechanical Systems Inc., entered into a contract with the City of Westminster to perform the following services for the City Hall HVAC system.
 - Perform heat/gain losses and calculations to determine peak zone and room HVAC loads.
 - Review original mechanical construction documents for determining of existing zoning of temperatures, air distribution capacity, piping capacity, and equipment capacity.
 - Prepare a written report with recommendations for remedial mechanical component installation.
- In addition to the work they did for the original contract, Integrated Mechanical Systems, Inc. was also asked to generate construction cost estimates, complete a life cycle cost analysis and perform energy modeling studies, bringing the cost of this work to date to \$27,059.
- Staff also requested that Integrated Mechanical Systems, Inc. complete the final engineering design for the building. This decision was based on the firm's expertise and close familiarity with the project. The cumulative total amount for their work now exceeds the \$50,000 threshold requiring City Council approval.
- The total cost for engineering for this project is estimated to be \$65,773. This amount includes structural and electrical engineering.

Expenditure Required: \$65,773 plus a contingency of \$6,570, for a total of \$72,343.

Source of Funds: General Capital Improvement Project -- City Hall HVAC Upgrade

Policy Issue

Should the City continue to contract with Integrated Mechanical Systems, Inc. for additional engineering and design for the remodel of the City HVAC system?

Alternative

The alternative is to not approve the engineering contract. This is not recommended as Integrated Mechanical Systems, Inc. has provided excellent work on this project to date.

Background Information

Westminster's City Hall is a now over 15 years old and includes 66,000 square feet of office space. The HVAC system is unique in design as it houses 23 heat pump units that supply heating and cooling throughout the building. There are also 7 boilers in the basement/mechanical boiler room, which make up pre-heat in a boiler water loop to supply the water source heat pump system. The heat pump system operates on refrigeration compressor theory. In the wintertime the system or heat pumps supply heat to office spaces and zones. In the summertime it supplies cooling. The system has been determined to be undersized to accommodate extreme temperatures. In the winter there are cold areas in the building, and in the summer there are hot office areas. The system has been modified in the past 15 years to try to accommodate these areas of concern. The life cycle of heat pumps is approximately 15 years. System components and compressors are failing at an increasing rate and costing the City a significant amount of revenue to maintain the system in good operating order.

In March 2002, City Staff requested engineering bids from three engineering firms to provide preliminary design work for a retrofitted HVAC system. Bids were as follows:

ME Engineers	\$28,000
MKK Engineering	\$25,000
Integrated Mechanical Systems, Inc.	\$15,000

The original contract with the lower bidder, Integrated Mechanical Systems, Inc. was for the study phase of the project. Charges for their services were at a standard hourly rates not to exceed \$15,000.

Additional services requested by the City beyond the agreed upon scope of the project were billed by

Integrated Mechanical Systems Inc. at an hourly rate. The total cost of the engineering study was \$27,059. The increased cost was due to the change in the complexity and scope of the project.

Given their familiarity with the project as well as the level of their performance to date, Staff asked Integrated Mechanical Systems, Inc. to continue to work on this project. The firm is currently preparing final drawings for the retrofitted HVAC system. The total cost of engineering services is now estimated to be \$65,773, which exceeds the City Manager's \$50,000 spending authority, thus requiring Council approval.

Three separate system designs were considered based on price, quality, performance, and construction methods that would cause the least disruption to City Staff. After Staff determined the most workable design, Integrated Mechanical Systems Inc. was asked to generate documents and blue prints for the construction process. The design that was selected consists of replacement of all 23 heat pumps throughout the building, installing larger units where required, retrofitting duct work for proper air supply, installing larger make up air units to bring the building up to code, and a new generation 3 control system for better control of zones and room temperatures.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
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Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Contract Authorization for General Contractor for the City Hall HVAC and Space Re-Allocation Capital Improvement Projects

Prepared By: Barbara Opie, Assistant to the City Manager
Ken Quenzer, Building Operations & Maintenance Manager

Recommended City Council Action

- Authorize the City Manager to execute a contract with Adams Mendel Allison Construction Inc. to serve as the General Contractor for \$849,753 for City Hall HVAC improvements with a project contingency of \$127,463 (15% contingency) and for \$252,953 for the City Hall Space Re-Allocation with a project contingency of \$37,975 (15% contingency).
- Authorize the transfer of \$140,000 from the 2003 CIP budget for BO&M Major Maintenance Project and \$200,000 from the 2004 CIP budget for BO&M Major Maintenance Project into the City Hall HVAC project.
- Authorize expenditures not to exceed \$93,975 for the City Hall Space Re-Allocation project for costs relating to gas and electric service, building wiring and cabling, fixtures, furniture, equipment, and other owner costs excluding design costs previously approved by City Council.

Summary Statement

- The City Hall Space Re-allocation project and the City Hall HVAC improvement project were determined to be best implemented through a coordinated project effort. Both projects will be disruptive to citizens and Staff alike, thus the decision was made to coordinate the projects with the same Construction Manager/General Contractor to minimize the disruption within City Hall.
- City Council approved the selection of AMA on October 27, 2003 for the Construction Manager/General Contractor for the City Hall Space Re-allocation and HVAC projects. At that time, Staff noted that they would return to City Council to seek approval of the guaranteed maximum construction cost. This agenda memorandum is seeking that approval.
- Staff is recommending a 15% contingency for this project due to the complicated nature of building rehabilitation projects and the complexity of the HVAC upgrades to City Hall.
- Construction is anticipated to begin on both projects in February 2004 and be completed by June 2004.

Expenditure Required: \$1,362,087

Source of Funds: General Fund Capital Improvement Budget Accounts
City Hall HVAC Project and City Hall Space Re-Allocation Project and
Building, Operations & Maintenance Project

Policy Issue

Whether or not to approve the guaranteed maximum price with Adams Mendel Allison Construction Inc. for the construction of the City Hall HVAC system upgrades and City Hall tenant improvements, and authorize the expenditures indicated for project contingency and other owner's expenses.

Alternative

- Do not approve the contract with AMA, directing staff to go out to bid again. Staff does not recommend this alternative, as AMA was selected in the best interest of the City on this project based on their recent experience with complicated renovation projects.
- Do not approve the contract with AMA, delaying the start of the projects to some future date. Staff does not recommend this alternative as the HVAC system continues to experience problems heating and cooling City Hall. In addition, the need to maximize utilization of the space available in City Hall for existing Staff continues to be a high priority.

Background Information

In October, Staff received authorization from City Council to proceed with Adams Mendel Allison Construction (AMA) as the Construction Manager/General Contractor (CM/GC) to develop the construction drawings and finalize an implementation timetable for the joint project. The City Hall Space Re-allocation project and the City Hall HVAC improvement project were determined to be best implemented through a coordinated project effort. Both projects will be disruptive to citizens and Staff alike, thus the decision was made to coordinate the projects with the same Construction Manager/General Contractor to minimize the disruption within City Hall.

The joint project team selected the CM/GC at that phase of the joint project to partner in developing the construction drawings and work through the details associated with the demolition and construction phases.

During the last two months, the joint project team has worked with AMA in finalizing the construction drawings and refining the project budgets. In addition, they have initiated the selection of the subcontractor with the joint project team for the HVAC component of the project. This selection was important in the finalization of the construction drawings for the mechanical improvements to be made to City Hall. Based on this work, Staff is returning to City Council to request approval of the guaranteed maximum construction cost and other associated expenses with completing this project.

Staff is requesting authorization to enter into a guaranteed maximum price (GMP) for construction with AMA and authorize expenditures for costs relating to gas and electric service, building wiring and cabling, fixtures, furniture, equipment, and other owner costs excluding design costs previously approved by City Council.

The HVAC Upgrade Project currently has a project budget of \$730,000, of which approximately \$91,000 has been spent to date on engineering design for the project. However, the following three items have impacted the project budget:

- The replacement of the existing Halon fire suppression system and air conditioning unit in the City Hall main computer room. Funds were added to the project for the Halon fire suppression system replacement by City Council via the 2002 carryover appropriation on November 24, 2003 (the increase of \$50,000 is reflected in the \$730,000 budget). Funds were originally budgeted in the 2003 BO&M Major Maintenance CIP project budget for the air conditioning unit replacement (\$41,000 including contingency) and simply are recommended to be moved into the main HVAC project account.
- The existing HVAC system has a combination of two different control devices throughout the building managing the heating and cooling in City Hall. The City's mechanical engineer and Staff recommend that a more current control device be installed and replace all of the existing control devices, streamlining the control devices and ensuring compatibility throughout the HVAC system. This modification costs an additional \$56,000, including contingency, above what was originally budgeted.
- The equipment and installation costs plus 15% contingency results in an increase of approximately \$243,000 to the project budget. When the original budget was established for this project, it was a rough estimate based on initial engineering review. However, it did not include the actual mechanical engineering expenses nor anticipate some of the complexities of retrofitting the existing system. The revised budget incorporates all of the associated engineering, equipment and installation costs associated with this project.

Staff is recommending that a total of \$340,000 be transferred from the BO&M Major Maintenance Project for 2003 and 2004. Staff has reviewed the work planned over this two-year period and is comfortable that delaying some of the small projects originally scheduled will not have significant impact on facility life and/or quality of the facilities to the public or staff. The BO&M Major Maintenance Project budget in 2003 is \$400,000 and \$200,000 in 2004 for a total of \$600,000 over the two year period. Staff recommends transferring \$140,000 from the 2003 CIP budget for BO&M Major Maintenance Project and \$200,000 from the 2004 CIP budget for BO&M Major Maintenance Project. Staff anticipates requesting that City Council appropriate carryover funds from 2003 into the BO&M Major Maintenance CIP project in 2004 should funds be available.

Outside of the budget for the construction for the City Hall Space Re-allocation project are additional owner's expenses for items such as providing gas and electric service to the construction trailer, furniture, fixtures, audiovisual equipment, building data wiring and telephone systems, and miscellaneous equipment. These expenses will involve vendors and companies outside of the contract with AMA Construction. Staff will follow City bidding requirements for any of these expenses and will return to City Council for required authorizations and approvals as necessary. Funds for these expenses are available in the City Hall Space Re-allocation project budget.

Construction is anticipated to begin on both projects in February 2004 and would be completed by the end June 2004.

Respectfully submitted,

J. Brent McFall
City Manager



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Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Jefferson County Property Tax Payment Authorization

Prepared By: Emily Moon, Management Analyst

Recommended City Council Action

Authorize the City Manager to send Jefferson County's Treasurer's Office payment for the City of Westminster's 2002 property tax statement for the Westminster Conference Center.

Summary Statement

The City's payment of 2002 Jefferson County property taxes were due in July 2003. However, due to ongoing negotiations, the payment was held until now. The City owes the County \$84,115.15. Per Title XV Purchasing Procedures of the City Code, City Council must approve expenditures greater than \$50,000.

This property tax bill represents the City's contractual obligation to Inland Pacific Colorado, L.L.C. for the Westminster Conference Center. Staff has been working with the County and Inland Pacific to resolve issues concerning the method used to calculate this bill and future years' payment obligations and had held off from paying the 2003 until these issues were substantially resolved.

Expenditure Required: \$84,115.15

Source of Funds: General Fund Central Charges Budget

Policy Issue

Should the City of Westminster submit payment of 2002 property taxes to Jefferson County for the Westminster Conference Center?

Alternative

City Council could choose not to submit the property taxes at this time. Staff recommends paying the bill now. Failure to pay the property tax bill would cause the bill to grow with interest penalties.

Background Information

The City entered into a lease agreement with Inland Pacific on September 21, 1998 for the Westminster Conference Center. As part of this lease agreement, the City agreed to be responsible for any property tax assessed for the Conference Center. At the time, the property was defined as a possessory interest that was exempt from property tax. Recently, the Colorado Supreme Court ruled that similar possessory interests were taxable and the State's Division of Property Taxation devised a method for calculating the tax. As a result of these rulings and the City's contractual obligation with Inland Pacific, the City now owes property taxes for the Westminster Conference Center.

Staff met with Inland Pacific representatives, as owners of the possessory interest right, and Jefferson County's Assessor's Office to discuss tax obligations in future years. Staff estimates that the possessory interest property tax for the Conference Center will be \$188,000 for 2003 payable in 2004 due to an administrative change in the calculation method. In October 2003, Staff estimated that this cost could be reduced through negotiations to \$88,000 and as a result \$88,000 has been included in the 2004 Adopted Budget for this expense. Staff continues to look for ways to minimize the financial impact this contractual obligation has on the City by negotiating with the County and Inland Pacific. Staff will keep City Council informed of additional developments on this issue.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Purchase of Replacement Backhoe

Prepared By: Richard A. Clark, Utilities Operations Manager
Carl F. Pickett, Purchasing Specialist

Recommended City Council Action

Authorize the City Manager to execute a contract with Honnen Equipment for the purchase of a replacement 2004 John Deere 710G backhoe at the negotiated price of \$128,293.

Summary Statement

- City Council action is requested to purchase a John Deere 710G backhoe based on the 2003 Moffat County bid. The City negotiated a purchase price for 2004 that is exactly the same as the 2003 bid amount.
- The City will save money using this bid over the price agreement Multiple Assembly of Procurement Officials (M.A.P.O.) has in place with John Deere Equipment (\$156,599).
- The piece of equipment being recommended for purchase has been budgeted in the 2003-2004 Budget (\$131,000 budgeted).

Expenditure Required: \$ 128,293

Source of Funds: Utility Fund, Public Works and Utilities Department Budget,
2004 Operating Budget

Policy Issue

Should the City proceed with the negotiated purchase price for the purchase of a backhoe based on the 2003 bid by Moffat County?

Alternatives

- Reject the negotiated purchase price and use the M.A.P.O. price agreement. Staff does not recommend this since the price would increase.
- Instruct staff to go out for bids on a backhoe instead of using the negotiated pricing. Staff does not recommend this since the manufacturer has had a 1.5 % price increase from 2003.
- Do not purchase this piece of equipment for the 2004 budget year. This is not recommended, as the unit presently utilized is no longer economically practical to operate.

Background Information

As part of the 2004 Budget, City Council approved the purchase of a replacement backhoe for Public Works and Utilities. The backhoe to be replaced is Unit #9765 and it has reached a point where it is no longer economically reasonable to maintain. Information regarding the maintenance of the unit is as follows:

UNIT #	YEAR	MAKE	MODEL	HOURS	VEHICLE MAINTENANCE COSTS LIFE TO DATE (LTD)
9765	1993	John Deere	710 D	6,028	\$55,316

This equipment is used in water line repair and general excavation. The John Deere 710 G is the current version of the same machine the City currently operates. It is larger than all other backhoes in the market (8,000 pounds heavier) and has greater “break out” force for digging and a greater lifting capability. It also has a 6-cylinder diesel engine while the competing machines are all 4-cylinder. The cities of Thornton, Northglenn and Westminster conducted demonstrations of the available competing machines in the spring of 2003. The Deere 710 G was clearly a larger and more powerful machine than others demonstrated.

M.A.P.O. has a price agreement in place with John Deere for 19% off of list price on this type of equipment. That would have given the City a purchase price of \$156,599. However, in 2003, Moffat County awarded a bid for the John Deere 710G to Honnen Equipment. The City was able to use that competitive, formal bid, and it gave the City a price of \$128,293, which included a 60 month, four thousand hour extended warranty. In negotiating a purchase price, the City was able to obtain the exact same pricing for 2004 as in 2003. The City also obtained the same amount for the trade-in as last year, \$18,500 for unit # 9765, for a net purchase price of \$109,793. This bid meets all requirements set by the City and the cost of the backhoe is within the amount previously approved by City Council.

Based on Fleet Maintenance replacement recommendations, the present condition and maintenance history of this equipment would make it impractical to continue operation in regular service.

Respectfully submitted,

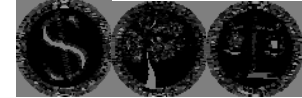
J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2003



SUBJECT: Huron Street Utility Relocation Costs

Prepared By: Stephen C. Baumann, Assistant City Engineer

Recommended City Council Action

Authorize the expenditure of a total of \$990,000 for utility relocations attendant to the improvement of Huron Street between 128th Avenue and 140th Avenue. On recommendation of the City Manager, City Council determines that the public interest will be best served by a negotiated contract with a single contractor for the relocation of the 30-inch water main in Huron Street at Big Dry Creek for an amount not to exceed \$390,000, as a part of the total authorization

Summary Statement

- The Huron Street Improvements project will necessitate the relocation of existing utility lines that are in conflict with the proposed street improvements. These include facilities operated by AT&T, Comcast, Xcel Energy and the City itself. Taking into account applicable credit under the franchise agreement with Xcel, the cost to underground overhead electric lines is \$449,740. An additional \$150,000 is estimated to be necessary for various relocations of other non-City utility facilities not covered by franchise agreements.
- Relocation of the City's water main at the proposed Huron Street bridge over Big Dry Creek must be done by April of 2004 in order for the Huron Street Improvements project to go forward in 2004. This can only be accomplished by doing an abbreviated design process (already underway), ordering the materials for construction immediately, and negotiating a contract for construction to begin no later than March 1. The design consultant for the water main relocation, Black and Veatch Inc., has pre-qualified three contractors in anticipation of the City taking this approach, and has negotiated a cost not to exceed \$390,000 for this work. This is a fair price and represents good value.

The short window of time available for the water main relocation, and the desire to maintain the Huron Street improvements project schedule dictate that the normal bidding and contracting processes be waived, an action that City Council can take when the public's interest is best served by doing so. With concurrence of City staff, the preparatory work of the design consultant assures that the candidate contractors have the financial and work force strength, can meet the City's schedule and are proposing competitive costs for the work.

Expenditure Required: \$ 990,000

Source of Funds: General Capital Improvement Project Account for Huron Street and the 136th Avenue and I-25 Project Account

Policy Issues

Should the City proceed with utility relocations that are necessary in advance of the Huron Street improvements to maintain the project schedule?

Should the City perform the relocation of the 30-inch water main in Huron Street under a negotiated contract with one of three qualified contractors to expedite the project schedule as being in the best interest of the public?

Alternatives

The alternative to the negotiated contract being recommended for the water main relocation is the more formal open bid process the City uses in most cases. Unfortunately the standard approach would delay the start of the water main construction from February/March of 2004 to November of 2004 and would delay the start of the Huron Street project by eight months as a result. Council has the authority to waive formal bidding procedures and negotiate or otherwise award contracts where circumstances call for this approach. The desired schedule for Huron Street dictates that this method be taken. Staff believes that a negotiated contract with one of three experienced contractors is a value-conscious approach that is justified in this case and serves the best interests of the public.

Background Information

The first phase of the Huron Street improvements project will reconstruct Huron Street from 128th Avenue to 140th Avenue, and is expected to begin in the second quarter of 2004. Certain utility relocations must be done in advance of the street improvements to meet that schedule.

Under the City's franchise agreement with Xcel Energy (formerly Public Service Company), overhead utilities must be moved by Xcel to a new overhead location at Xcel's cost if the City's project necessitates it. When the City desires that the overhead facilities be placed underground, the cost of doing so is absorbed by the project. In this case, Xcel has priced relocating the overhead facilities along Huron Street to an underground location at \$899,055. Credit of \$449,319 for an overhead relocation yields a net cost to the City of \$449,736. In addition to Xcel's facilities, there are other facilities whose providers have no similar arrangement with the City. While they have agreed that they will relocate their lines along with Xcel, those providers have not yet developed assured costs for the City's share of the relocation costs. In addition to what will be owed to Xcel, authorization of \$150,000 is being requested to cover the expected billing that can be expected from Qwest Communication, AT&T, and ComCast, who also have facilities in the corridor. It is important that these funds (a total of \$600,000) be approved in advance so delays in the Huron Street Project are not incurred due to utility relocations.

The second utility relocation effort needed in advance of beginning the street improvements project is the relocation of the City's own 30-inch water main in Huron Street where it crosses Big Dry Creek. The main is now located such that the bridge that will carry Huron Street over Big Dry Creek would be built directly on top of it. Due to the importance of both these facilities, the water main will be moved to the west, from under the proposed bridge location, safely away from conflict. Since this water main is the primary feed to the City's north area, the relocation, which takes the 30-inch main out of service for a short period, must be done during the low demand (winter) period of October to April.

Council recently approved a contract amendment with Felsburg, Holt and Ullevig (FHU) under which Black and Veatch Inc. (B&V) is designing this relocation with input from contractors who are experienced in large diameter water main work. This collaboration between these two firms will save some time and is necessary to accomplish the relocation late this winter so that the street improvements project can go forward in spring 2004. B &V is discussing the project design, construction phasing and schedule with Bragg Excavation, Inc., B-T Construction Co., and T-Lowell Construction Inc., all of which are construction companies with experience in large water main construction and with which the City has contracted individually and satisfactorily for past projects. These contractors have the financial strength, competent and stable work forces that have performed well on previous City projects. They are able to commit to the aggressive schedule that will be necessary to complete the relocation ahead of the increasing water demands of spring and summer. Staff is confident that any one in this group can perform the work and is recommending that a contract for construction be awarded to the firm from this group that can meet the project schedule, construct a quality product and provide the best value in doing so. Black and Veatch has advanced the design to the point that a maximum cost, including construction engineering, of \$390,000 can be assured, and authorization for that amount is being sought along with the authority for the City Manager to execute contracts and purchase orders needed to pursue all of the relocations in the most timely fashion.

Dependent on the location of the work, funding for the utility relocations described above will be taken from the Huron Street Capital Project account and/or the 136th Avenue/I-25 Capital Project account.

Respectfully submitted,

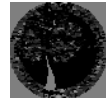
J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Open Space Acquisition of Approximately 1.5 Acres Plus Improvements along Walnut Creek Open Space Corridor located on Wadsworth Boulevard

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action:

Authorize the City Manager to execute a Purchase and Sale Agreement and all necessary closing documents for the acquisition of the Estate of Mollie Bott property located at W. 104th Avenue and Wadsworth Boulevard and authorize the expenditure of \$335,000 from the Open Space Land Purchases Account.

Summary Statement:

- Staff has negotiated the purchase of the approximately 1.5 acres plus improvements located on the west side of Wadsworth Boulevard (Old Wadsworth) due south of the Burlington Northern Santa Fe (BNSF) Railroad underpass (See attached vicinity map). The purchase price is \$335,000 and includes a log style single-family residence.
- This property is located along the Walnut Creek Corridor and is the best location for a trail underpass under Wadsworth Boulevard and an additional underpass under the BNSF railroad tracks for the Walnut Creek Trail.
- This property is also the historic location of the Church's Crossing Stage Stop, the first stagecoach station between Denver and Cheyenne, Wyoming on the Overland Route to California. It was also the location of an overnight stop between Denver and Boulder, since it was one day's distance by horse or ox drawn wagon. The two story building was demolished many years ago, however, the historic rock lined well which was dug by George H. Church in 1864 is still on the property and there is a historic marker on the well.
- There is the potential for a grant from Urban Drainage and Flood Control District (UDFCD) for this acquisition since most of the property is within the Walnut Creek floodplain.

Expenditure Required: \$ 335,000

Source of Funds: Open Space Land Purchases Account

Policy Issues

Should the City's Open Space Funds be used for this acquisition?

Alternatives

1. Not acquire this property. This alternative is not recommended because the property is currently being marketed in the real estate market and other parties are interested in the parcel.
2. Not acquire this property at this time. This alternative is also not recommended because the acquisition of this property is critical to complete the Walnut Creek Trail Corridor from U.S. Highway 36 to Simms Street.

Background Information

The Bott property is an approximately 1.5-acre parcel with a home and other improvements located at W. 104th Avenue (if extended) and Wadsworth Boulevard. A portion of the property is located in the 100-year floodplain of Walnut Creek. The acquisition of this site as an addition to the Walnut Creek Open Space and Trail Corridor has been an acquisition priority of the Open Space Advisory Board.

Staff has recently negotiated the purchase of the property with terms that are acceptable to the landowner. The purchase price of \$335,000 is the full asking price. This was offered after the City's two previous offers had been rejected by the landowners. Staff was advised that another party was going to come in with an offer at the full asking price after January 1, so time was of the essence.

The City will ask the UDFCD to pay one-half of the costs of this acquisition resulting in a potential grant/reimbursement to the City of \$167,500. This is another opportunity for the City to leverage the City's limited Open Space Funds.

There are several large, mature cottonwood trees on the property, some possible remnants of the Church's Crossing Stage Coach Stop. Given the historical significance of the site, there is great potential for installation of plaques or other interpretive markers on the site. Charlie McKay has photographs of the Church's Crossing building and other historical memorabilia from the Site. In the 1860's, General Ulysses S. Grant and his daughter were overnight guests.

The disposition of the home on the site will be determined later. The alternatives include: 1) Demolition or sale and relocation, if feasible (This alternative would likely be required by the UDFCD to remove the structures from the floodplain if UDFCD funds are used for acquisition), or 2) Preserve the structure at its current location for a use to be determined.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Grant of Easement to Xcel Energy/Public Service Company for a Utility Line Across Big Dry Creek Open Space Between 112th Avenue and 120th Avenue in the area of Lowell Boulevard

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action:

- Authorize the City Manager to execute a utility easement to Xcel Energy/Public Service Company and to accept \$42,000 as payment. Payment shall be in the form of reduced electric distribution costs for the I-25 and 136th Avenue Interchange in the amount of \$42,000.
- Authorize the transfer of the \$42,000 into the City's Open Space Revenue Fund and Land Purchases Account from the 136th Avenue Interchange Project Account on the date the easement is granted.

Summary Statement:

- Xcel Energy approached the City for an electrical utility easement across the Big Dry Creek Open Space from W. 112th Avenue to W. 120th Avenue in the approximate area of Lowell Boulevard.
- The easement is for an underground line with five switch cabinets approximately 1,000 feet apart. The easement is approximately 4,625 feet long and 10 feet wide.
- Xcel Energy has offered to reimbursement the City Open Space Fund \$42,000 for the easement, which is \$9.00 per linear foot or \$.90 per square foot, which Staff believes is a fair value for an easement in this location.
- Xcel Energy has also proposed that the \$42,000 come in the form of reduced electric distribution and street lighting costs for the I-25 and 136th Avenue Interchange Project. Staff is proposing that funds be transferred from the 136th Avenue Interchange Project Budget into the Open Space Fund to reflect this savings. There are sufficient funds in the project account to accommodate this transfer.

Expenditure Required: \$42,000 (transfer from 136th Avenue Interchange Project account to Open Space Account)

Source of Funds: I-25 and W. 136th Avenue Interchange Project

SUBJECT: Grant of Easement to Xcel Energy/Public Service Company for a Utility Line Across Big Dry Creek Open Space Between 112th Avenue and 120th Avenue in the area of Lowell Boulevard

Page 2

Policy Issues

Should the City grant Xcel Energy a utility line easement across Big Dry Creek Open Space?

Alternatives

1. Council could choose not to grant Xcel Energy the easement
2. Council could choose to grant the easement but require direct payment from Xcel Energy rather than accepting equivalent value services, reducing the Interchange Project, and transferring the funds to the Open Space Funds.
3. Council could choose to grant the easement but not at the current offer of \$0.90 per square foot.

Background Information

On occasion the City is approached to place utility lines across the City's open spaces particularly the Big Dry Creek corridor. The first question staff asks is "Have all other alternatives been explored?" If the answer is yes, the staff evaluates the location of the easement and the impacts it may have on the open space. Staff also explains that under the Open Space Ordinance, the Open Space Fund must be reimbursed for any non-open space uses. Staff has successfully negotiated this easement and another recently with Xcel Energy by suggesting a tradeoff of costs on other projects within the City. This results in full compensation to the open space fund through reduction of costs on other City projects. Staff recommends acceptance of this proposal.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Trade of Fire Department Air Compressor

Prepared By: Bill Work, Deputy Chief of Administration

Recommended City Council Action

Authorize the trade of the Fire Department's 1982 ABI air compressor to the Keensberg Volunteer Fire Department for a new SuperVac 18'' ventilation fan and 100' of 5'' fire hose.

Summary Statement

- The Fire Department is requesting that City Council approve the trade of a 1982 ABI air compressor that has become outdated and is in disrepair, needing extensive repairs of its third stage valves.
- This unit has over 875 hours on it and overheats with air pressures over 4000 P.S.I. This air compressor has been replaced with a new model that is part of the Fire Station 2 Relocation capital improvement project.
- Currently the old air compressor is slated to go to auction with an estimated auction value of under \$1,000.
- The construction manager for the new Fire Station 2 project is a member of the Keensberg Volunteer Fire Department, which is in dire need of an air compressor. The Keensberg Fire Department only has a need for filling low-pressure (2250 P.S.I.) air bottles, so repairs to the air compressor's third stage valves would not be immediately needed.
- The Keensberg Volunteer Fire Department is willing to buy the Westminster Fire Department a new smoke ejector (SuperVac #718E2 18'' electric fan) and 100' of (Nidner) 5'' hose at an estimated cost of \$1,885.50 as the trade offering.
- The City's Purchasing Agent has reviewed and approved this proposal.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City trade the Fire Department 1982 ABI air compressor to the Keensberg Volunteer Fire Department for other equipment needed by the Westminster Fire Department?

Alternatives

The air compressor could be sent to auction. However, due to the repairs that are needed, the estimated auction value is under \$1,000.

Pursue further trade options with other agencies. Due to the staff time involved and advertising dollars that would be needed, the chances are very limited that a better offer could be brokered.

Background Information

The current Fire Station One air compressor is a 1982 ABI, three-stage, 18CFM, 15 HP, 5000 P.S.I. air compressor that is being replaced with a new model at the new Fire Station Two. During the construction of the new Fire Station Two, the construction manager, Jeff Jensen, became aware of the fact that the Fire Department had an old air compressor that would probably be turned over for auction. Mr. Jensen was made aware of the condition and repairs that would be needed to make the air compressor fully functional. Mr. Jensen is a member of a volunteer fire department in Keensberg, Colorado. Currently, the Keensberg volunteer firefighters have to travel 12-15 miles to get their air bottles filled, pulling them out of their service area. The acquisition of this air compressor will allow them to refill bottles at their fire station.

The repairs that are needed to this old compressor include rebuilding the third stage valves and a factory recommended total compressor block overhaul. The current state of this compressor creates an overheating situation once the compressor reaches about 4000 P.S.I. The bottles that the Westminster Fire Department uses require air pressures of 4500 P.S.I. or higher. The Keensberg Volunteer Fire Department still uses what are considered low-pressure bottles, only needing about 2250 P.S.I. This situation would allow the Keensberg Volunteer Fire Department immediate, good use of the compressor, even in its current condition.

Staff believes that the trade of this old air compressor for a new SuperVac electric fan (\$1,138.50) and 100' of 5" hose (\$747.00) is a fair and equitable deal. Additionally, the old compressor would be put to good use by a less fortunate fire department, rather than just being parted out for marginal dollars.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Ratification of Purchase of Excess Workers' Compensation Insurance

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Ratify the purchase of Workers' Compensation Excess insurance for \$95,414 from Safety National Casualty Corporation and charge this expense to the 2004 Workers' Compensation Self Insurance Fund.

Summary Statement

- City Council action is requested to ratify the expenditure for the 2004 annual premium for excess workers' compensation insurance effective January 1, 2004.
- The City annually purchases specific stop loss insurance to cover catastrophic on-the-job injuries to employees that would exceed the City's self insured amount. This insurance is purchased through a broker, Marsh USA Inc., who purchased the coverage for the City through Safety National Casualty Corporation. The accepted quote from Marsh for 2004 for excess workers' compensation coverage is \$95,414.
- The cost of coverage in 2003 was \$82,797. The quote for 2004 of \$95,414 represents an increase in premium of \$12,617 (approximately 15%) from 2003. A portion of the increase (4.2%) is due to increased payroll estimated for 2004. The rest of the increase in premium (10.8%) is due to financial experience of the insurance market in general.

Expenditure Required: \$ 95,414

Source of Funds: Workers' Compensation Self Insurance Fund.

Policy Issues

Should the City continue to self-insure its workers' compensation coverage, purchasing excess insurance to cover any catastrophic issues?

Alternatives

- (1) Consider fully insuring the City's Workers' Compensation Insurance Program. This alternative is not recommended due to the almost certain increase in expense and the reduction in the City's ability to manage claims.
- (2) Increase the City's self-insured retention from \$350,000 to \$400,000. Staff believes that the current self-insured retention is appropriate when considering the risk vs. savings in premium cost.

Background Information

The City currently self-insures the first \$350,000 of each workers' compensation claim. This type of program allows for more control over claims handling and payment and reaps immediate rewards from our loss control and safety programs. By self-insuring the City also avoids some of the drastic changes still affecting the insurance industry.

The Risk Management Staff completed and submitted the application for excess workers' compensation coverage to Marsh USA Inc. in October 2003. Marsh USA Inc., acting as insurance broker on behalf of the City, sought proposals on the open insurance market for this coverage. They received three responses and submitted their renewal proposal to the City's Risk Management Officer on December 18, 2003. The delayed proposal was due to the general condition of the marketplace and the City's insurance broker's desire to get the best quote for the City's program. The City's current policy expired on January 1, 2004. Because of this delay and expiration date, Risk Management had to bind coverage prior to seeking City Council's approval.

The quote responses were as follows:

CARRIER	PREMIUM	LIMITS	RETENTION
Midwest Employers Casualty Company	\$142,000	\$25,000,000	\$350,000
Employers Re	\$136,975	Statutory	\$500,000
Safety National Casualty Corporation	\$95,414	Statutory	\$350,000
Safety National Casualty Corporation	\$69,348	Statutory	\$400,000

The Risk Management Staff requires this policy to have a "statutory" limit that would cover payments for any disaster, no matter how great and will not accept a dollar limit to be imposed. The quote from Midwest Employers Casualty was unacceptable due to the dollar limits they would place on the coverage. The Risk Management Staff has also chosen not to increase the City's retention limit from \$350,000 to \$400,000. Although the City has not had a workers' compensation claim reach the excess levels of coverage for the past 11 years, the savings in premiums is not offset by the risk of losses to the City's current workers' compensation reserves resulting from one or more large claims.

SUBJECT: Ratification of Purchase of Excess Workers' Compensation Insurance Page 3

The insurance industry has experienced numerous changes during the last three years. The industry was realizing tremendous gains from investments and therefore, making up for any underwriting losses. With the economic decline that began in 2000, investment income was no longer able to offset the losses and insurance carriers began increasing premiums. The events of 2001 were further disastrous for the insurance industry resulting in increased prices and greater limits on coverage being passed on to the consumers. Many carriers withdrew from certain specialty lines of business, such as excess workers' compensation, and many others simply did not survive. In 2003, good risks are still able to purchase statutory limits, but the market started the year with rate increases from 25% to 50%. For the fourth quarter renewals, average rate increases have dropped to 15% to 30%. According to our broker, Marsh USA Inc., the City has received one of the best renewal quotes they saw in 2003.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Microsoft Software Upgrades

Prepared By: David Puntenney, Information Technology Director

Recommended City Council Action

Award the MSLA (Microsoft Select License Agreement) bid for Microsoft software to Software Spectrum in an amount not to exceed \$ 254,263.

Summary Statement

- City Council action is requested to award Microsoft software purchase to Software Spectrum based on the MSLA pricing. The State of Colorado including 126 state and local government agencies as well as 100 academic agencies participate in the MSLA in order to achieve cost-effective and efficient acquisition of Microsoft products.
- Microsoft software upgrades are required to guarantee future vendor support.
- The Microsoft Office 2000 software currently used in the City was installed in 2000, nearly four years ago.
- The City plans for software upgrades every three to four years, and does not install every new release of Microsoft software. The City did not purchase or install the prior release of Microsoft Office (Office XP).
- Microsoft Office 2003 includes many enhancements in user interface and functionality that will enhance security, scheduling, collaboration, and document management.
- The requested funds will provide for Microsoft Office 2003, Microsoft SQL Server (database), Microsoft Systems Management Client Access Licenses, and Microsoft Server 2003 operating system upgrades.
- Funds were authorized in the 2004 budget for this expense.

Expenditure Required: \$ 254,263

Source of Funds: 2004 General Capital Improvement Fund and Utility Fund budgets

Policy Issue

Whether or not to approve the purchase of Microsoft software to add functionality and guarantee future product support.

Alternative

Delay the purchase of the Microsoft Office software until a future year. This is not recommended as this delay could result in the loss of support for the current Microsoft software.

Background Information

In 1998, the City converted from the Data General CEO office automation system to Microsoft Office 97. In 2000, the City upgraded from Office 97 to Office 2000 in order to provide employees with enhanced software functionality and to maintain product support. Although Microsoft Office XP was released in 2001, the City chose not to upgrade, since Office 2000 continued to be eligible for vendor support and provided the functionality required by employees at that time. Microsoft phone support for the Office 2000 software currently used by the City will discontinue in 2005.

The City has established a standard upgrade cycle of three to four years for Microsoft software. This schedule is ideal, as it provides the ability to achieve acceptable user functionality and vendor software support, while at the same time reducing expense by skipping some new releases.

Microsoft Office 2003 provides enhanced functionality and improved user interface that will increase employee productivity. Some of the new features include:

Improved business processes

Simplifies the exchange and use of data from a variety of sources.

Collaboration

Office 2003, when combined with the features available in Sharepoint services, will add the ability to coordinate project schedules and meetings more easily by using Meeting Workspaces. The system will also provide ability to use Document Workspaces to collaborate on and review documents.

Protect sensitive documents and email

Information Rights Management (IRM) functionality helps to protect sensitive files and email messages from unauthorized access and use.

Enhanced user interface for mail and calendar

A new user interface will improve the view and usage of mail and calendar.

In addition to Microsoft Office 2003, this request includes other required Microsoft software upgrades, including:

- Microsoft SQL Server Client Access Licenses
- Microsoft Windows Client Access Licenses
- Microsoft Systems Management Client Access Licenses
- Microsoft Server 2003 Operating System Licenses (for 20 Windows Servers)

SUBJECT: Microsoft Software Upgrades

Page 3

The City purchases all Microsoft software at the MSLA pricing, resulting in a savings of over 40% from retail pricing. The MSLA contract was formed in October 1995. The primary purpose of the MSLA is to establish the means by which participating agencies may join together in order to achieve cost-effective and efficient acquisition of Microsoft products and services. Currently, the State of Colorado has 126 state and local government participants as well as 100 academic participants are enrolled in the contract.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004

SUBJECT: Second Reading of Councillor's Bill No. 85 re Vacation of Right-of-Way within the Highlands at Westbury Subdivision

Prepared By: Michelle Acosta, Civil Engineer

Recommended City Council Action:

Pass Councillor's Bill No. 85 on second reading, vacating a portion of a certain street right-of-way located within the First Plat of the North Glenn Manor.

Summary Statement

- City Council action is requested to pass the attached Councillors Bill on second reading, which vacates a portion of a certain street right-of-way located within the First Plat of the North Glenn Manor Subdivision.
- This Councillor's Bill was passed on first reading on December 22, 2003.

Expenditure Required: N/A

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **85**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE VACATING THE EXISTING WEST 113th AVENUE RIGHT-OF-WAY BETWEEN NAVAJO STREET AND PECOS STREET WITHIN THE HIGHLANDS AT WESTBURY SUBDIVISION

WHEREAS, existing West 113th Avenue Right-of-Way between Navajo St. and Pecos St. was dedicated by the First Plat of North Glenn Manor Subdivision (Exhibit A); and

WHEREAS, the existing West 113th Avenue Right-of-Way is being encroached upon by proposed buildings in the Highlands at Westbury Subdivision; and

WHEREAS, the existing West 113th Avenue Right-of-Way is not necessary for the City of Westminster within Highlands at Westbury Subdivision; and

WHEREAS, the vacations are necessary in order to place buildings within the Highlands at Westbury Subdivision out of the City of Westminster's existing Right-of-way.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the existing West 113th Avenue Right-of-Way in Sections 2 and 3 hereof.

Section 2. Legal Description of existing Right-of-Way:

A PARCEL OF LAND LOCATED IN A PART OF THE SOUTHEAST ONE-QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN. THE WEST TERMINUS BEING THE SOUTH QUARTER CORNER OF SAID SECTION 4 AND MONUMENTED BY A FOUND 1" AXLE IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "LS #23904". THE EAST TERMINUS BEING THE SOUTHEAST CORNER OF SAID SECTION 4 AND MONUMENTED BY A FOUND 1" AXLE IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "LS #23904". THE BEARING BEING N 89°22'02" E PER THE CITY OF WESTMINSTER G.I.S. CONTROL SYSTEM, WITH ALL OTHER BEARINGS CONTAINED HEREIN RELATIVE THERETO.

SAID CONTROL SYSTEM BASED ON MODIFIED STATE PLANE COORDINATES, COLORADO NORTH ZONE (NAD 83)(USGS NVD 1929) AS DETERMINED BY A SURVEY BY MERRICK & COMPANY DATED JANUARY 3, 1995, JOB NO. 282-8874, WITH COORDINATES AND ELEVATIONS BEING SHOWN BY FOUND MONUMENTATION.

NOTE: TO GET STATE PLANE NORTH ZONE COORDINATES, MULTIPLY THE MODIFIED STATE PLANE COORDINATES SHOWN BY 0.99972203.

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 4; THENCE N 00°19'06" W ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4 A

DISTANCE OF 40.22 FEET; THENCE LEAVING SAID WEST LINE, N 89°40'54" E A DISTANCE OF 40.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF NORTH PECOS STREET, SAID POINT BEING THE SOUTHWEST CORNER OF SAID BLOCK 1, NORTH GLEN MANOR-AMENDED FILING AS RECORDED UNDER FILE NUMBER 12, MAP NUMBER 289, AND RECEPTION NUMBER 913130 OF THE RECORDS OF THE CLERK AND RECORDER OF ADAMS COUNTY;

THENCE CONTINUING NORTH AND LONG THE WEST LINE OF SAID BLOCK 1 (EAST LINE OF NORTH PECOS STREET) N 00°19'06" W A DISTANCE OF 610.08 TO THE SOUTHWEST CORNER OF WEST 113TH AVENUE RIGHT-OF-WAY AS DEDICATED BY RECEPTION NUMBER C0192086, ALSO BEING A POINT OF CURVATURE, ALSO BEING THE POINT OF BEGINNING;

THENCE ALONG THE SOUTH SIDE OF SAID RIGHT-OF-WAY OF WEST 113TH AVENUE THE FOLLOWING 2 COURSES:

- 1) THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 89°41'10", AND ARC DISTANCE OF 23.48 FEET TO A POINT OF TANGENT;
- 2) THENCE N 89°22'04" E A DISTANCE OF 667.00 FEET;

THENCE LEAVING SAID SOUTH RIGHT-OF-WAY OF WEST 113TH AVENUE N 00°41'28" W A DISTANCE OF 50.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF SAID 113TH AVENUE;

THENCE ALONG THE NORTH SIDE OF SAID RIGHT-OF-WAY OF WEST 113TH AVENUE THE FOLLOWING 2 COURSES:

- 1) THENCE S 89°22'04" W A DISTANCE OF 666.51 FEET TO A POINT OF CURVATURE;
- 2) THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 90°18'50", AN ARC DISTANCE OF 23.64 FEET TO A POINT ON THE EAST LINE OF NORTH PECOS STREET;

THENCE ALONG SAID EAST LINE OF PECOS STREET S 00°19'06" E A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING CONTAINING 34,184 SQ.FT OR 0.78 ACRES MORE OR LESS.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004

SUBJECT: Second Reading of Councillor's Bill No. 86 re Vacation of Easements within the Bradburn Subdivision, Filing No. 1

Prepared By: Mikele Wright, Senior Civil Engineer

Recommended City Council Action:

Pass Councillor's Bill No. 86 on second reading, vacating portions of certain easements that were recorded on the plat for Bradburn Subdivision, Filing No. 1 per File No. 18, Map 749 and Reception No. C1007109, in the County of Adams.

Summary Statement

- City Council action is requested to pass the attached Councillors Bill on second reading, which vacates portions of certain easements that were recorded on the plat for Bradburn Subdivision, Filing No. 1 per File No. 18, Map No. 749 and Reception No. C1007109, in the County of Adams.
- This Councillor's Bill was passed on first reading on December 22, 2003.

Expenditure Required: N/A

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **86**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE VACATING PORTIONS OF UTILITY EASEMENTS WITHIN BRADBURN SUBDIVISION FILING NO. 1.

WHEREAS, certain easements were dedicated on the final plat for Bradburn Subdivision Filing No. 1, File No. 18, Map 749, and Reception No. C1007109 in the County of Adams; and

WHEREAS, portions of these utility easements are not necessary for maintaining the City of Westminster's utility lines; and

WHEREAS, the vacations are necessary since no utility lines are located within the utility easements and no utility lines will be constructed within the utility easements in the future.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portions of utility easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements: See attached legal descriptions for Easement A, Easement B and Easement C.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



Subject: Resolution No. 1 re Appointments and Reappointments to Boards and Commissions

Prepared by: Richelle Work, Acting City Clerk

Recommended City Council Action:

Adopt Resolution No. 1 making appointments and reappointments to the Board of Adjustment, Board of Building Code Appeals, Election Commission, Environmental Advisory Board, Historic Landmark Board, Human Services Board; Library Board; Open Space Advisory Board; Parks and Recreation Advisory Board; Personnel Board; Planning Commission; Special Permit and License Board, and Transportation Commission.

Summary Statement:

- City Council action is requested to consider the re-appointments to the Board of Adjustment, Board of Building Code Appeals, Election Commission, Environmental Advisory Board, Human Services Board; Library Board; Open Space Advisory Board; Parks and Recreation Advisory Board; Personnel Board; Planning Commission; Special Permit and License Board and Transportation Commission where terms of office expired on December 31, 2003.
- In addition, new appointments to the Board of Building Code Appeals, Historic Landmark Board, Human Services Board, Open Space Advisory Board, Parks and Recreation Advisory Board and Planning Commission are requested.
- Each individual whose term expired on December 31, 2003 was contacted and asked if they were interested in being re-appointed to the Board, if Council so desires. These reappointments are for two-year terms.
- City Council recently interviewed the 19 candidates for the current pool. In addition there are 13 applicants from 2003 that are being carried over to 2004 for a total of 32 applicants.

Expenditure Required: \$0

Source of Funds: n/a

Policy Issue:

Does City Council want to fill vacancies on the Boards and Commissions at this time?

Alternative:

No alternatives identified.

Background Information:

The terms of office of four of the Board of Adjustment members expired on December 31, 2003. Tim McClung, Gerald Nordmark, and Raymond Selix are all interested in being reappointed to the Board of Adjustment. Ted Knapp does not wish to be reappointed.

The terms of office of two of the Board of Building Code Appeals members expired on December 31, 2003. Steven Fenimore and Jonathan Talbott are interested in being reappointed to the Board of Building Code Appeals.

The terms of office of all four of the Election Commission members expired on December 31, 2003. Denis DuFresne, Maryann Maher, Jeanne Nehring, and William Noonig are all interested in being reappointed.

The terms of office of four of the Environmental Advisory Board members expired on December 31, 2003. Lisa Bressler and Yvonne Martin are both interested in being reappointed to the Environmental Advisory Board. Cheryl Parker and Bruce Vine do not wish to be reappointed.

The terms of office of two of the Human Services Board members expired on December 31, 2003. Kaaren Hardy and Dennis White are interested in being reappointed.

The terms of office of five members of the Library Board expired on December 31, 2003. Beverly Bishop, Marilyn Flachman, Roman Kohler, and Angela Ricker are all interested in being reappointed. Mary Boston does not wish to be reappointed.

The terms of office of five members of the Open Space Advisory Board expired on December 31, 2003. Ed Getsch, Sandra Goodwin, Deborah Jones, and Randal Tucker are interested in being reappointed to the Board.

The terms of office of four of the Parks and Recreation Advisory Board members expired on December 31, 2003. Stephanie Marlin and Ronald Mayoral are interested in being reappointed to the Parks and Recreation Advisory Board. Armene Brown and Michele Haney do not wish to be reappointed.

The terms of office of four of the Personnel Board members expired on December 31, 2003. David Jones, Wesley Underwood, Candee Wells and Stacy Worthington are interested in being reappointed.

The terms of office of four members of the Planning Commission expired on December 31, 2003. Joseph Barsoom, James Boschert, Joseph Burt, and Joe McConnell are all interested in being reappointed.

The terms of office of four members of the Special Permit and License Board expired on December 31, 2003. Bill DeVoe, Frank Jaime, Donna McMillan and Nancy Peters are interested in being reappointed to the Board.

Subject: Resolution re Appointments to Boards and Commissions

Page 3

The terms of office of five of the Transportation Commission members expired on December 31, 2003. Jara Raphaelson, Glenda Salter, Susan Smith, Bruze Vezina, and Pat Wales are interested in being reappointed.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 1

INTRODUCED BY COUNCILLORS

SERIES OF 2004

CITY OF WESTMINSTER BOARD AND COMMISSION REAPPOINTMENTS
AND NEW APPOINTMENTS

WHEREAS, Each member whose term expired on December 31, 2003 has been contacted and asked if they wish to be re-appointed to the Board where they are currently serving; and

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized appointees to carry out the business of the City of Westminster.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby reappoint the following individuals to the City of Westminster Board or Commission listed below with the terms of office to expire December 31, 2005.

BOARD/COMMISSION	NAMES
Board of Adjustment	Gerald Nordmark, and Raymond Selix
Board of Building Code Appeals	Steve Fenimore and Jonathan Talbott
Election Commission	Denis DuFresne, Maryann Maher, Jeanne Nehring, and William Noonig
Environmental Advisory Board	Lisa Bressler and Yvonne Martin
Human Services Board	Dennis White
Library Board	Beverly Bishop, Roman Kohler, and Angela Ricker (moved from Alternate to Regular member)
Open Space Advisory Board	Ed Getsch, Sandra Goodwin, Randal Tucker, and Deborah Jones (alternate)
Parks and Recreation Advisory Board	Ronald Mayoral and Stephanie Marlin (moved from alternate to regular member)
Personnel Board	David Jones, Wesley Underwood, Stacy Worthington, and Candee Wells (alternate)
Planning Commission	Joseph Barsoom, Martha Brundage, Joseph Burt (alternate), Joe McConnell (alternate)
Special Permit and License Board	Frank Jaime, Donna McMillan, Nancy Peters, and Bill DeVoe (alternate)
Transportation Commission	Jara Raphaelson, Glenda Slater, Susan Smith, Pat Wales, and Bruce Vezina (alternate)

Reappoint the following individual to the City of Westminster Board or Commission listed below with the term of office to expire December 31, 2004.

Board of Adjustment	Tim McClung (moved from Alternate to regular member)
---------------------	--

The following appointments are being made to fill current vacancies:

BOARD/COMMISSION	NAMES	TERM EXPIRES
Board of Adjustment	Edwin Ulmer, Brian Whitford (alternate)	December 31, 2005
Board of Building Code Appeals	Forrest Flannigan (alternate) Jason Gilbert (alternate)	December 31, 2005
Environmental Advisory Board	Mike Litzau, Mary Lindsay (alternate)	December 31, 2005

Historic Landmark Board	Stephen Graziano, April Luber, Henry Sand, Betty Roan, Linda Cherrington, Bill Teter, Kaaren Hardey, Patti Kinnear	December 31, 2005
Human Services Board	Harold Armenta	December 31, 2005
Library Board	George Kieffer	December 31, 2005
	Paula Saunders (alternate)	
Parks and Recreation Advisory Board	Alberto Garcia (alternate) W.J. Penniston (alternate)	December 31, 2005

Passed and adopted this 12th day of January, 2004.

ATTEST:

Mayor

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Rocky Flats Coalition of Local Governments Appointments

Prepared By: J. Brent McFall, City Manager

Recommended City Council Action

Re-appoint City Councillor Samantha Dixon as the City's representative to the Rocky Flats Coalition of Local Governments (RFCLOG) Board of Directors, appoint Councillor Jo Ann Price as the 1st Alternate, and re-appoint Director of Public Works and Utilities Ron Hellbusch as the 2nd Alternate.

Summary Statement

- In accordance with paragraph 7 of the Intergovernmental Agreement establishing the Rocky Flats Coalition of Local Governments (RFCLOG) and Article II of the Coalition's Bylaws, the City needs to appoint three designated representatives to serve on RFCLOG.
- The appointments will be effective beginning February 1, 2004. This appointment will expire on January 31, 2005.
- City Councillor Samantha Dixon and Director of Public Works and Utilities Ron Hellbusch are being recommended to continue on the RFCLOG Board of Directors as the City's representatives due to their past experience and knowledge and desired continued involvement in the cleanup and closure oversight activities of the Rocky Flats Environmental Technology Site (RFETS).
- Former Councillor Herb Atchison served on the RFCLOG board from February 1999 through November 2003. Councillor Jo Ann Price has expressed a desire to serve on the Board and is recommended to replace former Councillor Atchison.
- The Board of Directors of RFCLOG will consist of seven members, each with one equal vote. A Director and two alternates are to be designated by each local government per the terms of the Intergovernmental Agreement that was renewed in November 2003. Alternates may serve in lieu of Directors in the event of absence, resignation or removal of directors.
- Councillor Samantha Dixon and the City's Public Works and Utilities Director, Ron Hellbusch, have been serving as the elected and staff representatives for the City of Westminster. Council will need to provide a formal letter to the Coalition designating elected and staff representatives for the City.

Expenditure Required: 0

Source of Funds: N/A

Policy Issue

Should City Council formally appoint a City Councillor and two alternates to the Board of Directors of RFCLOG per the terms of the IGA renewed in November 2003.

Alternative

City Council can appoint other City Councillors or Staff members to serve as the City's Director and its two alternates on the RFCLOG Board of Directors.

Background Information

The Rocky Flats Coalition of Local Governments is made up of elected officials and Staff representing the seven local governments that are contiguous to the Rocky Flats Environmental Technology Site. The seven local governments are the cities of Westminster, Arvada, Boulder, Boulder County, Jefferson County, the City and County of Broomfield, and the Town of Superior.

The purpose of RFCLOG is to provide an effective mechanism for local governments in the vicinity of ROCKY FLATS and their citizens to work together on issues of mutual concern relative to the safe, prompt and effective cleanup and closure of Rocky Flats; its future use and long term protection; and to serve as a focal point for local government communication and advocacy with state and federal agencies regarding ROCKY FLATS issues.

Local government staff representatives will meet and work with RFCLOG Staff to prepare agendas, develop work plans, prepare recommendations for the Board's approval as well as keep the elected official current on ROCKY FLATS activities and concerns. Council will be kept apprised by the City's designees of RFCLOG's activities and of any recommendation requiring a formal position from the City.

The Intergovernmental Agreement forming RFCLOG sets forth that the agreement will be reviewed every fifth calendar year (the effective date of the agreement is November 23, 2003). As part of this review the parties agreed to consider whether to continue the coalitions existence. In addition, an annual report is prepared at the end of each year of operation in order to evaluate the effectiveness of RFCLOG.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 10 A-B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Action on the First Amended Preliminary Development Plan for Mandalay Town Center and Vested Right Agreement

Prepared By: David Falconieri, Planner III

Recommended City Council Action:

- 1) Open the public hearing.
- 2) Continue action indefinitely on the proposed amended Preliminary Development Plan and the Vested Right Agreement.

Summary Statement:

- Staff is recommending that this case be continued in order to allow additional time to resolve several issues with affected parties and property owners.
- The Developer also requires additional time to conclude negotiations with lenders that may affect the final design of the project.

Expenditure Required: \$ 0

Source of Funds: NA

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Councillor's Bill No. 1 re Pollutant Limitations Amendment

Prepared By: David Cross, Wastewater Operations Coordinator

Recommended City Council Action

Adopt Councillor's Bill No. 1 as an emergency ordinance amending the Specific Pollutant Limitations for industrial dischargers to the City's sanitary sewer system.

Summary Statement

- Schedule 8-10 (A) contained in City Code Section 8-10-4 (N) specifies concentration limits for pollutants discharged by industrial users to the City's sanitary sewer system.
- These limits are periodically reviewed and recalculated based on changes in treatment facility's capacity and in the wastewater's sources and characteristics.
- Limits for two metals, Mercury and Molybdenum, were recalculated and are to be increased from zero to 0.046 mg/L and 5.20 mg/L respectively.
- The Environmental Protection Agency has reviewed and approved these changes as required by the Federal Clean Water Act.
- Staff has no concern that these changes will negatively impact the wastewater treatment process.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Should the City Code be amended to change two industrial wastewater pollutant limitations?

Alternatives

Don't amend the code changing these limits.

Amendment of the City Code to change these two limits will reflect the current capacity of the wastewater treatment system and will comply with Federal Clean Water Act requirements. Adoption of the revised limits into the City Code is necessary to make them legally enforceable. Failure to make these changes could result in the EPA taking enforcement action against the City for failure to maintain its approved Pretreatment Program

Background Information

The Specific Pollutant Limitations contained as Schedule 8-10(A) in City Code section 8-10-4(N) set concentration limits for certain industrial discharges to the City's wastewater treatment system. These limits are calculated based on the capacity of the treatment facility to effectively treat the allowed concentrations. These limits are periodically reviewed and recalculated based on the current conditions of the treatment facility and the waste stream. Maintaining current limits is required under the Federal Clean Water Act and is overseen by the EPA as part of their ongoing review and approval of all municipal Pretreatment Programs in Colorado. The EPA has approved the proposed changes and has the authority to take enforcement action against the City of Westminster if these changes are not adopted into City Code.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **1**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING SCHEDULE 8-10(A), SPECIFIC POLLUTANT LIMITATIONS
THE CITY OF WESTMINSTER ORDAINS:

Section 1: Title 8, Chapter 10 of the Westminster Municipal Code is hereby amended as follows:

SCHEDULE 8-10(A)
SPECIFIC POLLUTANT LIMITATIONS

	Daily Maximum Concentration (mg/L)
Ammonia Nitrogen	60
Arsenic	0.54
BOD5	1000
Cadmium	0.20
Chromium	17.21
Copper	3.82
Cyanide	0.01
Lead	0.89
Mercury	0 0.046
Molybdenum	0 5.20
Nickel	2.42
Oil & Grease	75.0
Ph	Between 5.5 and 10.0
Selenium	0.18
Silver	0.44
Zinc	0.89

Section 2. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY
ORDINANCE this 12th day of January, 2004.

ATTEST:

Mayor

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

January 12, 2004



SUBJECT: Councillor's Bill No. 2 re Dissolution of Sheridan Park General Improvement District

Prepared By: Cherie Sanchez, Accountant

Recommended Action

- Hold a Public Hearing re the dissolution of Sheridan Park General Improvement District.
- Pass Councillor's Bill No. 2 as an emergency ordinance approving the dissolution of Sheridan Park General Improvement District, ("District") effective December 31, 2003.

Summary Statement

City Council, acting as ex officio the Board of Directors of the Sheridan Park General Improvement District, is requested to adopt the attached Councillor's Bill as an emergency ordinance.

- The District was created in 1985 for the purpose of acquiring certain improvements within and for the District.
- The District issued General Obligation Bonds on May 1, 1986 to finance street, water, sanitary sewer, and storm drainage improvements.
- In 2002, District finances provided for an early pay-off of its bonded debt.
- Having fulfilled its debt service objectives and completed said improvements, the District's continuation beyond 2003 is now inappropriate.
- Colorado Revised Statute 31-25-625 details the criteria for dissolving a District as providing public notice, holding a public hearing, and adopting a dissolution ordinance, all of which hinge on the District having satisfied its outstanding indebtedness, obligations, and liabilities.
- \$14,943 of excess revenues exist in the District's fund balance. Staff recommends that these funds be transferred to the City of Westminster as repayment for consulting and other professional services relating to the dissolution, as well as un-recovered administrative expenses that the City incurred over the life of Sheridan Park.
- After this final transfer of funds to the City, the District will have satisfied all of its outstanding indebtedness, obligations, and liabilities;
- Proper notice was published on December 18, December 25 and January 1, and notice of this hearing was mailed to each elector of the District, pursuant to the requirements of Section 31-25-625, Colorado Revised Statutes.
- Dissolution of the District effective December 31, 2003, is now being proposed to the Sheridan Park General Improvement District Board.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

According to Colorado Revised Statute 31-25-625, the procedure for dissolving any District is to provide public notice of and to hold a public hearing on the dissolution. If The Board determines that dissolving the District is in the best interest of all concerned, it is required to effect the dissolution by ordinance. A certified copy of the ordinance must be filed with the respective county clerk and recorder, upon which the dissolution becomes complete.

Alternative

The alternative would be not to dissolve the District. However, this alternative is not reasonable given the limited capacity of the District, which was for the sole purpose of financing and accounting for the payment of interest and principal on its tax supported debt. The District's fulfillment of this obligation negates its previous need to levy taxes making its continuation beyond 2003 inappropriate.

Background Information

The District was created in 1985 to provide for the financing of certain street, water, sanitary sewer, and storm drainage improvements with the District. The District issued \$1,050,000 in General Obligation Bonds on May 1, 1986, to finance these improvements. On April 1, 1994, these bonds were refunded to take advantage of lower interest rates with a payoff scheduled in 2005. It was determined in 2001 that excess revenues, having accumulated in fund balance, would be budgeted in 2002 for an early pay-off of the District's bonded debt. Accordingly, the outstanding bonds were called and the District made its final payment to extinguish the debt in December 2002.

Having fulfilled its purpose of providing for improvements and debt service, Staff recommends that a residual equity transfer of \$14,943 be made by the District to the City of Westminster for consulting and professional services it provided in relation to the ongoing operation and ultimate dissolution of the District, and that the District be dissolved effective December 31, 2003.

Section 31-25-625, C.R.S., requires the Board of the District to adopt an ordinance in order to dissolve the District. Pursuant to section 31-25-609, C.R.S., the City Council constitutes ex officio the Board of Directors of the District, and, in such capacity, is empowered to adopt this ordinance on behalf of the District.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **2**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE RELATING TO THE DISSOLUTION OF THE SHERIDAN PARK GENERAL IMPROVEMENT DISTRICT IN THE CITY OF WESTMINSTER, COLORADO

WHEREAS, the District was created in 1985 for the purpose of acquiring certain improvements within and for the District;

WHEREAS, the District issued General Obligation Bonds in May 1986 to finance street, water, sanitary sewer, and storm drainage improvements in the District;

WHEREAS, the District paid off its bonded debt in December 2002;

WHEREAS, the financing and accounting objectives of the District relating to said improvements have been achieved.

WHEREAS, the District's fulfillment of its obligation negates its prior need to levy taxes making its continuation beyond 2003 inappropriate;

WHEREAS, a residual equity transfer of the remaining fund balance shall be made to compensate the City of Westminster for consulting and other professional services it provided relating to the District's dissolution, as well as un-recovered administrative expenses that the City incurred over the life of the District;

WHEREAS, after this final transfer of funds to the City, the District will have satisfied all of its outstanding indebtedness, obligations, and liabilities;

WHEREAS, the Board of Directors has determined that it is in the best interest of all concerned to dissolve the Sheridan Park General Improvement District;

WHEREAS, proper notice was published on December 18, 2003, December 25, 2003, and January 1, 2004, pursuant to the requirements of Section 31-25-606, Colorado Revised Statutes;

WHEREAS, no objections have been filed by any member of the public to the proposed dissolution.

NOW, THEREFORE, THE CITY OF WESTMINSTER, ACTING AS EX OFFICIO THE BOARD OF DIRECTORS OF THE SHERIDAN PARK GENERAL IMPROVEMENT DISTRICT ORDAINS:

Section 1. The Sheridan Park General Improvement District, in the City of Westminster, Colorado, is hereby duly dissolved effective December 31, 2003.

Section 2. The City of Westminster Finance Director, Mary Ann Parrot, is hereby directed to cause a certified copy of the dissolution ordinance to be filed in the office of the Division of Local Government, Department of Local Affairs, 1313 Sherman Street, Room 520, Denver, Colorado, 80203.

Section 3. The City of Westminster Deputy City Clerk, Richelle Work, is hereby directed to cause a certified copy of the dissolution ordinance to be filed with the Adams County Clerk and Recorder, Adams County Administration Building, 450 South 4th Avenue, Brighton, Colorado, 80601.

Section 4. Because the continuation of the District would result in unnecessary and unfunded operational costs and unnecessary taxpayer liabilities, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on January 12, 2004, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 12th day of January, 2004.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Approval of Modified Northgate Center Predevelopment Agreement

Prepared By: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Approve a Pre-Development Agreement with Southwestern Investment Group related to the redevelopment of the Northgate shopping center and adjoining vacant land at the southeast corner of 72nd Avenue and Federal Boulevard. This Agreement shall replace the existing Pre-Development Agreement approved on November 26, 2001.

Summary Statement

- The City and the Westminster Economic Development Authority (WEDA) approved an agreement with Southwestern Investment Group on November 26, 2001 to proceed with the preparation of a redevelopment plan for 35-acres of land on the southeast corner of 72nd Avenue and Federal Boulevard comprising the Northgate shopping center and vacant land immediately to the south of the shopping center.
- The current agreement allows the developer to seek up to \$50,000 in reimbursement for work done in the event WEDA chooses to terminate the project.
- A number of unanticipated issues including water service, environmental contamination, the economic slow-down, changes within Albertson’s management and business plan, and the property owner’s potential sale to another development prospect have significantly affected progress towards implementing the redevelopment project within the estimated timeframe.
- The Developer has expended \$567,672 to date in preparation of an Official Development Plan (ODP), based on “good faith” efforts to move the project along towards implementation.
- Given the excessive amount of time the project has taken, the Developer is requesting the approved Pre-Development Agreement be amended to reflect current funding and due diligence requirements.
- Staff and the Developer have negotiated a new agreement for WEDA and City Council consideration providing the Developer with the following:
 - An immediate reimbursement of \$50,000 authorized in the existing approved agreement;
 - Reimbursement of \$49,360 for completed environmental assessment work upon approval and execution of the new agreement;
 - Reimbursement of \$200,320 covering one-half of the cost for completed planning and design work upon re-submittal of a revised Official Development Plan (ODP);
 - Reimbursement of the remaining balance of \$200,320 for completed planning and design costs upon City staff approval of the final ODP for Planning Commission consideration. In conjunction with this payment, the Developer would assign all rights to the ODP product to the City and provide all digital, written and other drawings to City Staff; and
 - A final reimbursement not to exceed \$60,000 upon the Developer securing an acceptable anchor tenant or on June 30, 2004 in the event the Developer is unsuccessful and is able to document a high level of due diligence in pursuit of an anchor.
 - Both the WEDA Board and City Council need to take action on this item as the funds for this agreement are budgeted in the General Capital Improvement Fund.

Expenditure Required:	\$560,000
Source of Funds:	South Westminster Revitalization Capital Improvements Account

Policy Issue

Should WEDA and/or the City replace the existing agreement so as to provide the necessary funding allowing the Developer to continue preparation of the ODP?

Alternatives

- WEDA and the City may choose to not approve a new agreement and the associated financial assistance and stand by the present agreement. Staff recommends such an alternative not be pursued as the Developer would not have sufficient funds to complete the plans thereby limiting Staff's ability to accurately evaluate the financial viability of the project.
- WEDA and the City could choose to terminate the project with the Developer and negotiate a compensatory payment. Staff recommends that such an option not be given consideration as a new request-for-proposals would need to be issued which could delay the project for a significant period of time.

Background Information

In May 2001, the City of Westminster and the Westminster Economic Development Authority authorized Staff to go forward with the issuance of a request-for-proposals (RFP) to solicit developer interest in redeveloping several sites in the south Westminster area. The Northgate Center, comprising 35-acres at the southeast corner of 72nd Avenue and Federal Boulevard, was included as one of the specifically identified sites for consideration. The City received three proposals for redevelopment of all or a portion of the Northgate Center site. The three respondents included Southwestern Investment Group, Village Homes, and Miller Weingarten. Upon evaluation of the proposals, Staff selected Southwestern Investment Group as the preferred-developer with which to negotiate a development agreement.

An agreement was reached between the developer, the Westminster City Council and WEDA. The City Council and WEDA Board approved a pre-development agreement on November 26, 2001. The Agreement as approved included the following major elements:

- The City and WEDA would negotiate with the Pomponio family to secure the land necessary for the development project;
- Likewise the Developer was required to make attempts to purchase the property from the Pomponio family;
- The Developer was required to secure an anchor tenant for the new shopping center;
- The Developer agreed to proceed with expending funds in preparing a conceptual plan submittal through the City's standard planning review process; and,
- In the event WEDA chose not to proceed with the project, WEDA would reimburse the Developer for costs incurred to such termination date, not to exceed \$50,000.

In accordance with these provisions, both WEDA and the Developer attempted to acquire the property through negotiations with the Pomponio family. Over several months, neither party was successful in convincing the Pomponio family to sell the land. Meanwhile, the Developer was able to secure a "letter of intent" from Albertsons, Inc. to serve as the anchor in the project. Accordingly, the Developer moved forward with the preparation of a conceptual development plan and submitted it for City staff review and comment. The cost to prepare the preliminary plan was about \$50,000.

Given the Developer's ability to "secure" the required anchor and support from WEDA relative to moving the project forward, the Developer moved into the technical phase of site plan requiring significant expenditure of funds on environmental assessment, civil engineering, and architectural design. During this process issues related to environmental contamination and water and sewer infrastructure arose that significantly delayed completion of a final site development plan.

A Phase I environmental assessment determined that given past uses on the property (i.e. gas station and dry cleaners) there was a very good chance some level of contamination was to be found on the property. Accordingly, WEDA and the Developer sought permission from the property owner to enter the property for the purposes of confirmative environmental sampling. The property owner denied permission to access the property for such purposes. As such, WEDA was required to petition the courts to gain access. After several months of effort, the court granted WEDA access and the Developer proceeded with the necessary sampling. Based on the results of the testing, the Developer determined that additional testing would be necessary to more accurately determine costs associated with clean-up activities that may be required.

Issues were also encountered in planning work related to water and sewer service. The site is located within the Northgate Water and Sanitation District, a district created by the Pomponio family to serve their property. The District gets its water through a bulk use contract with the Denver Water Board. In discussing the matter with Denver Water, it was found that the existing District infrastructure was deficient in meeting the needs of the new development. Given Denver Water's contractual interest relative to serving the site, discussions were held over a lengthy period of time to determine the best way to service the project.

The Developer completed a plan that was submitted to the City for review in early 2003. Understanding that the environmental and water issues remained unresolved and based on positive Staff comment, the Developer continued to refine the plan and resubmit for approvals as requested. The Developer has indicated that \$502,000 has been expended towards getting the plans to their present status, which is at about 80% completion.

In April 2003 another significant issue/opportunity presented itself in the form of a possible negotiated land sale between the Pomponios and another development prospect. A real estate broker made representations to the City that the Pomponios had agreed to sell the property to the prospect and that a sales contract was forthcoming. Given WEDA's stated interest in facilitating a negotiated land transaction rather than through eminent domain proceedings, Staff proceeded to evaluate the seriousness of the proposal.

Staff was led to believe that the land sales transaction was imminent subject to a few minor issues that could be easily resolved between the prospect and the landowner. Staff was advised that the contract would be presented to the prospect's real estate committee within a few months. Upon the failure of the prospect to provide evidence of a contract by the end of September, Staff initiated discussions with Southwestern Investment Group to ratchet up the planning on their project to move it into implementation. Following these discussions, the Developer consulted with his investors in regard to proceeding with the project. The investors indicated that further investment needed to be contingent upon the Developer and WEDA revising the existing pre-development agreement to better reflect the work completed to date and further required actions by all parties.

Given the investors' request, Staff and the Developer worked to revise the existing pre-development for WEDA Board consideration. The proposed new agreement includes the following provisions:

- The Developer would proceed to complete the ODP and negotiate a final Development and Disposition Agreement (DDA) at its earliest convenience. The DDA will be presented to WEDA for consideration in early Spring 2004.
- WEDA would gradually reimburse the Developer up to \$560,000 for services and product completed to date. The reimbursable amount shall be contingent upon the Developer providing backup documentation of these expenses.
- If WEDA approves a Development and Disposition Agreement (DDA) negotiated with the Developer, the \$560,000 in reimbursements would be applied as a deduction from the final financial assistance package.

- The Developer would be required to either consummate a contractual agreement with Albertson's, Inc. or other suitable anchor-tenant prior to approval of the DDA, or show a significant level of due diligence in recruiting several anchor tenant prospects.
- The City would receive all digital and hard copy product (i.e. reports, plans, engineering specifications, drawings, etc.) upon providing the reimbursement as set forth in the agreement as stated above.
- The agreement clarifies the City and/or WEDA's rights and responsibilities relative to interacting with other prospective developers for the site. The City and/or WEDA cannot negotiate with or offer incentives to other prospects unless the relationship with the Developer is terminated. However, the City will provide information to other prospects upon request and participate in the standard plan review process if another prospect chooses to make a submittal. The City and WEDA are further required to forward such prospects to the Developer for consideration. This provision does not diminish the right of the property owner to proceed with a negotiated sale of the land to another party.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

A TRI-PARTY PRE-DEVELOPMENT AGREEMENT

Between

The City of Westminster
The Westminster Economic Development Authority, and
Southwestern Investment Group, LLC

Related to the

NORTHGATE CENTER REDEVELOPMENT PROJECT

This Agreement is made and entered into this ____ day of January , 2004, by and between the **CITY OF WESTMINSTER** (City), the **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY** (WEDA), and **SOUTHWESTERN INVESTMENT GROUP, LLC**, (Developer.)

WHEREAS, the City indicated its urban renewal purpose to facilitate the redevelopment of 35 acres on the southeast corner of 72nd Avenue and Federal Boulevard (Exhibit A), known as the “Northgate Center” (Site), and authorized WEDA to solicit redevelopment proposals relative to the Site; and,

WHEREAS, WEDA issued a request for proposals (RFP) related to the redevelopment of the Site; and,

WHEREAS, the Developer submitted a proposal to redevelop the Site in accordance with the procedures outlined in the RFP (Project); and,

WHEREAS, the proposal submitted by the Developer was selected by WEDA for further consideration; and,

WHEREAS, the Developer is required to prepare redevelopment plans in accordance with standard development review procedures established by the Westminster City Council; and,

WHEREAS, the Developer has proceeded with the preparation of such plans and has incurred substantial planning related costs; and,

WHEREAS, the Developer, WEDA and the City of Westminster agree that the existing Pre-Development Agreement dated November 26, 2001 (“2001 Agreement”) should be replaced to adequately cover the level of work and progress made to date; and,

WHEREAS, WEDA and Developer wish to set forth the terms upon which Developer shall continue to prepare and submit required plans and establish financial considerations;

NOW, THEREFORE, in consideration of the above premises, covenants, promises, and agreements set forth below, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree as follows:

A. Site Acquisition.

1. WEDA Staff shall be responsible for continuing good faith efforts to negotiate acquisition of the Site up until such time as the WEDA Board of Commissioners decides whether to authorize eminent domain proceedings. The parties anticipate that such decision will be made at WEDA’S regularly scheduled meeting on January 12, 2004, or such other future date as may be necessary to complete work or to present the issues to WEDA for consideration. If acquisition is authorized, including by eminent domain, WEDA Staff will continue to negotiate a settlement to resolve any eminent domain proceeding that may be filed.

2. The Developer agrees to continue to assist WEDA in negotiating acquisition of the required property to avoid or to settle eminent domain proceedings. WEDA may, as necessary, negotiate

with the Developer concerning any of the following options that may be requested in negotiating a purchase agreement with the property owners:

- a. Giving the current property owners naming rights relative to a street, the park, and/or the subdivision;
 - b. Relocating off-site or incorporating into the Project the property owners' liquor store; and/or,
 - c. Negotiating acquisition terms that include a means of providing an income stream to the owners for the rest of their lives, for example, by leasing rather than owning some or all of the land required for the commercial development, entering into a limited partnership in which the owners contribute land as an investment in the partnership, or conveying income-producing property back to the owners after development.
3. WEDA Staff will continue to prepare for eminent domain proceedings in the event negotiations to acquire the property fail, including obtaining an appraisal update to be completed by December 31, 2003. WEDA shall not be required to incur any financial obligation by taking possession or title to the property until City Council approval of the Developer's Official Development Plan and WEDA approval of financing and a proposed Disposition and Development Agreement (DDA) with the Developer.

B. Financial Considerations

1. The Developer acknowledges prior receipt of \$50,000.00 paid by the City and WEDA pursuant to the 2001 Agreement.

2. Within five business days of the approval and execution of this agreement, the City and WEDA shall reimburse the Developer's documented costs for environmental testing conducted in March, 2003, pursuant to court order allowing access to the Northgate property. These costs have been documented to be \$49,360.00. The City and WEDA acknowledge receipt of the work product from this testing.

3. Upon submission of City Staff's requested changes to the Official Development Plan ("ODP"), the Developer shall deliver the final work product, including all site plans, engineering plans, drainage studies, traffic studies, architectural renderings, schematic designs, and landscape plans (including digital files when available) to the City and, within five business days, WEDA or the City shall reimburse fifty percent (50%) of the costs for preparation of these documents. These costs include, but are not limited to, fees from outside consultants such as architects, engineers (including civil and traffic), as well as some development fees incurred during the course of the Project. Fifty percent (50%) of these costs is estimated to total \$200,320.00.

4. Within five business days of City Staff's approval of the Developer's proposed ODP, the remaining fifty percent of the preparation costs shall be paid to Developer, which payment is expected to be \$200,320.00.

5. Upon delivery of a signed letter of intent (LOI) from Albertson's or a comparable anchor tenant, a final reimbursement payment will be made to cover the additional expenses incurred by SWIG to prepare the final ODP. These costs will be based on actual expenditures as evidenced by documentation, but shall not exceed \$60,000.00. These costs will include, but not be limited to, architectural, engineering, both civil and traffic, landscaping plans, site plans, legal fees, development fees and interest. The Parties will allow Albertson's the opportunity to commit to the project by January 31, 2004, and will inform Albertson's that the anchor opportunity will be offered to competing businesses thereafter, with the goal of entering into an LOI with the first acceptable tenant to complete negotiations with the Developer. The amount of the final reimbursement payment shall be based on actual expenditures as evidenced by documentation. It is anticipated that the Developer will work diligently to secure the anchor tenant as swiftly as possible, but the Developer's investor requires that the final reimbursement payment of all development fees and costs be paid no later than June 30, 2004, regardless of whether an LOI has been secured.

6. City and WEDA cost reimbursements paid to the Developer pursuant to this Agreement shall be credited to the City and WEDA in the DDA negotiations with the Developer.

7. The City and WEDA acknowledge that SWIG has incurred another \$65,672.87 in actual expenditures as of the date of this agreement, and these costs shall be credited to the Developer's pro forma in the DDA negotiations.

C. Preparation and Submittal of Development Plans

1. Upon execution of this Agreement and receipt of the Payment from the City and/or WEDA, the Developer shall promptly proceed with revising and completing Project plans currently in review by the City.

2. The Developer shall proceed to estimate costs associated with the improvements necessary to proceed with construction, including off-site public improvements determined to be necessary, including but not limited to, water, sewer, and roadway improvements along 72nd Avenue and Federal Boulevard.

3. The Developer and WEDA shall work together to determine additional costs related to land acquisition, demolition and environmental remediation, relocation of existing tenants, and off-site public improvements. At that time, in an interactive process between the Developer, the City and WEDA, a proposal for cost and risk allocation will be developed for consideration by the City Council and WEDA Board of Commissioners that allows those bodies to make a commitment to land acquisition, using eminent domain if necessary, with reasonable knowledge of the potential costs to be assumed by the public. The City and WEDA will not commit to any level of participation in costs for environmental remediation unless environmental site assessments and recommended testing are first completed.

4. The Developer has requested that WEDA secure further access to the Site by Developer for testing. WEDA will attempt to obtain access, but realizing that time-consuming litigation may be required that would delay progress, WEDA and the Developer will also pursue an alternative solution involving estimating reasonable "worst case" costs to include in a draft pro forma for purposes of negotiating DDA terms.

D. Preferred Developer Status and Outside Development Interests

1. The City and WEDA hereby acknowledge that the Developer, having been selected through a statutorily mandated RFP process, has been selected as the preferred developer for the 35-acre Project, and has sole authority to negotiate with WEDA relative to redevelopment of the property as an urban renewal project.

2. The City and WEDA hereby agree to refrain from direct recruitment and/or negotiations with other developers and/or business prospects for all or a portion of the Project.

3. In the event other development interests for all or a portion of the 35-acre Site approach the City, the City and WEDA agree to direct such interests to the Developer for consideration.

4. The Developer acknowledges that the City cannot prevent the property owners from negotiating with other interests not party to this Agreement, nor prevent such parties from submitting development proposals to the City for consideration through the standard development review process. Notwithstanding the foregoing, the City shall advise such parties of its intentions to redevelop the site and its selection of Developer to redevelop the site.

5. In the event such parties approach the City with plans to develop any portion of the Site, the City and WEDA shall provide no incentives and shall adhere strictly to the City's standard review processes.

E. Resources Potentially Available to Assist Developer

1. The City will make the City's Brownfield Contamination Clean-up loan fund available to WEDA and the Developer, for the purposes of mitigating environmental contamination as appropriate and necessary, pursuant to U.S. Environmental Protection Agency regulations.
2. The City will explore the use of development-related fees and use tax relative to offsetting costs associated with land acquisition and associated public improvements. Such fees and use tax may include, but not be limited to, the following:
 - a. Planning and engineering processing fees;
 - b. Building permit fees related to demolition and construction activity;
 - c. Use tax as it relates to the cost of construction, including tenant finish and initial business fixtures;
 - d. Park development fee; and,
 - e. Other fees as identified and deemed appropriate during the planning process.
3. The City may establish "tap credits" resulting from negotiations with the Northgate Water and Sanitation District and convey such credits to WEDA, which may be used for the Project.
4. The City may consider deferment of tap fee payment as deemed necessary relative to financing the Project.

F. Water and Sewer Service.

1. The City shall provide water service to the area, either directly or through a special district, and will provide sewer service in partnership with Crestview Water and Sanitation District.
2. The City agrees to waive the requirement for the project to participate in the City's Growth Management Residential Competition to receive a tap allocation, and shall reserve the taps necessary to complete project if all other obligations of the Developer pursuant to this agreement and future agreements with the City and WEDA are met.

G. Relocation of Businesses.

1. WEDA shall be responsible for notifying and relocating businesses affected by the project.
2. The Developer agrees to make a "good faith" offer to existing businesses to locate within the Project.
3. The Developer agrees to work to the best extent possible to keep existing businesses operating for the longest extent possible, without adversely affecting the construction of the Project.
4. The Developer agrees to use reasonable efforts to keep Grocery Warehouse operational until such time as the new proposed grocery store is ready to open.
5. The Developer agrees to assist WEDA in identifying potential space in other locations within which to relocate businesses.

H. Development and Disposition Agreement

1. The goal of the planning and land acquisition efforts is for the City, WEDA and the Developer to negotiate and enter into a final DDA when the Official Development Plan is approved and land acquisition is ready to be funded. The DDA shall outline the continuing obligations of the parties relative to financing, construction and other project requirements and shall be executed before any party is required to close on the Site acquisition. The Developer and WEDA may mutually agree to finalize and approve such agreement at any time prior to formal approval of the ODP by the City.

2. The Developer shall start construction within 30 days of closing on the purchase of the Site from WEDA.

I. Miscellaneous

The Pre-Development Agreement between the parties dated November 26, 2001, is hereby superseded in its entirety. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Colorado, without regard to its rules regarding conflicts of laws. Use of paragraph headings and of singular or plural, masculine, feminine or neuter nouns and pronouns is for convenience only and shall be liberally construed. The invalidity or unenforceability of any provision hereof shall not affect, modify or impair the validity or enforceability of all other provisions hereof. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective representatives, heirs, legatees, successors and assigns; provided, Developer shall have no rights whatsoever to assign its interests under this Agreement, except to SW Federal, LLC, which assignment shall be allowed without the consent of either the City or WEDA, and any such attempt at assignment shall automatically be null and void and of no force and effect whatsoever and shall be deemed a breach by Developer of its obligations hereunder. No failure or delay by City or WEDA in exercising any rights, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. Nothing contained in this Agreement shall be deemed to constitute a joint venture or partnership relationship or other arrangement, business, financial or otherwise, between WEDA, the City and Developer. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and replaces in their entirety any agreements, understandings, warranties, or representations between the parties or their predecessors, whether in writing or oral. This Agreement may not be modified except by a written instrument signed by both the City and Developer. No third party beneficiary rights are intended or created in favor of any person not a party to this Agreement. The rights of any party under this Agreement shall not inure to the benefit of any third party other than a permitted assignee. In any proceeding brought to enforce the provisions of this Agreement, the prevailing party therein shall be entitled to an award of reasonable attorneys' fees, actual court costs and other expenses incurred.

CITY OF WESTMINSTER

SOUTHWESTERN INVESTMENT GROUP,
LLC

J. Brent McFall, City Manager

Mark Campbell, President

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

J. Brent McFall, Executive Director

ATTEST:

Executive Secretary

EXHIBIT A
Legal Description

Parcel 1: (Book 760, Page 139 and Book 1156, Page 20)

Beginning at the Northwest corner of the Northeast quarter of Section 5, Township 3 South, Range 68 West of the 6th P.M.; thence East along the North line of said Northeast quarter 185.0 feet; thence S 1'07' E, parallel to the East right of way line of North Federal Boulevard, 30.0 feet to the true point of beginning; thence East, parallel to and 30.0 feet South of the North line of said Northeast quarter, 794.62 feet more or less to a point on a line 135.0 feet West of the West line of Park Terrace Filing No. 1; thence S 0'52'15" W 125.0 feet; thence East 135.0 feet; thence S 0'52'15" W along the West line of Park Terrace Filing No. 1, 474.0 feet; thence West 135.0 feet; thence S 0'52'15" W 125.0 feet to a point on the North line of West 71st Avenue (extended); thence West 797.85 feet more or less to a point 135.0 feet East of the East right of way line of North Federal Boulevard; thence N 1'07' E, 125.0 feet; thence West 135.0 feet to a point on the East right of way line of North Federal Boulevard; thence N 1'07' E, along said East right of way line 474.0 feet; thence East 135.0 feet; thence N 1'07' E, 125.0 feet to the true point of beginning, EXCEPT any portion thereof lying within that certain Right of Way Parcel conveyed to the City of Westminster by Warranty Deed recorded September 17, 1993 in Book 4152 at Page 549, Adams County records,
County of Adams
State of Colorado.

AND

Beginning at the Northwest corner of the Northeast quarter of Section 5, Township 3 South, Range 68 West of the 6th P.M.; thence East along the North line of said Northeast quarter 1114.62 feet; thence S 0'52'15" W, 30.0 feet to the true point of beginning; thence S 0'52'15" W, along the West line of Park Terrace Filing No. 1 (extended) 125.0 feet; thence West 135.0 feet; thence North 0'52'15" East 125.0 feet to a point on the South line of West 72nd Avenue; thence East 135.0 feet to the True Point of Beginning,
County of Adams
State of Colorado.

Parcel 2; (Book 1381, Page 168)

Beginning at the Northwest corner of the NE 1/4 of Section 5, Township 3 South, Range 68 West of the Sixth Principal Meridian; thence East 50 feet, thence South 1'07' West along the East right of way line of North Federal Boulevard 30.0 feet to the true point of

beginning; thence continuing South 1'07' West 125.0 feet; thence East 135.0 feet; thence North 1'07', East 125.0 feet to a point on the South line of West 72nd Avenue; thence West 135.0 feet to the true point of beginning, EXCEPT any portion thereof lying within that certain Right of Way Parcel conveyed to the City of Westminster by Warranty Deed recorded September 17, 1993 in Book 4152 at Page 549, Adams County records,
County of Adams
State of Colorado.

Parcel 3: (Book 1766, Page 341 and Book 2277, Page 409)

The South 294.462 feet of the North 923.462 feet of the East 1068.57 feet of the West 1118.57 feet of the NW1/4 of the NE1/4 of Section 5, Township 3 South, Range 68 West of the 6th P.M., EXCEPT any Portion thereof lying within the Northgate shopping Center, Inc., parcel as conveyed by Warranty Deed recorded February 11, 1959, in Book 760 at Page 139 and EXCEPT any portion thereof lying within that certain Right of Way Parcel conveyed to the City of Westminster by Warranty Deed recorded September 17, 1993 in Book 4152 at Page 549, Adams County records,
County of Adams
State of Colorado.

Parcel 4: (Book 1766, Page 341 and Book 1798, Page 428)

Beginning at the Northwest corner of the Northeast quarter of Section 5, T 3 S, R 68 W of the 6th P.M.; thence East along the North line of said NE1/4, 1114.62 feet to the West line of Park Terrace No. 1 Extended North; thence South 00'52'15" West 923.462 feet along the West line of Park Terrace No. 1 and said line extended to the point of beginning; thence continuing South 00'52'15" West 815.88 feet, more or less, along said line to the North line of West 70th Avenue as described in Book 536, Page 311 of Adams County Records; thence Westerly along said North line to a point on the East line of North Federal Boulevard, said point being 1320.00 feet South 01'07' West and 50 feet East of the Northwest corner of said Northeast 1/4; thence North 01'07' East, 396.473 feet along said East line of North Federal Boulevard to a point; thence East and parallel with the North line of said Northeast 1/4, 1068.577 feet to the Point of Beginning;
County of Adams,
State of Colorado.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Resolution No. 2 re Transportation Funding Equity

Prepared by: Dave Downing, City Engineer

Recommended City Council Action

Adopt Resolution No. 2 in support of a balanced and equitable allocation of State transportation revenues that would ensure that each of the State's transportation planning regions would receive no less than 90 percent of the estimated value of revenues contributed from that region.

Summary

- The population of the Denver-metropolitan region represents approximately 56% of the total residents of the State of Colorado. Furthermore, approximately 47% of the "Vehicle Miles Traveled" (VMT) on Colorado State highways occurs within the Denver area. Yet, the most currently proposed method of allocation of transportation funds by the Colorado Department of Transportation (CDOT) would result in the distribution of only 28% of the total available resources to the Denver-metropolitan region.
- The Denver region's share of transportation allocations has shrunk from 46% of the State's total in 1998 to 28% of the State's total in 2003.
- Under the current distribution plan, State funds would not be available for the construction of several important improvement projects located within the City, including the installation of additional lanes to US 36.
- The Denver Regional Council of Governments (DRCOG) Board of Directors has proposed the adoption of a more equitable allocation plan in which each of the State's transportation planning regions would be ensured of a return of 90% of the estimated value of revenues contributed from that region. Such a method of distribution would result in the receipt of approximately 46% of the State's available resources by the Denver region rather than the 28% under the current plan.
- Staff recommends that the City Council join with other Denver area jurisdictions in support of the DRCOG proposal by adopting the attached Resolution.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Shall the City join with cities and counties of the Denver-metropolitan region to call for an equitable distribution of State transportation funding that would result in more available funds for use on transportation improvement projects within the City of Westminster and other area jurisdictions?

Alternative

Do not support the request for a different distribution of State transportation funding and remain content with the current manner in which these funds are allocated. This alternative is not recommended due to the fact that the current method of distribution of State transportation funding would result in a return to citizens of the Denver-metropolitan area of a greater portion of the dollars generated within the region.

Background Information

The City Council recently viewed a power point presentation regarding transportation funding equity that was prepared by the DRCOG staff. This presentation provided documentation of the dwindling share of State funding that is directed toward the Denver-metropolitan region. While City staff and Council recognize the need for the highly populated portions of the State to serve as “donors” to the rural areas, the trend of reductions of the share of funding for the metro region over the past five years has created a transportation crisis for the citizens of Westminster and neighboring jurisdictions. As much as \$4.2 billion will be lost from the Denver area by the year 2030 under the current allocation proposal in comparison to the share that was allocated as recently as 1998. Without that additional \$4.2 billion, funds will not be available for the construction of necessary improvements to Interstate Highways 25 and 70, State Highway C-470 and other critical roadways including, most notable to Westminster residents, US Highway 36. DRCOG staff has projected that Denver region motorists will suffer an increase in hours of delay due to traffic congestion in the year 2030 that is nearly five times greater than the existing amount of delay without the improvements to these key highways.

The DRCOG Board of Directors recently endorsed a proposal that calls for a more balanced and equitable distribution of State transportation funding. Under this proposal, each of the State’s six transportation planning regions would be ensured of the receipt of at least 90% of the estimated value of revenues contributed from that region. Region 5, in the most sparsely populated southwest corner of the State, would still realize a return of \$1.41 on the dollar and Regions 1 through 4 would receive at least 98 cents on the dollar of contribution. The Denver metro’s Region 6 would be allocated the minimum 90 cents on the dollar rather than as little as 51 cents on the dollar as is currently proposed. It is recommended that the City Council adopt the attached Resolution to voice its support of the DRCOG proposal.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. 2

INTRODUCED BY COUNCILLORS

SERIES OF 2004

A RESOLUTION IN SUPPORT OF AN EQUITABLE ALLOCATION OF STATE AND FEDERAL TRANSPORTATION DOLLARS TO THE METROPOLITAN DENVER REGION

WHEREAS, the Colorado Transportation Commission adopts long range plan resource allocations of all state and federal transportation revenues; and

WHEREAS, the metropolitan Denver region constitutes 56 percent of the state's population and contributes 56 percent of the transportation dollars allocated by the Colorado Transportation Commission; and

WHEREAS, the metro Denver region's share of the Colorado Department of Transportation's long range plan resources allocations was 46 percent in the November 1998 Statewide Transportation Plan adopted by the Colorado Transportation Commission; and

WHEREAS, the metro Denver region's share of the Colorado Department of Transportation's long range plan resource allocations was reduced to 34 percent in November 1999, and 36 percent in the June 2001 State Resource Allocation Program, which was part of the Statewide Transportation Plan adopted by the Colorado Transportation Commission; and

WHEREAS, the most recent Transportation Resource Allocation for FY 2005-2030, dated November 12, 2003, further reduced the metro Denver region's share of state transportation revenues to less than 28 percent; thereby making it difficult for the Denver metro area to address its congestion problems; and

WHEREAS, this reduction in metro Denver's historic share of state transportation revenues translates to a reduction in transportation funding for the fifty municipalities and counties in the metro Denver region of \$1.9 billion compared to the 2025 plan just two years ago, and a reduction of funding for the metro Denver region of \$4.2 billion compared to what we could have received just five years ago; and

WHEREAS, this reduction in metro Denver's resource allocation provides the businesses and residents of the Denver region only 51 cents back for every dollar paid in taxes, and metro area citizens deserve a better return on their tax dollars; and

WHEREAS, the Federal Transportation Equity Act for the 21st Century (TEA-21) guarantees that each state is to receive at least 90.5 percent of every dollar it contributes to the Highway Account of the Highway Trust Fund, and the Colorado congressional delegation strongly supported this guaranteed minimum return to donor states; and

WHEREAS, this same principal of transportation funding equity should apply to the allocation of state transportation revenues by the Colorado Transportation Commission to each of the 15 transportation planning regions in the State of Colorado, including the metro Denver region; and

WHEREAS, this unwarranted departure from the historic allocation of state transportation revenues to the metro Denver region will undermine the state's capacity to address both rural and urban transportation needs in a balanced manner and will impact negatively on the metropolitan Denver economy, which already is struggling as the third-most congested region in the nation; and

WHEREAS, severe congestion jeopardizes the Denver region's quality of life for all of its residents, and impedes the Denver region's ability to expand existing businesses and attract new businesses.

NOW, THEREFORE, be it resolved that the City Council of Westminster expresses its strong opposition to the substantial and inequitable reduction in the share of state transportation revenues allocated to the 50 municipalities and counties of the metro Denver region in CDOT's proposed FY 2005-2030 Transportation Resource Allocation, dated November 12, 2003; and further requests that the Transportation Commission reject this proposed Plan Allocation and direct CDOT to submit a modified Plan Allocation that addresses the state's transportation needs in a balanced and equitable manner which ensures that each of the state's transportation planning regions receives no less than 90 percent of the estimated value of revenues contributed from that region.

Passed and adopted this 12th day of January, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Councillor's Bill No. 3 re Growth Management Program Amendment Revising the South Westminster Residential Project Definition

Prepared By: Shannon Sweeney, Planning Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 3 on first reading amending Title 11, Chapter 3 of the Westminster Municipal Code pertaining to the South Westminster Residential Project definition within the Growth Management Program.

Summary Statement

- The City's Growth Management Program allows proposed residential projects in South Westminster to receive Category A (Active Residential) Service Commitments without the need to participate in a residential competition, if the project meets certain criteria based on location, size, and design.
- A "South Westminster Residential Project" is currently limited to areas in the City that are south of 80th Avenue and east of Sheridan Boulevard. The proposed amendment would designate a South Westminster Residential project as any new residential project that is south of 80th Avenue within the City, eliminating the stipulation that the project must be east of Sheridan Boulevard. (Please see the attached map for the additional area included).
- A second proposed change would eliminate a maximum size of a project (currently 10 acres).
- Projects would still be required to meet all applicable design criteria for such projects as currently stipulated.
- Please see the Background section for existing and proposed language.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City approve an amendment as proposed to the existing South Westminster Residential Project definition within the City's Growth Management Program?

Alternative

Do not pass the attached Councillor's Bill amending the Growth Management Program definition for South Westminster Residential Projects. Should City Council choose this option, the existing Westminster Municipal Code language as shown in the Background section below would remain, and areas south of 80th Avenue and west of Sheridan Boulevard would be required to compete in the City's residential competitive process in order to proceed to the City's development review process.

Background Information

The City's Growth Management Program within the Westminster Municipal Code currently defines a South Westminster Residential Project as follows:

1. A residential project located south of 80th Avenue and east of Sheridan Boulevard in the City of Westminster,
2. Which is no larger than ten (10) acres, and
3. Which meets all applicable design criteria for such projects.

Projects meeting these criteria receive Service Commitments from Category A (Active Residential) within the Growth Management Program on a first-come, first-served basis and are not required to compete against other similar projects in order to proceed to the City's development review process. This definition was originally adopted by City Council in an effort to encourage redevelopment and new development in the older section of the City, while still requiring development standards for these projects.

Staff proposes increasing the "South Westminster" area boundary slightly to include the limited areas in the City west of Sheridan Boulevard and south of 80th Avenue. This would enable parties interested in redevelopment and revitalization of that area to move forward to the City's development review process without any potential delays due to the annual timing of the competitive process. In addition, Staff recommends eliminating the restriction on size of proposed residential projects to enable the City to encourage potential development of larger, high-quality residential projects. The revised South Westminster Residential Project definition as proposed and as shown on the attached Councillor's Bill would read as follows:

A residential project located south of 80th Avenue in the City of Westminster that meets all applicable design criteria for such projects.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2004

COUNCILLOR'S BILL NO. **3**
INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE XI OF THE WESTMINSTER
MUNICIPAL CODE CONCERNING THE GROWTH MANAGEMENT PROGRAM DEFINITION
FOR SOUTH WESTMINSTER RESIDENTIAL PROJECTS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-3-2(I), W.M.C., is hereby AMENDED as follows:

11-3-2: DEFINITIONS:

(I) SOUTH WESTMINSTER RESIDENTIAL PROJECT:

1. A residential project located south of 80th Avenue ~~and east of Sheridan Boulevard~~ in the City of Westminster; THAT
2. ~~Which is no larger than ten (10) acres, and~~
3. ~~Which~~ meets all applicable design criteria for such projects.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of January, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of January, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Resolution No. 3 re Year-End Contingency Transfers and Councillor's Bill No. 4 re FY2003 Budget Amendment

Prepared By: Barbara Opie, Assistant to the City Manager

Recommended City Council Action

- Adopt Resolution No. 3 authorizing the transfer of \$240,500 from the 2003 General Fund contingency account and \$110,000 from the 2003 Utility Fund contingency account into various operating budgets.
- Pass Councillor's Bill No. 4 on first reading amending the FY2003 budgets of the General, Utility, General Capital Improvement and Fleet Maintenance Funds.

Summary Statement

- City Council action is requested to adopt the attached Resolution authorizing various transfers from the General Fund contingency accounts into various General Fund operating accounts (the total proposed transfers equal \$240,500) and \$110,000 from the Utility Fund contingency account into an operating account. City Council action is also requested to pass on first reading the attached Ordinance authorizing the budget amendment transferring funds from the General and Utility Funds into the General Capital Improvement and Fleet Maintenance Funds as outlined below (the total proposed amendment equals \$220,000).
- No contingency transfers are being requested into any other of the City's funds.
- These actions are part of the routine year-end housekeeping functions to address certain unanticipated expenses in various budget accounts that could not be absorbed within the operating budget. Each year, contingency funds are budgeted for unanticipated expenses that cannot be absorbed within the adopted operating budget such as the ones included in this agenda memorandum.
- Funds for these transfers are available in the General and Utility Funds contingency accounts.
- The balance in the General Fund contingency account, prior to these transfers, is \$1,180,000. However, City Council will recall that \$224,000 was earmarked in April to help address revenue shortfalls anticipated in 2003; if the \$224,000 is subtracted from the current available balance of \$1,180,000, the total available in the General Fund contingency account is \$956,000. The balance in the Utility Fund contingency account, prior to these transfers, is \$1,000,000.

Expenditure Required: \$350,500

Source of Funds: General and Utility Funds operating and contingency accounts

Policy Issues

- Should the City Council appropriate General contingency money to offset the identified unanticipated operating costs explained within this agenda memorandum?
- Should the City Council authorize the transfer of General and Utility Funds' contingency money to offset the identified unanticipated operating costs in the Fleet Maintenance Fund and provide moneys for the capital improvement project explained within this agenda memorandum?

Alternative

City Council could choose not to move any contingency funds to offset these additional expenses. Staff does not recommend this option as not appropriating these funds may cause some departments to end the year over budget and delay an important capital improvement project.

Background Information

During the budget development each year, the City Council appropriates money in several of the City's operating funds designated as contingency funding. In 2003, contingency funding was budgeted in the General and Utility Funds. Contingency is funding set aside in the budget to act as a reserve for unanticipated expenditures. Over the course of a year, special projects, studies, weather impacts (dry summers, heavy snows, etc.) and other activities that cannot be anticipated occur, negatively impacting a department's budget. In these special occasions, City Council may authorize the use of contingency funds to cover such expenses.

At year-end, departments review their respective budgets to identify where they can absorb any unanticipated expenses, if applicable; it may be that a project came in under budget or that a purchase can be delayed until the next year. However, if, after reviewing all accounts within a department, the department finds that it cannot absorb additional costs for such unanticipated projects, the department forwards a request to the City Manager's Office to review and make recommendations to the City Council for the transfer of contingency funds to cover such expenses.

No year-end contingency fund transfer requests were made in 2002 and minimal ones are being requested for 2003. The transfers requested from the General and Utility Funds' contingency accounts are outlined below:

General Fund:

\$63,000 Needed in the Building Division of Community Development for contracting out plan reviews for major commercial construction projects. During the year 2003, the number of building plan reviews exceeded original budget projections. Staff requests that \$63,000 be appropriated to offset associated expenses in the Building Division. This expenditure does have some offsetting revenues that have already been built into the budget without increasing the matching expenditure amount.

\$20,000 Needed in the Administration Division of the Police Department for the cost of electricity and gas for the new Public Safety Center. Monthly public service bills are averaging \$12,000/month. The gas and electricity estimates included within the Police Department Administration's 2003 budget were projected in 2002 prior to the building being occupied.

- \$6,000 Needed in the Community Services Division of the Police Department for the costs associated with polygraphs and psychological exams for the new hires associated with the passage of the new Public Safety Tax in November. Once the ballot measure passed in November, Staff has been working to fulfill the public safety enhancements proposed with the ballot measure, which includes 40 new personnel in the Police Department alone. To expedite the hiring process, Staff began the recruitment and testing process in November prior to the implementation of the tax increase.
- \$16,500 Needed in the Technical Services Section of the Police Department for the higher than anticipated cost of telephone lines associated with the new Public Safety Center. The telephone cost estimates included within the Police Department's 2003 budget were projected in 2002 prior to the building being occupied.
- \$25,000 Needed in the Fire Department for EMS/Lab supplies associated with ambulance transports. In June, the City implemented a new fee for supplies used to stabilize and/or transport patients. Previously, these supplies were restocked through Centura/Saint Anthony Hospital, who in turn billed the patient. In 2002, Staff was informed that as a result of recent Federal legislation/ruling that Centura/Saint Anthony Hospital would no longer provide this service effective July 2003. It was originally anticipated that this new fee and overall ambulance fee increases implemented in June 2003 would generate sufficient revenue to cover the additional expenses in the 2003 Fire Department lab supply account, thus requiring a supplemental appropriation to offset the expenses; however, ambulance billing revenues fell short of original projections and therefore contingency funds are needed.
- \$110,000 Needed for the extension of 132nd Avenue east from Huron Street over the Bull Canal to the new entrance of the Big Dry Creek Wastewater Treatment Plant. The widening and raising of Huron Street in the vicinity of the Big Dry Creek Wastewater Treatment Facility (WWTF) as planned will effectively render the three existing entrances into the facility useless. The extension of 132nd Avenue from Huron Street east across the Bull Canal is necessary to provide a new access drive into the facility. All traffic in and out of the WWTF will use this access, including plant staff, biosolids tankers and public recreation vehicles. This new access will also provide a more secure and controlled entrance to the facility. The cost for the access road is projected at \$220,000 and proposed to be funded by the General and Utility Funds. These funds are proposed to be transferred to the General Capital Improvement Fund (GCIF) into the main Huron Street Expansion from 129th-144th Avenues capital improvement project to simplify the accounting for this project.
- \$240,500 GENERAL FUND TOTAL
- Utility Fund:
\$110,000 Needed for the extension of 132nd Avenue east from Huron Street over the Bull Canal to the new entrance of the Big Dry Creek Wastewater Treatment Plant. The cost for the access road is projected at \$220,000 and proposed to be funded by the General and Utility Funds. These funds are proposed to be transferred to the General Capital Improvement Fund (GCIF) into the main Huron Street Expansion from 129th-144th Avenues capital improvement project to simplify the accounting for this project.
- \$110,000 UTILITY FUND TOTAL

Transfer from the General Fund into the Fleet Maintenance Fund:

\$36,000 Needed in the Fleet Maintenance Division of the General Services Department for the higher than anticipated fuel costs during 2003. This is not a General Fund contingency account request but rather a request to transfer funds within the Department to cover an overage. Overall, the Department of General Services is within its adopted 2003 budget; however, since the Fleet Maintenance Division is technically within a separate fund from the rest of the General Services Department, in order to reflect a balanced budget in the Fleet Maintenance Fund, moneys from the General Fund General Services Department budget need to be transferred to the Fleet Maintenance Fund, which requires City Council action since it is a transfer between funds.

\$36,000 FLEET MAINTENANCE FUND TOTAL

Currently, the General Fund contingency account has \$1,180,000 available and the Utility Fund contingency account has \$1,000,000 available to fund these unanticipated expenses, leaving a balance of \$937,000 and \$890,000 respectively to be carried over to 2004 as revenue.

The following two City Council actions are requested:

1. Approve the transfer of contingency funds from the General and Utility Funds into the various operating accounts noted above (totaling \$350,500) and included within the attached Resolution.
2. Approve the transfer of contingency and operating funds from the General and Utility Funds into the General Capital Improvement (totaling \$220,000) and Fleet Maintenance Funds (totaling \$36,000) included within the attached Ordinance.

Two actions are necessary in this case due to the nature of the transfers proposed. A Resolution is necessary to transfer moneys across departments within the same fund; an Ordinance is required to transfer moneys across funds. Since both transfer types are being requested, this agenda memorandum therefore includes both a Resolution and Ordinance for City Council's consideration.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **3**

INTRODUCED BY COUNCILLORS:

SERIES OF 2004

WHEREAS, City Council supports year end transfers from the General and Utility Funds' contingency accounts to balance various expenditure accounts due to unanticipated or additional costs, and

WHEREAS, the 2003 General Fund contingency balance is \$1,180,000 and the Utility Fund contingency balance is \$1,000,000.

NOW, THEREFORE, be it resolved that the Westminster City Council resolves that:

\$240,500 be transferred from the 2003 General Fund Contingency to the appropriate 2003 Operating Budget accounts as follows:

10030370.65100.0000	Building Division (Community Development) Contract Plan Review	63,000
10020050.67200.0000	Administration Division (Police Department) Electricity and Gas	20,000
10020270.65100.0000	Community Services Division (Police Department) Polygraphs and psychological exams	6,000
10020272.66900.0000	Technical Services Section (Police Department) Telephone	16,500
10025260.70800.0546	Fire Department EMS/Lab Supplies	25,000
10010900.79800.0750	Central Charges Transfer to General Capital Improvement Fund	110,000
GENERAL FUND TOTAL		\$240,500

\$110,000 be transferred from the 2003 Utility Fund Contingency to the appropriate 2003 Operating Budget account as follows:

21010900.79800.0750	Central Charges Transfer to General Capital Improvement Fund	110,000
UTILITY FUND TOTAL		\$110,000

Passed and adopted this 12th day of January, 2004.

ATTEST:

City Clerk

Mayor

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **4**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2003 BUDGETS OF THE GENERAL, UTILITY, FLEET, GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2003 ESTIMATED REVENUES IN THESE FUNDS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2003 appropriation for the General Fund does not change with this ordinance. However, the changes in the expense accounts are shown here for informational purposes.

Section 2. The Expense accounts shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Expenses				
Contingency	10010900.79900.0000	\$1,180,000	\$ (110,000)	\$1,070,000
Maint/Repair- Custodial	10012110.66200.0702	415,366	(36,000)	379,366
Transfer to Fleet	10010900.79800.0300	0	36,000	36,000
Transfer to GCIF	10010900.79800.0750	233,000	<u>110,000</u>	343,000
Total change to expenses			<u>\$0</u>	

Section 3. The 2003 appropriation for the Utility Fund does not change with this ordinance. However, the changes in the expense accounts are shown here for informational purposes.

Section 4. The Expense accounts shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Expenses				
Contingency	21010900.79900.0000	\$300,000	\$(110,000)	\$190,000
Transfer to GCIF	21010900.79800.0750	5,600,000	<u>110,000</u>	5,710,000
Total change to expenses			<u>\$0</u>	

Section 5. The 2003 appropriation for the Fleet Fund, initially appropriated by Ordinance No. 2977 in the amount of \$1,149,638 is hereby increased by \$36,000 which, when added to the fund balance as of the City Council action on January 12, 2004 will equal \$1,212,138. The actual amount in the Fleet Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to an increase in the transfer from the General Fund.

Section 6. The \$36,000 increase in the Fleet Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Revenue				
Transfer from General Fund	3000.45000.0100	\$0	<u>\$36,000</u>	\$36,000
Total change to revenues			<u>\$36,000</u>	

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Expenses				
Fuel & Lubricants	30012460.74000.0000	\$221,262	<u>\$36,000</u>	\$257,262
Total change to expenses			<u>\$36,000</u>	

Section 7. The 2003 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2977 in the amount of \$8,923,000 is hereby increased by \$220,000 which, when added to the fund balance as of the City Council action on January 12, 2004 will equal \$19,937,186. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to an increase in the transfer from the General Fund and Utility Fund.

Section 8. The \$220,000 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Revenue				
Transfer from General Fund	7500.45000.0100	\$233,000	\$110,000	\$343,000
Transfer from Utility Fund	7500.45000.0210	5,600,000	<u>110,000</u>	5,710,000
Total change to revenues			<u>\$220,000</u>	

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Expenses				
Huron St. 129 th /144 th	80175030069.80400.8888	\$4,700,000	<u>\$220,000</u>	\$4,920,000
Total change to expenses			<u>\$220,000</u>	

Section 9 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 10. This ordinance shall take effect upon its passage after the second reading.

Section 11. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 12th day of January, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of January, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Circle Point Agreement with Catellus Corporation

Prepared By: Steve Smithers, Assistant City Manager

Recommended City Council Action

Authorize the City Manager to sign an agreement with Catellus Corporation for the turn back of the Circle Point West Parcel and the purchase by Catellus Corporation of the remaining land in the Circle Point Development in substantially the same form as the draft contract attached to this agenda memorandum,

Summary Statement

- At the December 15th Study Session Staff presented an overview of the current proposal from Catellus Corporation to downsize the Circle Point Office Development and to close out the current agreement between the City and Catellus for future land payments.
- This requested downsizing of the development by Catellus is due to the financial difficulties being experienced by the Circle Point office building development associated with the significant rise in office vacancy rates along the US 36 corridor and the Denver Metropolitan area generally.
- The key aspects of the deal include the turning back of the 21.8 acre west Circle Point parcel to the City and providing Catellus with a credit against their current payment schedule for this land; and, the sale of the remaining 15.16 acres of land in Circle Point to Catellus for just over \$3.3 million (five dollars per square foot).
- This agreement is based on Catellus' ability to exclude the west parcel from the NBC Metropolitan District and eliminating the NBC Metro District property tax mill levy on the property. The agreement will not be finalized until Catellus has completed the measures necessary to meet this requirement. This is an important step to assure that the west parcel is not encumbered by a District mill levy from which it derives no benefit, and that could be an inhibitant to future development.

Expenditure Required: Approximately \$3.3 Million in Land Sale Revenues paid to City of Westminster

Source of Funds: Sale of Circle Point Land

Policy Issue

Should the City enter into an agreement for the turn back of the West Parcel land to the City and the purchase of the remaining land in the Circle Point Development from the City by Catellus?

Alternative

The City could choose to not enter into this agreement and require Catellus to abide by the terms of the original Purchase and Sale Agreement for Circle Point. This alternative is not recommended as the proposal being put forth in the Agreement will allow Catellus to downsize their development to a size that should allow for a four to five office building complex (down from the original concept of an eight building complex) that is a much more realistic fit within the current commercial office space marketplace. Further, the proposed transaction concludes the land purchases by Catellus and removes the parties from the awkward, existing agreement.

Background Information

The Circle Point Land Purchase and Sale Agreement was entered into by the City and Catellus Development Corporation in June of 1999 for the sale of approximately 70 acres of land for the development of an office building complex. This development is located in the area of 112th avenue and Westminster Boulevard. The original plans called for eight buildings to be constructed as shown on the attached site drawing. The first two buildings have been constructed along with parking, access roads and the circle drive at the center of the buildings, the circle garden park, and landscaping and sidewalk improvements along Westminster Boulevard. Both office buildings are currently fully leased.

Over the last eighteen months the US 36 corridor, and the Denver Metropolitan Region as a whole, have experienced significant increases in office building vacancy rates. Current vacancy rates along the US 36 corridor range between 30 and 40 percent and many existing office space leases are being put back on the market for sub-leasing as companies downsize. Circle Point has been successful in getting the two existing buildings leased out; however, this has only been accomplished by offering lease rates well below average market rates for Class A office space. In addition, plans for construction of additional buildings at this site have been put on hold by Catellus until vacancy rates drop considerably, which is anticipated to take several years. Catellus is continuing to market the site aggressively.

The Circle Point Land Purchase and Sale Agreement between the City and Catellus was structured with payments that were projected by Catellus to roughly coincide with the timing of the development of additional office buildings on the site. The payment structure includes four payments, in addition to the initial payment of \$2,500,000 made at the time of closing, which range between \$2,500,000 and \$4,000,00. The price of the land was set on an escalating basis starting at \$3.80 per square foot and topping out six years later with the final payment at \$7.82 per square foot. The total sale price of the land is \$16,500,000. Catellus has made payments to date on the Circle Point land totaling over \$3.2 million dollars.

The City approached Catellus early in 2002 to combine efforts to put together a land deal that would create greater opportunity for development of the southern most parcel in the Circle Point Development. A retail site is being proposed that can be established by combining the City's property north of Van's Skate Park (known as the Ryan parcel) and the southern most parcel of Circle Point owned by Catellus. This arrangement allowed Catellus to provide land back to the City in lieu of making the full \$1.88 million dollar payment that came due in late 2002. City Council approved this agreement, and it was signed in May of 2003.

As part of the agreement signed in May of 2003, the City agreed to negotiate with Catellus on a deal to turn back the West Parcel of Circle Point to the City and to close out the remaining land through a fee simple sale at five dollars per square foot. The negotiations on all of the business points of the deal have been concluded to both parties mutual agreement. There is some final cleanup of legal language; however, the attached draft contract is substantially complete. The key terms of the contract are:

>Catellus agrees to turn back the 21.8 acre West Parcel in return for which the City agrees to eliminate the Catellus financial obligation on this parcel.

>Catellus agrees to take the necessary steps to exclude the West Parcel from the NBC Metro District and to eliminate the NBC Metro District property tax mill levy on the property.

>The City agrees to sell the remaining 15.16 acres of Circle Point land to Catellus at five dollars per square foot, or a total sales price of approximately \$3.3 million.

>No Brokerage fees or commissions will be charged to the City.

>This Agreement will close out all financial obligations of both parties under the original Purchase and Sale Agreement signed in 1999.

Staff is pleased with this agreement and believes that these changes will assist both Catellus and the City in promoting development of these parcels in a manner that reflects the realities of today's commercial development marketplace.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Second Reading of Councillor's Bills 81, 82 and 83 re the Chamberlain Property Annexation, Comprehensive Land Use Plan Amendment and Zoning

Prepared By: David Falconieri, Planner III

Recommended City Council Action:

Continue indefinitely approval of the Chamberlain property annexation.

Summary Statement:

- Negotiations for the purchase of the Chamberlain property have not progressed since first reading of the annexation ordinance.
- The BP service station that is currently located on the north side of Church Ranch Boulevard within the boundaries of the Mandalay Town Center project, is planned to be relocated in accordance with the proposed development plans. The relocation site selected is the Chamberlain property across Church Ranch Boulevard that is currently unincorporated.
- The annexation covers only the westernmost portion of the Chamberlain property and is a total of 1.38 acres in size. The balance of the property will remain unincorporated until it is proposed for development. (Please refer to the attached vicinity map.)
- The City has proposed purchase and annexation of the property. The property would then be purchased by the developer as a site for the relocated service station.
- This Councillor's Bill was passed on first reading on December 22, 2003.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2003

COUNCILLOR'S BILL NO. 81
INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTIONS 11 AND 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, the City of Westminster owns a parcel of hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney that the parcel is eligible for annexation in accordance with Section 31-12-106 (3), et.seq., Colorado Revised Statutes, as amended; and

WHEREAS, City Council has held an annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has found that the parcel may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado, to wit:

A parcel of land being a portion of Tract 55, Mandalay Gardens, in the County of Jefferson, State of Colorado, per plat recorded in the Office of the Clerk and Recorder of said County, lying within the southeast quarter of Section 11 and the northeast quarter of Section 14, Township 2 South, Range 69 West of the Sixth Principal Meridian, in said County and State, more particularly described as follows:

Commencing at the southeast corner of said Section 11, whence the south quarter corner of said Section 11 bears south 88°52'45" west, and all bearings are made as a reference hereon;

Thence south 83°39'39" west 330.74 feet to the southerly right-of-way of Reed Street, as described in the warranty deed to the City of Westminster recorded October 25, 1996 at Reception No. F0321025 in the Office of the Clerk and Recorder of said County, also being the southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster per annexation map recorded at Reception No. F1027164 in said Office of the Clerk and Recorder and the true point of beginning;

Thence along the southerly, southwesterly, and southeasterly right-of-way of said Reed Street and along the southerly, southwesterly, and southeasterly boundary of said annexation the following 4 courses:

- 1) South 89°48'37" west 164.12 feet to the beginning of a tangent curve concave northeasterly having a radius of 103.00 feet;
- 2) Northwesterly along said curve through a central angle of 49°03'00" an arc length of 88.18 feet;
- 3) Tangent to said curve north 41°08'23" west 78.64 feet to the beginning of a tangent curve concave southerly having a radius of 33.00 feet;
- 4) Westerly along said curve through a central angle of 92°10'16" an arc length of 53.09 feet to the southeasterly right-of-way of Church Ranch Boulevard as described in the warranty deed to the City of Westminster recorded March 15, 1990 at Reception No. 90021374, in said Office of the Clerk and Recorder and the beginning of a compound curve concave southwesterly having a radius of 1613.50 feet;

Thence along said southeasterly right-of-way, continuing along said southeasterly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation, and southwesterly along said curve through a central angel of 00°15'41" an arc length of 7.36 feet to the westerly line of said Tract 55, Mandalay Gardens and the easterly boundary of the Church Ranch Homeplace annexation to the City of Westminster per annexation map recorded at Reception No. 88080480 in said Office of the Clerk and Recorder ;

Thence non-tangent to said curve and along said westerly line and said easterly boundary south 00°05'32" west 284.78 feet;

Thence departing said westerly line and easterly boundary, south 89°54'28" east 127.72 feet to the beginning of a tangent curve concave northwesterly having a radius of 133.50 feet;

Thence northeasterly along said curve through a central angle of 53°42'27" an arc length of 125.14 feet;

Thence tangent to said curve, north 36°23'05" east 144.20 feet to the beginning of a tangent curve concave southeasterly having a radius of 86.50 feet;

Thence northeasterly along said curve through a central angle of 23°24'06" an arc length of 35.33 feet to the true point of beginning.

Containing 1.388 acres (60,498 Sq. Ft.), more or less.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January, 2004.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 82

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the City maintains a Comprehensive Land Use Plan which regulates land uses within the City; and

WHEREAS, the City Council has annexed new properties to the City specifically described below; and

WHEREAS, an amendment of the Plan is necessary to provide a land use designation for the annexed property and to keep the Plan up to date; and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the required procedures for amending the Comprehensive Land Use Plan as delineated in the Westminster Municipal Code have been satisfied.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are necessary to alter the designation of the Chamberlain annexation property, legally described as follows:

A parcel of land being a portion of Tract 55, Mandalay Gardens, in the County of Jefferson, State of Colorado, per plat recorded in the Office of the Clerk and Recorder of said County, lying within the southeast quarter of Section 11 and the northeast quarter of Section 14, Township 2 South, Range 69 West of the Sixth Principal Meridian, in said County and State, more particularly described as follows:

Commencing at the southeast corner of said Section 11, whence the south quarter corner of said Section 11 bears south 88°52'45" west, and all bearings are made as a reference hereon;

Thence south 83°39'39" west 330.74 feet to the southerly right-of-way of Reed Street, as described in the warranty deed to the City of Westminster recorded October 25, 1996 at Reception No. F0321025 in the Office of the Clerk and Recorder of said County, also being the southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster per annexation map recorded at Reception No. F1027164 in said Office of the Clerk and Recorder and the true point of beginning;

Thence along the southerly, southwesterly, and southeasterly right-of-way of said Reed Street and along the southerly, southwesterly, and southeasterly boundary of said annexation the following 4 courses:

- 5) South 89°48'37" west 164.12 feet to the beginning of a tangent curve concave northeasterly having a radius of 103.00 feet;
- 6) Northwesterly along said curve through a central angle of 49°03'00" an arc length of 88.18 feet;
- 7) Tangent to said curve north 41°08'23" west 78.64 feet to the beginning of a tangent curve concave southerly having a radius of 33.00 feet;

- 8) Westerly along said curve through a central angle of 92°10'16" an arc length of 53.09 feet to the southeasterly right-of-way of Church Ranch Boulevard as described in the warranty deed to the City of Westminster recorded March 15, 1990 at Reception No. 90021374, in said Office of the Clerk and Recorder and the beginning of a compound curve concave southwesterly having a radius of 1613.50 feet;

Thence along said southeasterly right-of-way, continuing along said southeasterly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation, and southwesterly along said curve through a central angle of 00°15'41" an arc length of 7.36 feet to the westerly line of said Tract 55, Mandalay Gardens and the easterly boundary of the Church Ranch Homeplace annexation to the City of Westminster per annexation map recorded at Reception No. 88080480 in said Office of the Clerk and Recorder ;

Thence non-tangent to said curve and along said westerly line and said easterly boundary south 00°05'32" west 284.78 feet;

Thence departing said westerly line and easterly boundary, south 89°54'28" east 127.72 feet to the beginning of a tangent curve concave northwesterly having a radius of 133.50 feet;

Thence northeasterly along said curve through a central angle of 53°42'27" an arc length of 125.14 feet;

Thence tangent to said curve, north 36°23'05" east 144.20 feet to the beginning of a tangent curve concave southeasterly having a radius of 86.50 feet;

Thence northeasterly along said curve through a central angle of 23°24'06" an arc length of 35.33 feet to the true point of beginning.

Containing 1.388 acres (60,498 Sq. Ft.), more or less.

The Chamberlain annexation property shall be changed from Unincorporated Jefferson County, to Retail Commercial, as shown on the attached "Exhibit A".

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd of December, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January, 2004.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **83**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTIONS 11 AND 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the zoning of the property described below from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.

b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.

c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.

d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.

e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD). A parcel of land located in Sections 11 and 14, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land being a portion of Tract 55, Mandalay Gardens, in the County of Jefferson, State of Colorado, per plat recorded in the Office of the Clerk and Recorder of said County, lying within the southeast quarter of Section 11 and the northeast quarter of Section 14, Township 2 South, Range 69 West of the Sixth Principal Meridian, in said County and State, more particularly described as follows:

Commencing at the southeast corner of said Section 11, whence the south quarter corner of said Section 11 bears south 88°52'45" west, and all bearings are made as a reference hereon;

Thence south 83°39'39" west 330.74 feet to the southerly right-of-way of Reed Street, as described in the warranty deed to the City of Westminster recorded October 25, 1996 at Reception No. F0321025 in the Office of the Clerk and Recorder of said County, also being the southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster per annexation map recorded at Reception No. F1027164 in said Office of the Clerk and Recorder and the true point of beginning;

Thence along the southerly, southwesterly, and southeasterly right-of-way of said Reed Street and along the southerly, southwesterly, and southeasterly boundary of said annexation the following 4 courses:

- 9) South 89°48'37" west 164.12 feet to the beginning of a tangent curve concave northeasterly having a radius of 103.00 feet;
- 10) Northwesterly along said curve through a central angle of 49°03'00" an arc length of 88.18 feet;
- 11) Tangent to said curve north 41°08'23" west 78.64 feet to the beginning of a tangent curve concave southerly having a radius of 33.00 feet;
- 12) Westerly along said curve through a central angle of 92°10'16" an arc length of 53.09 feet to the southeasterly right-of-way of Church Ranch Boulevard as described in the warranty deed to the City of Westminster recorded March 15, 1990 at Reception No. 90021374, in said Office of the Clerk and Recorder and the beginning of a compound curve concave southwesterly having a radius of 1613.50 feet;

Thence along said southeasterly right-of-way, continuing along said southeasterly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation, and southwesterly along said curve through a central angle of 00°15'41" an arc length of 7.36 feet to the westerly line of said Tract 55, Mandalay Gardens and the easterly boundary of the Church Ranch Homeplace annexation to the City of Westminster per annexation map recorded at Reception No. 88080480 in said Office of the Clerk and Recorder ;

Thence non-tangent to said curve and along said westerly line and said easterly boundary south 00°05'32" west 284.78 feet;

Thence departing said westerly line and easterly boundary, south 89°54'28" east 127.72 feet to the beginning of a tangent curve concave northwesterly having a radius of 133.50 feet;

Thence northeasterly along said curve through a central angle of 53°42'27" an arc length of 125.14 feet;

Thence tangent to said curve, north 36°23'05" east 144.20 feet to the beginning of a tangent curve concave southeasterly having a radius of 86.50 feet;

Thence northeasterly along said curve through a central angle of 23°24'06" an arc length of 35.33 feet to the true point of beginning.

Containing 1.388 acres (60,498 Sq. Ft.), more or less.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 12, 2004



SUBJECT: Second Reading of Councillor's Bill No. 84 re Code Revisions for Public Land Dedication

Prepared By: Terri Hamilton, Planner III

Recommended City Council Action:

Pass Councillor's Bill No. 84 on second reading repealing Title XIII, Chapter 4, W.M.C., and amending Title XI, Chapter 6, Section 8, W.M.C. regarding revisions to dedication of land for public purposes.

Summary Statement:

- City Council action is requested to pass Councillor's Bill No. 84 on second reading repealing Title XIII, Chapter 4, Westminster Municipal Code, and amending Title XI, Chapter 6, Section 8, Westminster Municipal Code, regarding revisions to dedication of land for public purposes.
- This Councillor's Bill was passed on first reading on December 22, 2003.

Expenditure Required: \$ 0

Source of Funds: NA

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **84**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE REPEALING IN ITS ENTIRETY TITLE XIII, CHAPTER 4, PARK DEVELOPMENT FEES, AND AMENDING TITLE XI, CHAPTER 6, SECTION 8, DEDICATION OF PROPERTY FOR PUBLIC PURPOSES, OF THE WESTMINSTER MUNICIPAL CODE.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title XIII, Chapter 4, W.M.C., is hereby REPEALED IN ITS ENTIRETY.

Section 2. Title XI, Chapter 6, Section 8, is hereby AMENDED to read as follows:

11-6-8: DEDICATION OF PROPERTY FOR PUBLIC PURPOSES: (2534 2876)

(A) **DEFINITIONS.** AS USED HEREIN THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANING:

1. SINGLE-FAMILY DETACHED DWELLING UNIT- A SINGLE DWELLING UNIT CONTAINED IN A FREE-STANDING STRUCTURE THAT HAS NO PARTY WALLS WITH OTHER STRUCTURES. THIS CATEGORY GENERALLY DOES NOT EXCEED FIVE DWELLING UNITS PER ACRE.

2. SINGLE-FAMILY ATTACHED DWELLING UNIT- A DWELLING UNIT CONTAINED IN ITS OWN STRUCTURE FROM GROUND TO ROOF, WHICH STRUCTURE SHARES ONE OR MORE PARTY WALLS WITH ONE OR MORE SIMILAR UNITS. A LIMITED NUMBER OF MULTI-FAMILY DWELLING UNITS MAY BE INCORPORATED INTO AN OTHERWISE SINGLE-FAMILY ATTACHED BUILDING. THIS CATEGORY IS GENERALLY OVER FIVE DWELLING UNITS PER ACRE BUT NOT EXCEEDING EIGHT DWELLING UNITS PER ACRE.

3. MULTI-FAMILY DWELLING UNIT- A DWELLING UNIT CONTAINED IN A STRUCTURE ALSO CONTAINING OTHER DWELLING UNITS IN WHICH EACH UNIT IS ATTACHED TO ANOTHER AT ONE OR MORE PARTY WALLS AND AT EITHER THE FLOOR OR THE CEILING. FOR PURPOSES OF THIS CHAPTER, A DWELLING UNIT OTHERWISE MEETING THIS DEFINITION BUT CONTAINING MORE THAN TWO BEDROOMS SHALL BE CONSIDERED A SINGLE-FAMILY ATTACHED DWELLING UNIT. A STRUCTURE COULD CONTAIN BOTH MULTI-FAMILY DWELLING UNITS AND SINGLE-FAMILY ATTACHED DWELLING UNITS AS DEFINED HEREIN. THIS CATEGORY IS GENERALLY IN EXCESS OF EIGHT DWELLING UNITS PER ACRE.

(AB) PUBLIC LAND DEDICATION.

1. No land development containing proposed or potential residential uses shall be approved by the City unless the applicant for such development provides for the dedication of public lands to the City for park, open space, and other public purposes as determined by the City in accordance with this section.

2. The applicant shall dedicate to the City an amount of developable land corresponding to the ~~density~~ PROJECTED RESIDENTIAL POPULATION of the development as follows: 12 ACRES PER

EVERY ONE THOUSAND PERSONS. THIS MINIMUM REQUIREMENT REFLECTS A PORTION OF THE PROJECTED DEMAND OF RECREATION AND OPEN SPACE PROPERTIES AND FACILITIES FROM THE POPULATION OF THE PROPOSED DEVELOPMENT.

DENSITY IN DWELLING UNITS PER ACRE % OF LAND AREA DEDICATED TO CITY	
UP TO 3	10
≥ 3 4	11
≥ 4 5	12
≥ 5 6	13
≥ 6 7	14
≥ 7 8	15
≥ 8 9	16
≥ 9 10	17
≥ 10 11	18
≥ 11 12	19
≥ 12 13	20
≥ 13 14	21
≥ 14 15	22
≥ 15 16	23
≥ 16 17	24
≥ 17	25

PROJECTED POPULATION IS CALCULATED AS FOLLOWS:

- NUMBER OF SINGLE-FAMILY DETACHED UNITS X 3.0 PERSONS PER UNIT, AND
- NUMBER OF SINGLE-FAMILY ATTACHED UNITS X 2.5 PERSONS PER UNIT, AND
- NUMBER OF MULTI-FAMILY UNITS X 2.0 PERSONS PER UNIT, AND
- NUMBER OF INDEPENDENT LIVING SENIOR HOUSING UNITS X 1.5 PERSONS PER UNIT, AND
- Institutional residential uses such as group homes, CONGREGATE CARE, and similar uses shall provide a 10 percent public land dedication pursuant to this section. : NUMBER OF BEDS X 0.5 PERSONS PER BED, AND
- ASSISTED LIVING AND SIMILAR USES: NUMBER OF BEDS X 0.25 PERSONS PER BED
- SKILLED NURSING FACILITIES AND SIMILAR USES ARE EXEMPT

3. All land dedicated in accordance with this section shall possess suitable access and shall be of a location, size, shape, and topography suitable for development into active recreational areas without significant earthmoving, unless otherwise approved by the City. The City shall have the option to accept as part of the dedication requirement major floodplains, narrow strips to provide trail connection from one major recreational or park area to another, or other undevelopable areas suitable for open space. Undevelopable land so designated shall be credited at 1/6 the value of developable land.

4. If the City determines a land dedication in accordance with this section would not serve the public interest, the City may require payment of a fee in lieu of the dedication or may require dedication of a smaller amount of land than would otherwise be required and payment of a fee in lieu of the portion not dedicated. The amount of the fee shall be the fair market value of the land which would otherwise be required to be dedicated under this section. "Fair market Value" shall be determined BY THE CITY, as of the date that dedication would otherwise be required. THE CITY MAY REQUIRE AN APPRAISAL TO BE PERFORMED. THE APPRAISER MUST BE LICENSED BY THE STATE OF COLORADO. COST FOR THE APPRAISAL SHALL BE THE RESPONSIBILITY OF THE DEVELOPER.

5. Land required to be dedicated under this section shall be shown on Preliminary Development Plans and all other planning documents as "Public Land Dedication" and shall be dedicated to the City after the approval of the Preliminary Development Plan at such time as the City shall determine but in no event later than the approval of the Final Plat encompassing the land to be dedicated. Following the City's approval of a Preliminary Development Plan containing a public land dedication, the City may withhold approval of the property's Official Development Plan, Final Plat, or any other approvals, including building permits, until such public land dedication is perfected.

6. In considering whether to approve a phasing schedule incurred in a Preliminary Development Plan or Official Development Plan, the City shall consider whether the City will have adequate public land in the development for the land area actually developed. The City may require, as a condition of approval of such Preliminary Development Plan or Official Development Plan and any plats approved under such Preliminary Development Plan or Official Development Plan, that proposed public land be included as a part of an earlier phase than that proposed by the developer or subdivider.

7. All lands required to be dedicated under this section shall be dedicated to the City without restriction and free and clear of any and all liens, restrictions, and covenants, regardless of whether the City or another entity will be the ultimate user under the proposed public use. Fees required under this paragraph shall be paid to the City by certified check at the time of final plat approval.

8. Land to be dedicated to the City under this ~~paragraph~~ SECTION shall be preserved and protected during the development process. The developer shall not disturb the topsoil or vegetation on the land during the development process. If the topsoil or vegetation is damaged or disturbed, the City may require the developer to pay the City the cost of restoring such vegetation and topsoil. All construction debris and other foreign matter shall be removed from the site prior to dedication.

9. The land dedication requirements under this ~~paragraph~~ SECTION are in addition to and separate from the requirements for PUBLIC SCHOOL SITES, dedication of street rights of way and easements or rights of way for utilities, drainage facilities and other public improvements.

10. If, at the time of annexation of the land on which a development is proposed, the developer or a predecessor in interest dedicated lands to the City for public purposes, the land dedication requirements of this paragraph shall be reduced by the number of acres actually dedicated at that time.

11. APPEALS PERTAINING TO THE CALCULATION OF LAND DEDICATION FOR PUBLIC LAND, PARK DEVELOPMENT FEES, PARK DEVELOPMENT CREDITS, OR CASH-IN-LIEU OF DEDICATION SHALL BE MADE TO THE CITY MANAGER OF THE CITY OF WESTMINSTER.

(BC) PARK DEVELOPMENT FEES: (2534 2694)

1. **City Policy.** It is the policy of the City that all developers of any new residential development projects shall be required to provide, at the developer's expense, sufficient park improvements and recreational facilities to serve the projected population of the development. To accomplish this purpose there is hereby enacted a park development fee, in addition to any land contribution requirement imposed by this Code or any other City ordinance or resolution.

2. Park Development Fee.

(a) Every person, firm or corporation applying for and obtaining any building permit for the original construction of any dwelling unit shall be required to pay, prior to the occupancy of the first unit in any building or structure and as a condition precedent to the issuance of any occupancy certificate, a park development fee based upon the number of dwelling units to be constructed, as follows:

Single family detached	\$ 1,547 per unit as of 5-1-03
Single family attached or mobile home	\$ 1,256 per unit as of 5-1-03
Multiple family, congregate care or independent living senior housing	\$ 1,031 per unit as of 5-1-03
Assisted living Senior Housing	\$ 358 per bed as of 5-1-03

Skilled nursing facilities as defined in this code shall be exempt from the park development fees requirements of this section.

The above fees shall be automatically increased annually as of January 1 in accordance with the Consumer Price Index (CPI) as established for the Denver metropolitan area. No occupancy certificate shall be issued nor shall any occupancy of the premises be permitted until such fee shall have been paid in full. Such fee shall be used only for the development of park and recreation facilities and services.

~~(b) Any person, firm, or corporation required to pay a park development fee hereunder may receive credit against such fee for park improvement work done by said developer at the developer's expense simultaneously with the construction of the dwelling units in accordance with City standards and policies. Such credit may be allowed for land leveling or earth work incorporated into the park improvements; installation of automatic irrigation systems; finished grading, soil preparation and seeding; plant materials; and park equipment. To qualify for such credit all park development plans shall be subject to the approval of the City Council and shall be included in an Official Development Plan approved by City Council.~~

3. Credits.

~~(a) In computing the credits to which a developer may be entitled, the total park development fee required of the development shall first be computed. The developer shall then be allowed a credit in each category listed in which the developer performs the work or provides the improvements at his sole expense. Said credits shall not exceed, in each category, the following percentages of total development fee due:~~

- ~~(i) Earth Work 5 Percent~~
- ~~(ii) Automatic Irrigation Systems 38 Percent~~
- ~~(iii) Finished Grading, Soil Preparation & Seeding 26 Percent~~
- ~~(iv) Plant Materials 14 Percent~~
- ~~(iv) Park Equipment 11 Percent~~

~~(b) The foregoing are intended as maximum allowable percentages, and the percentage of total fee which shall be allowed as a credit in each instance shall be determined by City Council in its sole discretion. In any event not less than 6 percent of the total park development fee shall be paid by the developer in cash.~~

~~(c) A developer shall be allowed a credit against the park development fee for installation of a private park and open space facility in direct proportion to the percentage of total neighborhood needs, as determined by the City Council in its sole discretion, which is served by said private facility. Said credit shall be given only for private park and open space uses and not private recreational facilities such as tennis courts, swimming pools and club houses.~~

~~(d) The City Council may authorize park development fee credits for any improvements not listed above, which Council finds will benefit an existing or proposed park or recreation site or facility, including off-site improvements. Such credit shall not exceed 94 percent of the total park development fees owed by the developer; not less than 6 percent of the total development fee shall be paid by the developer in cash. Any proposed credit for park development fees which is authorized under this subsection shall be subject to specific City Council approval, formalized in a written agreement which shall be approved by Council.~~

(a) ANY PERSON, FIRM, OR CORPORATION REQUIRED TO PAY A PARK DEVELOPMENT FEE HEREUNDER MAY RECEIVE CREDIT AGAINST SUCH FEE FOR PUBLIC PARK IMPROVEMENT WORK DONE BY SAID DEVELOPER AT THE DEVELOPER'S EXPENSE SIMULTANEOUSLY WITH THE CONSTRUCTION OF THE DWELLING UNITS IN ACCORDANCE WITH CITY STANDARDS AND POLICIES.

(b) THE AMOUNT OF SUCH CREDIT SHALL BE DETERMINED BY THE CITY FOR VARIOUS PUBLIC PARK IMPROVEMENTS SUCH AS, BUT NOT LIMITED TO, LAND LEVELING OR EARTH WORK INCORPORATED INTO THE PARK IMPROVEMENTS; INSTALLATION OF AUTOMATIC IRRIGATION SYSTEMS; FINISHED GRADING, SOIL PREPARATION AND SEEDING OR SOD; PLANT MATERIALS; AND PARK EQUIPMENT. TO QUALIFY FOR SUCH CREDIT, ALL PARK DEVELOPMENT PLANS MUST INDICATE THE FOLLOWING, INCLUDING BUT NOT LIMITED TO: A DETAILED COST ESTIMATE, SITE LOCATION AND SIZE, SITE DESIGN, GRADING, ALL IMPROVEMENTS -INCLUDING SITE AMENITIES AND LANDSCAPING, AND SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE DEPARTMENT OF PARKS, RECREATION, AND LIBRARIES, AND SHALL BE INCLUDED IN AN OFFICIAL DEVELOPMENT PLAN APPROVED BY THE CITY. IMPROVEMENTS MUST BE DESIGNED AND INSTALLED ACCORDING TO ACCEPTABLE CITY STANDARDS AND SPECIFICATIONS. IMPROVEMENTS SUCH AS OVERLOT GRADING, ROADWAYS, SIDEWALKS, BIKEWAYS AND TRAILS, UTILITIES, AND OTHER SIMILAR IMPROVEMENTS, AS DETERMINED BY THE CITY, WHICH WOULD BE OTHERWISE REQUIRED WITH THE DEVELOPMENT OF THE SUBDIVISION, OR ARE ADJACENT TO THE PUBLIC PARK, OR OFF-SITE, ARE GENERALLY NOT SUBJECT FOR CREDIT TOWARD THE PARK DEVELOPMENT FEE. THE CITY MAY AUTHORIZE PARK DEVELOPMENT FEE CREDITS FOR ANY IMPROVEMENTS NOT LISTED ABOVE, WHICH THE CITY FINDS WILL BENEFIT AN EXISTING OR PROPOSED PUBLIC PARK OR RECREATION SITE OR FACILITY, INCLUDING OFF-SITE IMPROVEMENTS.

(c) THE REQUIRED PARK DEVELOPMENT FEE AND ANY CREDITS THERETO, AND THE TIMING OF COMPLETION OF PARK IMPROVEMENTS, SHALL BE SPECIFIED ON THE RELEVANT OFFICIAL DEVELOPMENT PLAN FOR THE PROJECT. COMPLETION OF PARK IMPROVEMENTS SHOULD OCCUR IN AN EARLY PHASE OF AN OVERALL DEVELOPMENT.

Section 3. All further subsections contained within this Chapter shall be re-numbered accordingly.

Section 4. This ordinance shall take effect upon its passage after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January, 2004.

Mayor

ATTEST:

City Clerk

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, January 12, 2004. Present at roll call were Mayor Moss, Mayor Pro-Tem McNally, Councillors Dittman, Dixon, Hicks, Kauffman, and Price. Absent none.

The minutes of the December 22, 2003 meetings were approved.

Mayor Ed Moss presented the Center for Digital Government's "Digital Cities Survey" award to David Puntenney in recognition of the success that the City of Westminster has achieved in the use of Information Technology.

The following Public Hearings were held: At 7:46 p.m. for the Chamberlain Property; and at 7:48 p.m. for the Dissolution of Sheridan Park GID.

Action on the Mandalay Town Center First Amended PDP and Vested Rights Agreement was continued to the February 23, 2004 meeting; action was continued on Councillor Bills 81, 82 and 83 to the February 23, 2004 meeting.

Council approved the following: Mechanical Engineering for HVAC Upgrade at City Hall with Integrated Mechanical Services, Inc. for \$72,343; Contract Authorization for General Contractor for the City Hall HVAC and Space Re-Allocation Capital Improvement Projects for \$1,362,087; Jefferson County Property Tax Payment Authorization for \$84,115.15; Purchase of Replacement Backhoe with Honnen Equipment for \$ 128,293; Huron Street Utility Relocation Costs for \$ 990,000; Open Space Acquisition of Approximately 1.5 Acres Plus Improvements along Walnut Creek Open Space Corridor located on Wadsworth Boulevard for \$ 335,000; Utility Easement to Xcel Energy/Public Service Company; \$42,000 transfer from 136th Avenue Interchange Project account to Open Space Account; Trade of Fire Department Air Compressor to the Keensberg Volunteer Fire Department for a new SuperVac 18'' ventilation fan and 100' of 5'' fire hose; Ratification of Purchase of Excess Workers' Compensation Insurance for \$ 95,414; Microsoft Software Upgrades for \$ 254,263; Approval of Modified Northgate Center Predevelopment Agreement; Circle Point Agreement with Catellus Corporation.

Council appointed the following persons for the various Boards and Commissions: Gerald Nordmark, Raymond Selix, Steve Fenimore, Jonathan Talbott, Denis DuFresne, Maryann Maher, Jeanne Nearing, William Nooning, Lisa Bressler, Yvonne Martin, Dennis White, Beverly Bishop, Roman Kohler, Angela Ricker, Ed Getsch, Sandra Goodwin, Randal Tucker, Deborah Jones, Ronald Mayoral, Stephanie Marlin, David Jones, Wesley Underwood, Stacy Worthington, Candee Wells, Joseph Barsoom, Martha Brundage, Joseph Burt, Joe McConnell, Frank Jaime, Donna McMillan, Nancy Peters, Bill DeVoe, Jara Raphaelson, Glenda Slater, Susan Smith, Pat Wales, Bruce Vezina, Tim McClung, Edwin Ulmer, Brian Whitford, Forrest Flannigan, Jason Gilbert, Mike Litzau, Mary Lindsay, Stephen Graziano, April Luber, Henry Sand, Betty Roan, Linda Cherrington, Bill Teter, Kaaren Hardey, Patti Kinnear, Harold Armenta, George Kieffer, Paula Saunders, Alberto Garcia, and W.J. Peniston.

Council reappointed Samantha Dixon, Jo Ann Price, and Ron Hellbusch to the Rocky Flats Coalition of Local Governments.

The following Councillor's Bills were passed on first reading:

A BILL FOR AN ORDINANCE AMENDING SCHEDULE 8-10(A), SPECIFIC POLLUTANT LIMITATIONS purpose: amending Pollutant Limitations for industrial dischargers to the City's sanitary sewer system

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE XI OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE GROWTH MANAGEMENT PROGRAM DEFINITION FOR SOUTH WESTMINSTER RESIDENTIAL PROJECTS purpose: amending Westminster Municipal Code pertaining to the Growth Management Program definition

A BILL FOR AN ORDINANCE INCREASING THE 2003 BUDGETS OF THE GENERAL, UTILITY, FLEET, GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL

APPROPRIATION FROM THE 2003 ESTIMATED REVENUES IN THESE FUNDS purpose: 2003
Budget Amendment

The following Councillor's Bill was adopted as emergency ordinance:

A BILL FOR AN ORDINANCE RELATING TO THE DISSOLUTION OF THE SHERIDAN PARK
GENERAL IMPROVEMENT DISTRICT IN THE CITY OF WESTMINSTER, COLORADO purpose:
dissolution of Sheridan Park GID

The following Councillor's Bills were passed on second reading:

BILL FOR AN ORDINANCE REPEALING IN ITS ENTIRETY TITLE XIII, CHAPTER 4, PARK
DEVELOPMENT FEES, AND AMENDING TITLE XI, CHAPTER 6, SECTION 8, DEDICATION OF
PROPERTY FOR PUBLIC PURPOSES, OF THE WESTMINSTER MUNICIPAL CODE

A BILL FOR AN ORDINANCE VACATING THE EXISTING WEST 113th AVENUE RIGHT-OF-WAY
BETWEEN NAVAJO STREET AND PECOS STREET WITHIN THE HIGHLANDS AT WESTBURY
SUBDIVISION

A BILL FOR AN ORDINANCE VACATING PORTIONS OF UTILITY EASEMENTS WITHIN
BRADBURN SUBDIVISION FILING NO. 1

The following Resolutions were adopted:

Resolution No. 1 re Appointments and Reappointments to Boards & Commissions

Resolution No. 2 re Transportation Funding Equity

Resolution No. 3 re Year-End Contingency Transfers

At 8:35 P.M. the meeting was adjourned

By order of the Westminster City Council

Richelle Work, CMC, Acting City Clerk

Published in the Westminster Window on January 22, 2004

BY AUTHORITY

ORDINANCE NO. **3086**

COUNCILLOR'S BILL NO. **84**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Hicks-McNally

A BILL

FOR AN ORDINANCE REPEALING IN ITS ENTIRETY TITLE XIII, CHAPTER 4, PARK DEVELOPMENT FEES, AND AMENDING TITLE XI, CHAPTER 6, SECTION 8, DEDICATION OF PROPERTY FOR PUBLIC PURPOSES, OF THE WESTMINSTER MUNICIPAL CODE.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title XIII, Chapter 4, W.M.C., is hereby REPEALED IN ITS ENTIRETY.

Section 2. Title XI, Chapter 6, Section 8, is hereby AMENDED to read as follows:

11-6-8: DEDICATION OF PROPERTY FOR PUBLIC PURPOSES: (2534 2876)

(A) **DEFINITIONS.** AS USED HEREIN THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANING:

1. SINGLE-FAMILY DETACHED DWELLING UNIT- A SINGLE DWELLING UNIT CONTAINED IN A FREE-STANDING STRUCTURE THAT HAS NO PARTY WALLS WITH OTHER STRUCTURES. THIS CATEGORY GENERALLY DOES NOT EXCEED FIVE DWELLING UNITS PER ACRE.

2. SINGLE-FAMILY ATTACHED DWELLING UNIT- A DWELLING UNIT CONTAINED IN ITS OWN STRUCTURE FROM GROUND TO ROOF, WHICH STRUCTURE SHARES ONE OR MORE PARTY WALLS WITH ONE OR MORE SIMILAR UNITS. A LIMITED NUMBER OF MULTI-FAMILY DWELLING UNITS MAY BE INCORPORATED INTO AN OTHERWISE SINGLE-FAMILY ATTACHED BUILDING. THIS CATEGORY IS GENERALLY OVER FIVE DWELLING UNITS PER ACRE BUT NOT EXCEEDING EIGHT DWELLING UNITS PER ACRE.

3. MULTI-FAMILY DWELLING UNIT- A DWELLING UNIT CONTAINED IN A STRUCTURE ALSO CONTAINING OTHER DWELLING UNITS IN WHICH EACH UNIT IS ATTACHED TO ANOTHER AT ONE OR MORE PARTY WALLS AND AT EITHER THE FLOOR OR THE CEILING. FOR PURPOSES OF THIS CHAPTER, A DWELLING UNIT OTHERWISE MEETING THIS DEFINITION BUT CONTAINING MORE THAN TWO BEDROOMS SHALL BE CONSIDERED A SINGLE-FAMILY ATTACHED DWELLING UNIT. A STRUCTURE COULD CONTAIN BOTH MULTI-FAMILY DWELLING UNITS AND SINGLE-FAMILY ATTACHED DWELLING UNITS AS DEFINED HEREIN. THIS CATEGORY IS GENERALLY IN EXCESS OF EIGHT DWELLING UNITS PER ACRE.

(AB) **PUBLIC LAND DEDICATION.**

1. No land development containing proposed or potential residential uses shall be approved by the City unless the applicant for such development provides for the dedication of public lands to the City for park, open space, and other public purposes as determined by the City in accordance with this section.

2. The applicant shall dedicate to the City an amount of developable land corresponding to the ~~density~~ PROJECTED RESIDENTIAL POPULATION of the development as follows: 12 ACRES PER EVERY ONE THOUSAND PERSONS. THIS MINIMUM REQUIREMENT REFLECTS A PORTION OF THE PROJECTED DEMAND OF RECREATION AND OPEN SPACE PROPERTIES AND FACILITIES FROM THE POPULATION OF THE PROPOSED DEVELOPMENT.

DENSITY IN DWELLING UNITS PER ACRE % OF LAND AREA DEDICATED TO CITY	
UP TO 3	10
≥ 3 — 4	11
≥ 4 — 5	12
≥ 5 — 6	13
≥ 6 — 7	14
≥ 7 — 8	15
≥ 8 — 9	16
≥ 9 — 10	17
≥ 10 — 11	18
≥ 11 — 12	19
≥ 12 — 13	20
≥ 13 — 14	21
≥ 14 — 15	22
≥ 15 — 16	23
≥ 16 — 17	24
≥ 17	25

PROJECTED POPULATION IS CALCULATED AS FOLLOWS:

- NUMBER OF SINGLE-FAMILY DETACHED UNITS X 3.0 PERSONS PER UNIT, AND
- NUMBER OF SINGLE-FAMILY ATTACHED UNITS X 2.5 PERSONS PER UNIT, AND
- NUMBER OF MULTI-FAMILY UNITS X 2.0 PERSONS PER UNIT, AND
- NUMBER OF INDEPENDENT LIVING SENIOR HOUSING UNITS X 1.5 PERSONS PER UNIT, AND
- Institutional residential uses such as group homes, CONGREGATE CARE, and similar uses shall provide a 10 percent public land dedication pursuant to this section. : NUMBER OF BEDS X 0.5 PERSONS PER BED, AND
- ASSISTED LIVING AND SIMILAR USES: NUMBER OF BEDS X 0.25 PERSONS PER BED
- SKILLED NURSING FACILITIES AND SIMILAR USES ARE EXEMPT

3. All land dedicated in accordance with this section shall possess suitable access and shall be of a location, size, shape, and topography suitable for development into active recreational areas without significant earthmoving, unless otherwise approved by the City. The City shall have the option to accept as part of the dedication requirement major floodplains, narrow strips to provide trail connection from one major recreational or park area to another, or other undevelopable areas suitable for open space. Undevelopable land so designated shall be credited at 1/6 the value of developable land.

4. If the City determines a land dedication in accordance with this section would not serve the public interest, the City may require payment of a fee in lieu of the dedication or may require dedication of a smaller amount of land than would otherwise be required and payment of a fee in lieu of the portion not dedicated. The amount of the fee shall be the fair market value of the land which would otherwise be required to be dedicated under this section. "Fair market Value" shall be determined BY THE CITY, as of the date that dedication would otherwise be required. THE CITY MAY REQUIRE AN APPRAISAL TO BE PERFORMED. THE APPRAISER MUST BE LICENSED BY THE STATE OF COLORADO. COST FOR THE APPRAISAL SHALL BE THE RESPONSIBILITY OF THE DEVELOPER.

5. Land required to be dedicated under this section shall be shown on Preliminary Development Plans and all other planning documents as "Public Land Dedication" and shall be dedicated to the City after the approval of the Preliminary Development Plan at such time as the City shall determine but in no event later than the approval of the Final Plat encompassing the land to be dedicated. Following the City's approval of a Preliminary Development Plan containing a public land dedication, the City may withhold approval of the property's Official Development Plan, Final Plat, or any other approvals, including building permits, until such public land dedication is perfected.

6. In considering whether to approve a phasing schedule incurred in a Preliminary Development Plan or Official Development Plan, the City shall consider whether the City will have adequate public land in the development for the land area actually developed. The City may require, as a condition of approval of such Preliminary Development Plan or Official Development Plan and any plats approved under such Preliminary Development Plan or Official Development Plan, that proposed public land be included as a part of an earlier phase than that proposed by the developer or subdivider.

7. All lands required to be dedicated under this section shall be dedicated to the City without restriction and free and clear of any and all liens, restrictions, and covenants, regardless of whether the City or another entity will be the ultimate user under the proposed public use. Fees required under this paragraph shall be paid to the City by certified check at the time of final plat approval.

8. Land to be dedicated to the City under this ~~paragraph~~ SECTION shall be preserved and protected during the development process. The developer shall not disturb the topsoil or vegetation on the land during the development process. If the topsoil or vegetation is damaged or disturbed, the City may require the developer to pay the City the cost of restoring such vegetation and topsoil. All construction debris and other foreign matter shall be removed from the site prior to dedication.

9. The land dedication requirements under this ~~paragraph~~ SECTION are in addition to and separate from the requirements for PUBLIC SCHOOL SITES, dedication of street rights of way and easements or rights of way for utilities, drainage facilities and other public improvements.

10. If, at the time of annexation of the land on which a development is proposed, the developer or a predecessor in interest dedicated lands to the City for public purposes, the land dedication requirements of this paragraph shall be reduced by the number of acres actually dedicated at that time.

11. APPEALS PERTAINING TO THE CALCULATION OF LAND DEDICATION FOR PUBLIC LAND, PARK DEVELOPMENT FEES, PARK DEVELOPMENT CREDITS, OR CASH-IN-LIEU OF DEDICATION SHALL BE MADE TO THE CITY MANAGER OF THE CITY OF WESTMINSTER.

(BC) PARK DEVELOPMENT FEES: (2534 2694)

1. **City Policy.** It is the policy of the City that all developers of any new residential development projects shall be required to provide, at the developer's expense, sufficient park improvements and recreational facilities to serve the projected population of the development. To accomplish this purpose there is hereby enacted a park development fee, in addition to any land contribution requirement imposed by this Code or any other City ordinance or resolution.

2. Park Development Fee.

(a) Every person, firm or corporation applying for and obtaining any building permit for the original construction of any dwelling unit shall be required to pay, prior to the occupancy of the first unit in any building or structure and as a condition precedent to the issuance of any occupancy certificate, a park development fee based upon the number of dwelling units to be constructed, as follows:

Single family detached	\$ 1,547 per unit as of 5-1-03
Single family attached or mobile home	\$ 1,256 per unit as of 5-1-03
Multiple family, congregate care or independent living senior housing	\$ 1,031 per unit as of 5-1-03
Assisted living Senior Housing	\$ 358 per bed as of 5-1-03

Skilled nursing facilities as defined in this code shall be exempt from the park development fees requirements of this section.

The above fees shall be automatically increased annually as of January 1 in accordance with the Consumer Price Index (CPI) as established for the Denver metropolitan area. No occupancy certificate shall be issued

nor shall any occupancy of the premises be permitted until such fee shall have been paid in full. Such fee shall be used only for the development of park and recreation facilities and services.

~~(b) Any person, firm, or corporation required to pay a park development fee hereunder may receive credit against such fee for park improvement work done by said developer at the developer's expense simultaneously with the construction of the dwelling units in accordance with City standards and policies. Such credit may be allowed for land leveling or earth work incorporated into the park improvements; installation of automatic irrigation systems; finished grading, soil preparation and seeding; plant materials; and park equipment. To qualify for such credit all park development plans shall be subject to the approval of the City Council and shall be included in an Official Development Plan approved by City Council.~~

3. Credits.

~~(a) In computing the credits to which a developer may be entitled, the total park development fee required of the development shall first be computed. The developer shall then be allowed a credit in each category listed in which the developer performs the work or provides the improvements at his sole expense. Said credits shall not exceed, in each category, the following percentages of total development fee due:~~

- ~~(i) Earth Work 5 Percent~~
- ~~(ii) Automatic Irrigation Systems 38 Percent~~
- ~~(iii) Finished Grading, Soil Preparation & Seeding 26 Percent~~
- ~~(iv) Plant Materials 14 Percent~~
- ~~(iv) Park Equipment 11 Percent~~

~~(b) The foregoing are intended as maximum allowable percentages, and the percentage of total fee which shall be allowed as a credit in each instance shall be determined by City Council in its sole discretion. In any event not less than 6 percent of the total park development fee shall be paid by the developer in cash.~~

~~(c) A developer shall be allowed a credit against the park development fee for installation of a private park and open space facility in direct proportion to the percentage of total neighborhood needs, as determined by the City Council in its sole discretion, which is served by said private facility. Said credit shall be given only for private park and open space uses and not private recreational facilities such as tennis courts, swimming pools and club houses.~~

~~(d) The City Council may authorize park development fee credits for any improvements not listed above, which Council finds will benefit an existing or proposed park or recreation site or facility, including off-site improvements. Such credit shall not exceed 94 percent of the total park development fees owed by the developer; not less than 6 percent of the total development fee shall be paid by the developer in cash. Any proposed credit for park development fees which is authorized under this subsection shall be subject to specific City Council approval, formalized in a written agreement which shall be approved by Council.~~

(a) ANY PERSON, FIRM, OR CORPORATION REQUIRED TO PAY A PARK DEVELOPMENT FEE HEREUNDER MAY RECEIVE CREDIT AGAINST SUCH FEE FOR PUBLIC PARK IMPROVEMENT WORK DONE BY SAID DEVELOPER AT THE DEVELOPER'S EXPENSE SIMULTANEOUSLY WITH THE CONSTRUCTION OF THE DWELLING UNITS IN ACCORDANCE WITH CITY STANDARDS AND POLICIES.

(b) THE AMOUNT OF SUCH CREDIT SHALL BE DETERMINED BY THE CITY FOR VARIOUS PUBLIC PARK IMPROVEMENTS SUCH AS, BUT NOT LIMITED TO, LAND LEVELING OR EARTH WORK INCORPORATED INTO THE PARK IMPROVEMENTS; INSTALLATION OF AUTOMATIC IRRIGATION SYSTEMS; FINISHED GRADING, SOIL PREPARATION AND SEEDING OR SOD; PLANT MATERIALS; AND PARK EQUIPMENT. TO QUALIFY FOR SUCH CREDIT, ALL PARK DEVELOPMENT PLANS MUST INDICATE THE FOLLOWING, INCLUDING BUT NOT LIMITED TO: A DETAILED COST ESTIMATE, SITE LOCATION AND SIZE, SITE DESIGN, GRADING, ALL IMPROVEMENTS -INCLUDING SITE AMENITIES AND LANDSCAPING, AND SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE DEPARTMENT OF PARKS, RECREATION, AND LIBRARIES, AND SHALL BE INCLUDED IN AN OFFICIAL DEVELOPMENT PLAN

APPROVED BY THE CITY. IMPROVEMENTS MUST BE DESIGNED AND INSTALLED ACCORDING TO ACCEPTABLE CITY STANDARDS AND SPECIFICATIONS. IMPROVEMENTS SUCH AS OVERLOT GRADING, ROADWAYS, SIDEWALKS, BIKEWAYS AND TRAILS, UTILITIES, AND OTHER SIMILAR IMPROVEMENTS, AS DETERMINED BY THE CITY, WHICH WOULD BE OTHERWISE REQUIRED WITH THE DEVELOPMENT OF THE SUBDIVISION, OR ARE ADJACENT TO THE PUBLIC PARK, OR OFF-SITE, ARE GENERALLY NOT SUBJECT FOR CREDIT TOWARD THE PARK DEVELOPMENT FEE. THE CITY MAY AUTHORIZE PARK DEVELOPMENT FEE CREDITS FOR ANY IMPROVEMENTS NOT LISTED ABOVE, WHICH THE CITY FINDS WILL BENEFIT AN EXISTING OR PROPOSED PUBLIC PARK OR RECREATION SITE OR FACILITY, INCLUDING OFF-SITE IMPROVEMENTS.

(c) THE REQUIRED PARK DEVELOPMENT FEE AND ANY CREDITS THERETO, AND THE TIMING OF COMPLETION OF PARK IMPROVEMENTS, SHALL BE SPECIFIED ON THE RELEVANT OFFICIAL DEVELOPMENT PLAN FOR THE PROJECT. COMPLETION OF PARK IMPROVEMENTS SHOULD OCCUR IN AN EARLY PHASE OF AN OVERALL DEVELOPMENT.

Section 3. All further subsections contained within this Chapter shall be re-numbered accordingly.

Section 4. This ordinance shall take effect upon its passage after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January, 2004.

BY AUTHORITY

ORDINANCE NO. **3087**

COUNCILLOR'S BILL NO. **85**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Hicks-McNally

A BILL

FOR AN ORDINANCE VACATING THE EXISTING WEST 113th AVENUE RIGHT-OF-WAY BETWEEN NAVAJO STREET AND PECOS STREET WITHIN THE HIGHLANDS AT WESTBURY SUBDIVISION

WHEREAS, existing West 113th Avenue Right-of-Way between Navajo St. and Pecos St. was dedicated by the First Plat of North Glenn Manor Subdivision (Exhibit A); and

WHEREAS, the existing West 113th Avenue Right-of-Way is being encroached upon by proposed buildings in the Highlands at Westbury Subdivision; and

WHEREAS, the existing West 113th Avenue Right-of-Way is not necessary for the City of Westminster within Highlands at Westbury Subdivision; and

WHEREAS, the vacations are necessary in order to place buildings within the Highlands at Westbury Subdivision out of the City of Westminster's existing Right-of-way.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the existing West 113th Avenue Right-of-Way in Sections 2 and 3 hereof.

Section 2. Legal Description of existing Right-of-Way:

A PARCEL OF LAND LOCATED IN A PART OF THE SOUTHEAST ONE-QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN. THE WEST TERMINUS BEING THE SOUTH QUARTER CORNER OF SAID SECTION 4 AND MONUMENTED BY A FOUND 1" AXLE IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "LS #23904". THE EAST TERMINUS BEING THE SOUTHEAST CORNER OF SAID SECTION 4 AND MONUMENTED BY A FOUND 1" AXLE IN A RANGE BOX WITH A 2" ALUMINUM CAP STAMPED "LS #23904". THE BEARING BEING N 89°22'02" E PER THE CITY OF WESTMINSTER G.I.S. CONTROL SYSTEM, WITH ALL OTHER BEARINGS CONTAINED HEREIN RELATIVE THERETO.

SAID CONTROL SYSTEM BASED ON MODIFIED STATE PLANE COORDINATES, COLORADO NORTH ZONE (NAD 83)(USGS NVD 1929) AS DETERMINED BY A SURVEY BY MERRICK & COMPANY DATED JANUARY 3, 1995, JOB NO. 282-8874, WITH COORDINATES AND ELEVATIONS BEING SHOWN BY FOUND MONUMENTATION.

NOTE: TO GET STATE PLANE NORTH ZONE COORDINATES, MULTIPLY THE MODIFIED STATE PLANE COORDINATES SHOWN BY 0.99972203.

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 4; THENCE N 00°19'06" W ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4 A DISTANCE OF 40.22 FEET; THENCE LEAVING SAID WEST LINE, N 89°40'54" E A DISTANCE OF

40.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF NORTH PECOS STREET, SAID POINT BEING THE SOUTHWEST CORNER OF SAID BLOCK 1, NORTH GLEN MANOR-AMENDED FILING AS RECORDED UNDER FILE NUMBER 12, MAP NUMBER 289, AND RECEPTION NUMBER 913130 OF THE RECORDS OF THE CLERK AND RECORDER OF ADAMS COUNTY;

THENCE CONTINUING NORTH AND LONG THE WEST LINE OF SAID BLOCK 1 (EAST LINE OF NORTH PECOS STREET) N 00°19'06" W A DISTANCE OF 610.08 TO THE SOUTHWEST CORNER OF WEST 113TH AVENUE RIGHT-OF-WAY AS DEDICATED BY RECEPTION NUMBER C0192086, ALSO BEING A POINT OF CURVATURE, ALSO BEING THE POINT OF BEGINNING;

THENCE ALONG THE SOUTH SIDE OF SAID RIGHT-OF-WAY OF WEST 113TH AVENUE THE FOLLOWING 2 COURSES:

- 1) THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 89°41'10", AND ARC DISTANCE OF 23.48 FEET TO A POINT OF TANGENT;
- 2) THENCE N 89°22'04" E A DISTANCE OF 667.00 FEET;

THENCE LEAVING SAID SOUTH RIGHT-OF-WAY OF WEST 113TH AVENUE N 00°41'28" W A DISTANCE OF 50.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF SAID 113TH AVENUE;

THENCE ALONG THE NORTH SIDE OF SAID RIGHT-OF-WAY OF WEST 113TH AVENUE THE FOLLOWING 2 COURSES:

- 1) THENCE S 89°22'04" W A DISTANCE OF 666.51 FEET TO A POINT OF CURVATURE;
- 2) THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 90°18'50", AN ARC DISTANCE OF 23.64 FEET TO A POINT ON THE EAST LINE OF NORTH PECOS STREET;

THENCE ALONG SAID EAST LINE OF PECOS STREET S 00°19'06" E A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING CONTAINING 34,184 SQ.FT OR 0.78 ACRES MORE OR LESS.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January 2004.

BY AUTHORITY

ORDINANCE NO. **3088**

COUNCILLOR'S BILL NO. **86**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Dittman-McNally

A BILL

FOR AN ORDINANCE VACATING PORTIONS OF UTILITY EASEMENTS WITHIN BRADBURN SUBDIVISION FILING NO. 1.

WHEREAS, certain easements were dedicated on the final plat for Bradburn Subdivision Filing No. 1, File No. 18, Map 749, and Reception No. C1007109 in the County of Adams; and

WHEREAS, portions of these utility easements are not necessary for maintaining the City of Westminster's utility lines; and

WHEREAS, the vacations are necessary since no utility lines are located within the utility easements and no utility lines will be constructed within the utility easements in the future.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portions of utility easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements: See attached legal descriptions for Easement A, Easement B and Easement C.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of December 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of January 2004.

BY AUTHORITY

ORDINANCE NO. **3089**

COUNCILLOR'S BILL NO. **2**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

_____Dixion-Hicks_____

A BILL

FOR AN ORDINANCE RELATING TO THE DISSOLUTION OF THE SHERIDAN PARK GENERAL IMPROVEMENT DISTRICT IN THE CITY OF WESTMINSTER, COLORADO

WHEREAS, the District was created in 1985 for the purpose of acquiring certain improvements within and for the District;

WHEREAS, the District issued General Obligation Bonds in May 1986 to finance street, water, sanitary sewer, and storm drainage improvements in the District;

WHEREAS, the District paid off its bonded debt in December 2002;

WHEREAS, the financing and accounting objectives of the District relating to said improvements have been achieved.

WHEREAS, the District's fulfillment of its obligation negates its prior need to levy taxes making its continuation beyond 2003 inappropriate;

WHEREAS, a residual equity transfer of the remaining fund balance shall be made to compensate the City of Westminster for consulting and other professional services it provided relating to the District's dissolution, as well as un-recovered administrative expenses that the City incurred over the life of the District;

WHEREAS, after this final transfer of funds to the City, the District will have satisfied all of its outstanding indebtedness, obligations, and liabilities;

WHEREAS, the Board of Directors has determined that it is in the best interest of all concerned to dissolve the Sheridan Park General Improvement District;

WHEREAS, proper notice was published on December 18, 2003, December 25, 2003, and January 1, 2004, pursuant to the requirements of Section 31-25-606, Colorado Revised Statutes;

WHEREAS, no objections have been filed by any member of the public to the proposed dissolution.

NOW, THEREFORE, THE CITY OF WESTMINSTER, ACTING AS EX OFFICIO THE BOARD OF DIRECTORS OF THE SHERIDAN PARK GENERAL IMPROVEMENT DISTRICT ORDAINS:

Section 1. The Sheridan Park General Improvement District, in the City of Westminster, Colorado, is hereby duly dissolved effective December 31, 2003.

Section 2. The City of Westminster Finance Director, Mary Ann Parrot, is hereby directed to cause a certified copy of the dissolution ordinance to be filed in the office of the Division of Local Government, Department of Local Affairs, 1313 Sherman Street, Room 520, Denver, Colorado, 80203.

Section 3. The City of Westminster Deputy City Clerk, Richelle Work, is hereby directed to cause a certified copy of the dissolution ordinance to be filed with the Adams County Clerk and Recorder, Adams County Administration Building, 450 South 4th Avenue, Brighton, Colorado, 80601.

Section 4. Because the continuation of the District would result in unnecessary and unfunded operational costs and unnecessary taxpayer liabilities, an emergency is declared to exist, and this ordinance is declared to

be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on January 12, 2004, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY
ORDINANCE this 12th day of January, 2004.