

January 12, 1998
7:00 PM

Notice to Readers: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the City Council's part as issues have been discussed by Council previously. Council may defer final action on an item to a future meeting. 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. Recognition of Former Board and Commission Members
5. **Citizen Communication (5 minutes or Less in Length)**
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. Pecos Street Extension 132nd Ave to 134th Ave
 - B. Big Dry Creek Sewer Interceptor Phase III
 - C. CB No. 89 re Growth Management Program (Merkel-Allen)
 - D. CB No. 90 re Supplemental Approp re PD Grant (Allen-Atchison)
 - E. CB No. 91 re Cobblestone Park Supplemental Approp (Allen-Atchison)
9. **Appointments and Resignations**

None
10. **Public Hearings and Other New Business**
 - A. Purchase of Open Space near Standley Lake
 - B. Resolution No. 1 re 96th Avenue Extension Right of Way
 - C. Resolution No. 2 re DRCOG Urban Boundary Map
 - D. Advance Funding for Ice Centre
 - E. Resolution No. 3 re Reimbursement of Ice Centre Funds
 - F. Financial Advisor Services Contract
 - G. Resolution No. 4 re Private Activity Bond Allocation for WEDA
 - H. Fuel Tank Replacements
 - I. Transfer of Records Specialist Position to Municipal Court
 - J. Councillor's Bill No. 1 re Title V Amendments
 - K. Semper Water Treatment Facility Rehabilitation
11. **Old Business and Passage of Ordinances on Second Reading**

None
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
 - A. City Council
 - B. Request for Executive Session

1. Economic Development Prospect Assistance Proposal
2. Westcliff Open Space Negotiations
3. Ice Arena IGA Negotiations

13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 12, 1998 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

Cub Scout Pack #405 led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Allen, Atchison, Dixon, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent none.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Scott to accept the minutes of the meeting of December 15, 1997 with no additions or corrections. Councillor Dixon requested to abstain as she was not present at the meeting. The motion carried with 6 aye votes and Councillor Dixon abstaining.

PRESENTATIONS:

Mayor Heil, and Council Liasons presented Certificates of Appreciation to Frank Dennis, James Franks, Clenton Kayl, Joyce Lingenfelter and Myron Treber in recognition of their time serving on City Boards and Commissions.

CITY COUNCIL COMMENTS:

Councillor Dixon commented the hope that Martin Luther King Holiday would be celebrated as Dr. King would have approved of. Mayor Pro Tem Merkel thanked City Manager Bill Christopher, Traffic Engineer Mike Normandin for their work over the past 2 years on the Jefferson County Transportation Study. Councillor Allen congratulated the Denver Bronco's on their AFC Championship win and asked the Mayor to send "Go Broncos" wishes on behalf of the City.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: **Pecos Street Extension 132nd to 134th Avenue** - Authorize the City Manager to execute a design contract with Tuttle Applegate, Inc. in the amount of \$39,992; for the design of the Pecos Street extension between 132nd and 134th Avenues, and charge the expense to the 1998 New Development Participation project account in the General Capital Improvement Fund; **Big Dry Creek Sewer Interceptor, Phase III** - Award a contract to Black and Veatch in the amount of \$72,636 for the design of the Big Dry Creek Sewer Interceptor, Phase III, with \$7,200 for contingency, and charge the cost associated with this work to the appropriate Utilities Capital Improvement Projects Account in the Utility Fund; **Councillor's Bill No. 89** - Growth Management Program; **Councillor's Bill No. 90** - Police Department Grant Appropriation; and **Councillor's Bill No. 91** - Cobblestone Park Supplemental Appropriation.

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.

A motion was made by Scott and seconded by Dixon to adopt the Consent Agenda items as presented. The motion carried unanimously.

PURCHASE OF OPEN SPACE LAND NEAR STANDLEY LAKE:

A motion was made by Atchison and seconded by Allen to authorize the City Manager to sign the necessary documents to purchase for the Open Space Program approximately 80 acres of land northwest of Standley Lake from the Conservation Fund at a cost not to exceed \$775,000, to be paid over several years, charge the expense to the Open Space Fund, and authorize Staff to pursue all available matching grants for this purchase. The motion carried unanimously.

RESOLUTION NO. 1 - 96TH AVENUE EXTENSION PROPERTY ACQUISITION:

A motion was made by Merkel and seconded by Dixon to adopt Resolution No. 1 authorizing City Staff to proceed with acquisition of sufficient rights-of-way and easements for the 96th Avenue Extension Project through proceedings of eminent domain, if necessary. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 2 - DRCOG URBAN GROWTH BOUNDARY MAP:

A motion was made by Scott and seconded by Smith to adopt Resolution No. 2 which recognizes the Interim Urban Growth Boundaries established by the Denver Regional Council of Governments. Upon roll call vote, the motion carried unanimously.

INTERIM LOAN FOR ICE CENTRE PROJECT:

A motion was made by Smith and seconded by Dixon to authorize the temporary transfer of \$1 million, at no interest cost, from the Promenade East Project Account in the General Capital Improvement Fund, to the Ice Centre Project Account in the General Capital Improvement Fund with repayment to be made to the Promenade East Project Account at such time as the permanent financing for the Ice Centre is completed later in 1998. The motion carried unanimously.

RESOLUTION NO. 3 - REIMBURSEMENT OF ICE CENTRE FUNDS:

A motion was made by Allen and seconded by Merkel to adopt Resolution No. 3 approving the Reimbursement Resolution for the Ice Centre, thus acknowledging the intent to issue debt for the Ice Centre, and approving the City's intent to reimburse itself from financing proceeds for the costs of construction underwritten by the City's General Capital Improvement Fund prior to the sale of the debt. Upon roll call vote, the motion carried unanimously.

Mayor Heil recognized Standley Lake High School students who were in attendance at the meeting.

FINANCIAL ADVISOR SERVICES CONTRACT:

A motion was made by Dixon and seconded by Smith to authorize the Finance Director to sign a contract with James Capital Advisors Inc. in the amount of \$10,000 for work as Financial Advisor to the City for the Ice Centre financing. James Manire, President of James Capital Advisors Inc. was present to address Council. The motion carried unanimously.

RESOLUTION NO. 4 - PRIVATE ACTIVITY BONDS ALLOCATION:

A motion was made by Atchison and seconded by Dixon to adopt Resolution No. 4 allocating the 1998 Private Activity Bond Allocation to the Westminster Economic Development Authority for use in converting the taxable bonds to tax-exempt. Upon roll call vote, the motion carried unanimously.

FUEL TANK UPGRADES:

A motion was made by Scott and seconded by Atchison to authorize an expenditure of \$79,800 to E.T. Technologies, Inc. for the completion of fuel tank upgrade work at Big Dry Creek Wastewater Reclamation Facility and the removal of underground storage tanks at the Municipal Service Center Fleet Facility and the Police Building, and charge the expenditures to the appropriate accounts in the 1998 Fleet operating budget and the 1998 General Capital Improvement Fund. The motion carried unanimously.

TRANSFER OF RECORDS SPECIALIST POSITION TO MUNICIPAL COURT:

A motion was made by Smith and seconded by Dixon to authorize the transfer of the new Records Specialist position and the funds budgeted for this position from the Police Department to the Municipal Court with the position to be reclassified to Deputy Court Clerk. The motion carried unanimously.

COUNCILLOR'S BILL NO. 1 - TITLE V AMENDMENTS:

A motion was made by Atchison and seconded by Dixon to pass Councillor's Bill No. 1 on first reading amending Title V to provide that license denials may be appealed to the Special Permit and License Board and non-renewals, suspensions, and revocations of existing licenses will be heard by the Special Permit and License Board. Upon roll call vote, the motion carried unanimously.

SEMPER WATER TREATMENT FACILITY REHABILITATION:

A motion was made by Dixon and seconded by Merkel to authorize the City Manager to transfer \$785,631 retainage funds from the existing Semper Water Treatment Facility Expansion Capital Project Account to the new Semper Water Treatment Facility Rehabilitation Capital Improvement Project Account in the Utility Fund. The motion carried unanimously.

MISCELLANEOUS BUSINESS:

The Mayor stated there would be an Executive Session concerning an Economic Development Prospect Assistance proposal, Westcliff Open Space negotiations and the Ice Centre IGA negotiations.

ADJOURNMENT:

The meeting was adjourned at 7:35 P.M.

ATTEST:

Mayor

City Clerk

Date: January 12, 1998
Subject: Recognition of Former Board and Commission Members
Prepared by: Michele Kelley, City Clerk

Introduction

The City Council is requested to present Certificates of Appreciation in recognition of time dedicated to the City by several Board members whose have recently resigned.

Summary

During the past few months, several citizens have resigned from various City Boards. Certificates of Appreciation recognizing the time and efforts of Frank Dennis, James Franks, Clenton Kayl, Joyce Lingenfelter and Myron Treber. Certificates of appreciation have been prepared to be presented on behalf of the Mayor and entire Council.

Staff Recommendation

Present certicates of appreciation for dedicated service to Frank Dennis, James Franks, Clenton Kayl, Joyce Lingenfelter and Myron Treber.

Background Information

Frank Dennis was appointed to the Open Space Advisory Board in February of 1993 and has served continuously since that time. He had requested not to be reappointed.

James Franks was appointed to the Environmental Advisory Board on June 9, 1997 and will be moving out of the City.

Clenton Kayl was appointed to the Planning Commission in February of 1994 as an alternate member, and recently resigned.

Joyce Lingenfelter was appointed to the Environmental Advisory Board on March 6, 1995 when this Board was originally created and had requested not to be reappointed.

Myron Treber was appointed to the Personnel Board on November 25, 1991 and had requested not to be reappointed because of other time commitments.

Frank Dennis, James Franks, Clenton Kayl, Joyce Lingenfelter and Myron Treber have all indicated that they will be present at Monday night's Council meeting.

Respectfully submitted,

William M. Christopher, City Manager

Date: January 12, 1998

Subject: Pecos Street Extension 132nd Avenue to 134th Avenue

Prepared by: Sheila Beissel, GIS Coordinator

Introduction

City Council action is requested to authorize the City Manager to execute a design contract with Tuttle Applegate, Inc. in the amount of \$39,992 for the conceptual, preliminary, and final design of Pecos Street extension from 132nd Avenue to 134th Avenue. The purpose of the street extension is to provide additional access to the new elementary school south of the Amherst Subdivision that has been recently named Arapahoe Ridge Elementary. Funds for this project are available in the 1998 New Development Participation project account in the General Capital Improvement Fund.

Summary

The new Arapahoe Ridge Elementary school for the Adams Twelve Five Star Schools is currently under construction with the opening planned for August 1998. The school is located south of 132nd Avenue on the Pecos Street alignment, southeast of the Amherst Subdivision. The elementary school will serve the residents of the Amherst Subdivision and the Quail Crossing Subdivision. An Intergovernmental Agreement between the City and the District has been negotiated outlining the commitments by both parties to the school project. The City is committed to designing and constructing Pecos Street from the school site (132nd Avenue) to 134th Avenue along the Pecos Street alignment for improved access to the new elementary school. This design contract is for the conceptual, preliminary, and final design of Pecos Street.

The road extension is proposed to be opened in time for the start of the school term in August 1998. In order to expedite the design process, the City requested Tuttle Applegate, the site design engineers for the new elementary school, to submit a proposal for the street design. Tuttle Applegate has considerable knowledge of the area and design parameters; designed Pecos Street for the District's portion of the road; have a working relationship with the District; can meet the City's required design schedule; and, in general, are experienced in road design and construction. Tuttle Applegate's proposal includes a conceptual, preliminary, and final design at a cost of \$39,992.

Staff Recommendation

Authorize the City Manager to execute a design contract with Tuttle Applegate, Inc. in the amount of \$39,992; for the design of the Pecos Street extension between 132nd and 134th Avenues, and charge the expense to the 1998 New Development Participation project account in the General Capital Improvement Fund.

Background Information

The Adams Twelve Five Star School District is currently building an elementary school at approximately 132nd Avenue and Pecos Street (southeast of the Amherst Subdivision). The elementary school will service the Amherst Subdivision and the Quail Crossing Subdivision.

The City has negotiated with the District on several issues regarding the school site. The City and District have agreed on the items to be included in the Intergovernmental Agreement. One of the City's commitments is to design and construct Pecos Street from the school site (132nd Avenue) to 134th Avenue. Currently, the only access to the school site is via 132nd Avenue. 132nd Avenue extends from Huron Street to the school site (Pecos Street). One residential street intersects with 132nd Avenue. Thus, the majority of traffic to the school will wind its way through the residential streets of Quail Crossing causing traffic concerns. With the Pecos Street connection to 134th Avenue, those needing access to the school from the northwest can use Pecos Street, thus eliminating the school traffic through the neighborhoods.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: January 12, 1998
Subject: Big Dry Creek Sewer Interceptor, Phase III
Prepared by: Diane Phillips, Utilities Coordinator/Engineer

Introduction

City Council action is requested to authorize the City Manager to sign a contract with Black and Veatch in the amount of \$72,636 for the design of the Big Dry Creek Sewer Interceptor, Phase III, and \$7,200 for contingency. Funds are available in the appropriate Utilities Capital Improvement Projects Account in the Utility Fund.

Summary

The Big Dry Creek Sewer Interceptor, Phase III will be constructed from 112th Avenue and Sheridan Boulevard, running north and east along the Big Dry Creek to approximately 120th Avenue and Federal Boulevard. The area served by the Big Dry Creek Water Reclamation Facility was evaluated for existing and future flow conditions, and it was determined that additional capacity would be required to meet future demands. Requests for Proposals for design of the Interceptor were sent to the following five (5) firms that submitted proposals:

Black and Veatch	\$ 72,636
Nolte	\$ 83,903
Arber and Associates	\$ 90,658
Sear Brown	\$101,737
Burns and McDonnell	\$136,750

Black and Veatch is a qualified and capable engineering design firm and is the low bidder on this project.

The project may be delayed as an alternative to current design and construction; however, this delay might interfere with the future widening and construction of 112th Avenue and could cause capacity problems to occur in the Interceptor. Also, future construction costs are likely to increase, making future improvements more expensive.

Staff Recommendation

Award a contract to Black and Veatch in the amount of \$72,636 for the design of the Big Dry Creek Sewer Interceptor, Phase III, with \$7,200 for contingency. Charge the cost associated with this work to the appropriate Utilities Capital Improvement Projects Account in the Utility Fund.

Background Information

As development has continued in the area served by the Big Dry Creek Water Reclamation Facility, flow in the existing Interceptor has increased to near capacity. Study of the existing flow and evaluation of the future flow that will be contributed by development shows that the existing Interceptor is flowing near capacity and will not accommodate future flows. A 1987 Predesign Report identified that there would be a need for installation of an additional Phase of the Interceptor in the future and Staff has budgeted and planned for this Phase accordingly.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 12, 1998

Subject: Open Space Purchase near Standley Lake

Prepared by: Bob Lienemann, Open Space Coordinator
Lynn Wodell, Open Space Acquisition Agent

Introduction

City Council action is requested to authorize the City Manager to purchase approximately 80 acres of land for Open Space. This property is located just northwest of Standley Lake (see attached map). Much of the funding for this major acquisition will come from outside the City, and the balance of funds required are available within the Open Space Fund.

Summary

Preservation of this large property as Open Space northwest of Standley Lake would add a buffer area to the present eagle nesting activity at Standley lake, and would provide a continuous wildlife and open space corridor between Standley Lake and the large Open Space holdings of the City of Boulder and Boulder County, Jefferson County and the City of Broomfield. This acquisition will connect lands already owned by the City of Westminster, provide trail and outdoor recreation opportunities, and help protect water quality in Standley Lake by controlling some upstream run off.

The Conservation Fund (the Fund), a private land trust which operates nationally to preserve open space, has teamed up with Westminster and Jefferson County Open Space (JCOS) to acquire this property. A purchase price for the approximate 80 acres has been negotiated, not to exceed \$775,000 - which represents an excellent value for the property. The proposal is that the Fund acquire the land immediately, using their own cash reserves. The Fund would then sell the land to the City and Jefferson County, with \$400,000 required in approximately February 1998, and the balance within two years. The \$400,000 at closing matches the federal funding received for this purchase in late 1995, which is still held by the City and Jefferson County. All partners would then jointly pursue matching grants toward the land cost over the next two years. The City would be under contract to pay any remaining balance in the year 2000.

The Open Space Advisory Board (OSAB) reviewed this proposed purchase again at their most recent meeting. The Board members feel that this is an excellent opportunity to acquire a large parcel at a very reasonable price, with much of the funding from other sources, and they recommend moving forward quickly with the purchase. This property was included on the 20 year wish list for open space preservation which the OSAB recommended to City Council in November 1997.

Staff Recommendation

Authorize the City Manager to sign the necessary documents to purchase for the Open Space Program approximately 80 acres of land northwest of Standley Lake from the Conservation Fund at a cost not to exceed \$775,000, to be paid over several years, charge the expense to the Open Space Fund, and authorize Staff to pursue all available matching grants for this purchase.

Background Information

Acquisition of this particular property for open space was anticipated in late 1995, when both the City of Westminster and Jefferson County Open Space (JCOS) received Department of Energy (DOE) fine monies, passed through the Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDOPH&E). These funds were (and are) to be used to preserve open space between 96th and 104th Avenues, and between Alkire and Indiana Streets. Westminster received \$960,000 in DOE funds, which was combined with a required match of \$300,000 in City funds, for a total of \$1,260,000 for open space preservation. Approximately \$1,105,000 was expended to acquire the adjacent Brauch family properties in late 1995 and early 1996. The balance of \$155,000 remains in the City's account, and is still to be applied toward acquiring this property. Similarly, JCOS received \$245,000 to go toward joint acquisition at this location, and still holds these funds. Thus, \$400,000 is available now for the proposed purchase.

Per recommendations in late 1995 and early 1996 from both Westminster's Open Space Advisory Board and Jefferson County's Board of County Commissioners, the two staffs have been looking for partners to assist with this acquisition, in order to lower the City's and County's costs as much as possible, and to free up funds for other priority purchases. The Conservation Fund (the Fund) has joined with the City and County in this proposed acquisition, and has been negotiating the details of a purchase with the landowners over the past year. As a private party, not directly connected with either government, the Conservation Fund is sometimes able to negotiate with landowners, where local governments may not succeed, due to perceived conflicts, or due to mixing development issues with a proposed land purchase.

The Fund has considerable tax and estate planning expertise that they can bring to land preservation. They attempt to acquire land below market value, then convey the land to a local government or private group to own and maintain. The Fund sells the property at or below market value, but retains a part of the margin between the purchase price and the fair market value to cover their direct expenses and general operating costs.

The Conservation Fund also has an excellent track record in Colorado in partnering with local governments and others to request grant funds from Great Outdoors Colorado (GOCO). The private citizens appointed to the GOCO Board, who review many requests, seem to favor grant applications which mix public and private partners, and "leverage" their grant funds to a maximum degree. The Fund has been very successful in receiving GOCO grants to preserve land around Barr Lake in Adams County, and to preserve the views and open space along I-25 between Castle Rock and Colorado Springs.

City and Jefferson County staffs met with the Fund in 1996 to review this and several other possible joint acquisitions, and the Fund's local staff felt that additional open space near Standley Lake fit their abilities and interests as a good first project working together.

The property proposed for purchase is currently ranch land in good condition, and is adjacent to the corner of 100th Avenue and Alkire Street, with good visibility and good access. The land rises to the north, with great views of Standley Lake and of open space lands in all directions. Though presently in unincorporated Jefferson County, this parcel is surrounded by the City. Annexation is intended if the property is purchased.

The 80-acre parcel was included in the former Standley Lake Water and Sanitation District, and is eligible to receive water Service Commitments from Westminster, with or without annexation into the City. (Preserving this land as open space would free up this water for other priority projects throughout the City). With the City's commitment to provide water and sewer, this particular property has more immediate development pressure and higher value than other adjacent lands.

When City and County staff had contacted the owner's representative previously, the asking price was considerably higher, and little flexibility was indicated. Over the past year, the Fund has worked diligently with the landowners toward a sale of the property. The Fund has negotiated a very favorable price to the City and County - not exceed \$775,000. The exact price is based upon the actual acreage to be purchased, which will be determined by a land survey prior to closing. The Conservation Fund will actually pay the Sellers slightly less per acre, and assist them with tax benefits that yield the same return as a higher sale price. The proposed purchase by the City and County is at a price of approximately \$9,700 per acre, to cover the Fund's costs toward acquisition and pursuit of matching grants for this project.

The proposed purchase and sale agreement with the Fund requires the City to pay \$400,000 at closing, tentatively scheduled for February 1998. The Fund, City and County would then go as partners to GOCO in early 1998 with a grant request for the balance of approximately \$375,000. The partners would continue to pursue all possible funding toward this acquisition over the next two years. As part of this Memorandum, Staff asks for City Council's approval to apply for matching funds from GOCO, DOE, JCOS and any other potential partners for this purchase.

Jefferson County Open Space staff indicate that the \$245,000 in DOE funds is still available for this purchase, but a series of meetings and actions by their Open Space Advisory Committee and Board of County Commissioners would be required over several months, before releasing the funds for this purchase. City and County staffs recommend that if approved by City Council, the City "up front" the funds from our Open Space bond proceeds, and move to close this purchase quickly, while there is a willing Seller. Once the extent of matching grants from GOCO and other sources is known, City and County staff and the Fund would approach Jefferson County's Open Space Advisory Committee and their Board of County Commissioners to either release the \$245,000 and reimburse the City for "front ending" these funds, or to release the \$245,000 and add additional funds to share any balance of 0404 to the City and County beyond the \$400,000 needed at closing.

Alternatives to the Proposed Action

One alternative to the Staff Recommendation would be to not approve the purchase of this property. The remaining DOE funds deposited with the City and County could be returned. These Federal funds are a "one-time" opportunity, and must be used as intended, at this location, or be returned.

The City and County staffs had indicated to the EPA and CDOPH&E in 1995 that this particular property could and would be acquired, though negotiations would take some time. The ability to follow through was a key element in the decision to grant the funds to the Westminster and Jefferson County Open Space programs, rather than to other applicants. While returning a portion of the funds would be straightforward, this alternative would probably not encourage these agencies to work with the City and County in this way in the future.

Another alternative might be to delay a purchase. It is possible that a purchase could be made in the future. However, the Conservation Fund has negotiated an excellent price on behalf of the City and County, and the landowners are motivated to sell if a closing can be scheduled quickly. If the property is not acquired now, it is likely that development of Standley Lake Regional Park in the near future will stir interest in, and drive up land value for this parcel, as this 80 acres could provide home sites with excellent views of the lake and a panorama of open space lands all around it. At this point, one half of the sales price is available from other sources, and with the Fund as a partner, there is a good chance of additional matching funds from GOCO and/or others. A future purchase might be solely at the City's expense.

These alternatives would probably not encourage future "partners" to work with the City toward other Open Space acquisitions, and Staff does not recommend them.

The land proposed for purchase fits the Criteria for the selection of Open Space sites, as required by Ordinance, very well:

- < **AESTHETICS:** This property lies northwest of Standley Lake. Acquisition would protect the natural view corridor both to and from the lake, and preserve views enjoyed from the adjacent arterial streets as well as on the site.
- < **PROTECTION AND PRESERVATION:** This acquisition would provide additional habitat for wildlife. Particular species of interest include the Bald Eagle and Proeble's Meadow Jumping Mouse. By precluding development on this land which drains to Standley Lake, the City's water supply is also protected. Acquisition would connect various public open lands, avoid fragmentation of important wildlife habitat, and provide for a continuous open corridor reaching far to the northwest.
- < **LOCATION:** This purchase would connect existing public open lands, and preserve open views from Standley Lake and from the west edge of the City. Acquisition would provide passive enjoyment for residents of the northwestern part of the City. This corridor has the potential to connect the Westminster system of parks, trails and open space northwest to thousands of acres of open space owned by Broomfield, Jefferson and Boulder Counties, and the City of Boulder. This is perhaps the only area in or near Westminster, where enough Open Space can be assembled to "make visitors feel small, or humble," and to view and understand how much of Colorado appeared to early settlers.
- < **USE POTENTIAL:** This acquisition connects enough open land to allow some native prairie plants and wildlife to sustain themselves. Long walks and horse riding are potential uses, along with enjoying the views, photography or solitude. The proposed acquisition would also protect the Standley Lake watershed.

< **NEED FOR IMMEDIATE ACTION and ACQUISITION CONSIDERATION:** The property is for sale now. The landowners are motivated to sell if a closing can be scheduled quickly. The price is right. If the purchase is not completed quickly, it is likely that the development of Standley Lake Regional Park will drive up interest and land value. At this point, the City has partners and other funding to cover much of the cost of this proposed purchase. The federal funds must either be applied for this use at this location, or returned.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Map

Date: January 12, 1998

Subject: Resolution No. re 96th Avenue Extension

Prepared by: Kevin L. Berryhill, Senior Civil Engineer

Introduction

City Council action is requested to adopt the attached Resolution authorizing acquisition of property interests necessary to construct street improvements for the 96th Avenue Extension Project, through eminent domain proceedings if necessary. Funds for right-of-way acquisitions are available in the appropriate project account in the General Capital Improvement Fund.

Summary

Final design of the 96th Avenue Extension Project is presently under way. There are approximately four properties affected by the project, requiring the acquisition of right-of-way.

The aggressive schedule for the 96th Avenue Extension Project dictates that flexibility be available in meeting the project deadlines.

The attached Resolution allows City Staff to pursue all appropriate activities necessary to acquire right-of-way in the most timely fashion. This includes filing condemnations under the City's right to eminent domain if negotiations with property owners are not successful.

Staff Recommendation

Adopt Resolution No. authorizing City Staff to proceed with acquisition of sufficient rights-of-way and easements for the 96th Avenue Extension Project through proceedings in eminent domain, if necessary.

Background Information

On November 10, 1997, City Council authorized the City Manager to execute a Engineering Design Contract with LONCO, Inc. for final design of the 96th Avenue Extension Project. The complexity of the project requires close coordination with Farmers' High Line Canal and several other agencies and utilities. Critical to the schedule is the acquisition of necessary rights-of-way and easements for the installation of the improvements.

The type and extent of the property interests necessary to accommodate the project improvements are now being developed as part of the final design. The City has contracted with a professional real estate appraiser, experienced in right-of-way acquisition projects, to determine the fair market value of the interests being acquired.

The 96th Avenue Extension Project involves construction of an alternative route (see Exhibit "A") for motorists to use to and from the Westfield (i.e. Wal-Mart) development and will include the widening of Sheridan Boulevard between 96th Avenue and the north boundary line of the Westfield development to provide three "through" lanes in the southbound direction. Approximately 80,000 square feet of right-of-way and additional easement area will need to be purchased from the approximately four separate ownerships which adjoin the project. Once appraisals are complete, the City will contract with a professional acquisitions agent who will begin negotiations with the property owners. The negotiations' objective is to reach agreement with property owners based on the appraisal results. If negotiations cannot be successfully concluded or they threaten the project schedule, it is recommended that the City invoke its right of eminent domain to secure the property rights needed. In part, the attached Resolution authorizes the City Attorney to proceed with condemnation of any or all of the parcels should such negotiations fail. Condemnation is intended only as the last resort, but is sometimes necessary to secure agreement and expedite the project.

An alternative to this approach would be to return to City Council in each case where negotiations have reached an impasse. This is more than the law requires and would require a greater amount of time and effort on the part of Staff and Council to review each case with Council. Staff recommends that the broader approach proposed in this Resolution be taken in order to preserve the project schedule and to allow flexibility in dealing with property owners to secure possession of the parcels in a timely fashion. In some cases, Staff will have the benefit of several opinions on the appropriate right-of-way value from which to base a decision on whether or not to pursue condemnation. Unique conditions would be brought to City Council's attention, if necessary.

This alternative route for motorists is another traffic mitigation strategy funded by the City to ease traffic congestion and provide a more efficient route. With an average of 36,000 vehicle trips per day on Sheridan Boulevard in this area, the alternate route will provide some degree of relief.

The only identified alternative action to the 96th Avenue project is simply to not implement it. This would not provide any degree of mitigation.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

WHEREAS, the City of Westminster has determined that it is necessary to the public health, safety and welfare to acquire certain parcels of land to accommodate the construction of the 96th Avenue Extension Project shown on the attached Exhibit "A"; and

WHEREAS, property appraisals will be prepared by a professional appraisal company experienced in performing appraisals to determine the Fair Market Value of the property rights being acquired in each of the parcels; and

WHEREAS, the City will make an earnest good faith offer to purchase each of the subject parcels; and

WHEREAS, a delay in the acquisition of any of these parcels could result in a delay of the 96th Avenue Extension Project, thus creating a hardship on the general population of the City of Westminster wishing to utilize the proposed project; and

WHEREAS, Legal Counsel for the City of Westminster deems it to be in the best interest of the City to acquire the property by the City's right of eminent domain should normal negotiations fail; and

WHEREAS, the City finds that if acquisition by condemnation of any parcel described in this Resolution is commenced, immediate possession by the City may be necessary for the public health, safety and welfare in order to keep the 96th Avenue Extension Project on the desired schedule.

NOW, THEREFORE, the City Council of the City of Westminster resolves that:

1. The City Manager is hereby authorized to establish minimum just compensation for acquisition of the property interests necessary to build the 96th Avenue Extension Project in the vicinity shown in Exhibit A.
2. City Staff is authorized to proceed with negotiations to acquire the necessary property interests in the vicinity shown on Exhibit A on the basis of the appraised value, or such higher value as is considered just and necessary to facilitate the acquisition and avoid the necessity of condemnation.
3. The City Manager is hereby authorized to acquire such property interests consistent with applicable law, including the execution of all documents necessary to complete these purchases.
4. The City Attorney of the City of Westminster is authorized to take all necessary legal measures to acquire the property interests in question, including proceeding with condemnation of the properties in question against the owner or owners and any other persons or entities claiming an interest therein or thereto, and to take such further action as may be reasonably necessary for or incidental to the filing and diligent prosecution of any litigation or proceedings required to obtain property interests should normal negotiations fail or exceed the time constraints of the overall project. In the event that acquisition by condemnation is commenced, the City Attorney is further authorized to request a grant of immediate possession of the necessary property interests.

5. The City Manager shall be further authorized to incur reasonable costs associated with acquiring the properties in question, including, without limitations, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filing fees and charges and all other related or incidental costs or expenses customarily associated with the acquisition of condemnation of property. The cost shall be charged to the 96th Avenue Extension Project Account of the General Capital Improvement Project Fund.
6. The City Engineer is hereby authorized to call for amendment of the legal descriptions of the parcel interests to be acquired, and the nature of the interests to be acquired, including the commencement date and duration of any temporary easement, if necessary in the course of the project.

Passed and adopted this 12th day of January, 1998.

ATTEST:

Mayor

City Clerk

Date: January 12, 1998

Subject: Resolution No. re DRCOG Urban Growth Boundary Map

Prepared by: Larry Hulse, Projects Coordinator

Introduction

City Council is requested to adopt the attached Resolution which recognizes the Interim Growth Boundary Map developed by the Denver Regional Council of Governments (DRCOG). Adoption of this Resolution will coincide with the application for TIP Funds which are to be submitted on January 26, 1998.

Summary

- > Over the last several years, DRCOG has been working to create and implement its Metro Vision 2020 Plan to guide development to the year 2020 in the Denver metro area. As a part of this plan, DRCOG has accepted an Interim Urban Growth Boundary Map to guide development into the future.
- > As a part of the TIP for the period of 1999 to 2004, points are given to communities which have adopted the Urban Growth Boundary by resolution as a part of their application for federal Intermodal Surface Transportation Efficiency Act (ISTEA) funds. As the ISTEA application process is very competitive for street widenings, Staff recommends adoption so that the community can claim these points in our application.
- > The City intends to apply for ISTEA funds for improvements to Sheridan Boulevard between 113th and 119th Avenues, and to Huron Street between 128th and 136th Avenues.
- > The Interim Urban Growth Boundary includes all of the existing City limits as well as the "future influence areas" identified in the City's Comprehensive Land Use Plan. These influence areas are generally west of the City near Standley Lake and in the north area of the City, west of Huron Street.

Staff Recommendation

Adopt Resolution No. which recognizes the Interim Urban Growth Boundaries established by the Denver Regional Council of Governments.

Background Information

As part of TIP Application process for this year and in order to judge projects on their merits, DRCOG has established point criteria for road widening projects. One of the new areas in which a community can gain points is in the relationship between development patterns and transportation. More specifically, five additional points will be awarded to those communities which have adopted the Urban Growth Boundary Map that was approved by DRCOG on December 17th.

This Growth Boundary is a major part of the Metro Vision 2020 Plan for the metropolitan area. This plan, developed by DRCOG, has been under development for several years, and the concept of a Urban Growth Boundary is one of the core elements of the Plan. The Urban Growth Boundary principle is that urban development should occur within 700 square miles by the year 2020, accommodate the expected population growth and will add 165 square miles to the existing urbanized area. This Urban Growth Boundary would allow the metro area to accommodate a population of 2.8 million people. The Interim Urban Growth Boundary which was adopted by the DRCOG Board, represents about 770 square miles.

Most of the dispute about the Urban Growth Boundary has been with the second tier suburban communities such as Thornton, Broomfield and Arvada. Westminster's growth areas are already limited and defined by the city limits of other communities such as Broomfield, Arvada and Thornton.

Attached is a copy of the City's map submittal for the Urban Growth Boundary of Westminster, which is incorporated within the overall Urban Growth Boundaries established for the metro area.

In order to encourage compliance with the 2020 transportation goals, the TIP applications due January 26, 1998, include points where communities have recognized and adopted the Urban Growth Boundary as approved by DRCOG.

An alternative action for City Council would be to not approve the Urban Growth Boundary. Under this alternative, the City would not gain the automatic five points in its application for the street widening projects which are being submitted. Those projects are Sheridan Boulevard between 113th and 119th Avenues and Huron Street between 128th and 136th Avenues. As the City has cooperated with the Metro Vision process, and as the City's growth areas are contained within the boundary, Staff suggest that this alternative not be pursued.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1998

ADOPTION OF THE DENVER REGIONAL COUNCIL OF GOVERNMENTS
URBAN GROWTH BOUNDARIES

WHEREAS, the Denver Regional Council of Governments (DRCOG) has undertaken the Metro Vision 2020 planning process to develop a comprehensive guide for future development in the Denver Metro Region; and

WHEREAS, the Extent of Urban Development is one of the six core elements of the Metro Vision 2020 Plan, which recognizes the fundamental link between land use, growth, development patterns, transportation and environmental quality which can only be addressed by individual communities working together; and

WHEREAS, the Metro Vision 2020 Plan anticipates that the region can accommodate the expected growth of the region within a 700-square-mile urban area; and

WHEREAS, the DRCOG Board of Directors has accepted an Interim Urban Growth Boundary Map until such time as an Extent of Urban Development Map, which achieves the Metro Vision 2020 goal of 700-square-miles of urban development, is prepared and acted upon by the Board; and

WHEREAS, the Interim Urban Growth Boundary Map will be used by DRCOG to plan for regional infrastructure and implementing other elements of the Metro Vision 2020 Plan; and

WHEREAS, the DRCOG Board of Directors has adopted the "Urban Growth Boundary Flexibility Provisions" as the policy for ensuring flexibility and amendment of the urban growth area; and

WHEREAS, implementation of the Metro Vision 2020 Plan can only be achieved based on voluntary, flexible, collaborative and effective implementation at the local level; and

WHEREAS, an urban growth area map has been prepared by the City of Westminster and has been included in the regional Interim Urban Growth Boundary Map.

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster that the City Council hereby recognizes the DRCOG Interim Urban Growth Boundary Map as a reasonable expectation of the pattern of urban development expected by the year 2020.

BE IT FURTHER RESOLVED that the City of Westminster will consider the DRCOG Interim Urban Growth Boundary Map in staging the comprehensive plan and in other local planning and development activities.

BE IT FURTHER RESOLVED that the City of Westminster will use the flexibility provisions adopted by DRCOG when informing DRCOG of changes in its expected urban growth area.

Passed and adopted this 12th day of January, 1998.

ATTEST:

Mayor

City Clerk

Date: January 12, 1998

Subject: Interim Loan for Ice Centre Project

Prepared by: Bill Walenczak, Director of Parks, Recreation and Libraries
Mary Ann Parrot, Finance Director

Introduction

Council approval is requested for a temporary transfer of \$1 million from the Promenade East Project Account in the General Capital Improvement Fund to the Ice Centre Project Account in the General Capital Improvement Fund, to provide for interim construction funding for the Ice Centre, until permanent financing is issued in March, 1998.

Summary

Staff is proposing that City Council approve a temporary transfer of \$1 million from the Promenade East Project Account to the Ice Centre Project to provide needed cash flows to allow the project to remain on schedule prior to the issuance of lease financing, scheduled for March, 1998.

Because of the unique nature of the Ice Centre project, the financing required, and the size and scope of the project, the timing for the issuance of the financing for this project will be realized in approximately two months. Advance funding is available from other City sources until debt proceeds are available, projected for March, 1998. This will allow for construction to remain on schedule, with a projected opening in September, 1998, thus taking advantage of the fall hockey season.

Staff Recommendation

Authorize the temporary transfer of \$1 million, at no interest cost, from the Promenade East Project Account in the General Capital Improvement Fund, to the Ice Centre Project Account in the General Capital Improvement Fund with repayment to be made to the Promenade East Project Account at such time as the permanent financing for the Ice Centre is completed later in 1998.

Background Information

Staff has identified three reasons for the need to amend the financing calendar for the bond issue (certificates of participation) for the Ice Centre project:

- > The nature of this venture, a partnership between Hyland Hills and the City, is unique to both parties. The Intergovernmental Agreement calls for the City to finance and own the Ice Centre, Hyland Hills to operate it, and at the end of the term, to acquire a 50% ownership in the facility. By its very nature, the IGA is a complex document, and requires the thoughtful and thorough deliberation between staffs and attorneys of the two organizations.

- > Certificates of Participation for the project require the City as lessor, and the Hyland Hills District, as lessee, to agree on a variety of provisions, including pre-payment, default, and other cost and revenue-sharing issues. These would not exist if the Ice Centre were a sole City venture, but such is not the case.
- > The size of the project has grown from \$8 million (two sheets) to \$14 million (three sheets), due to market demand and feasibility. Because of this, earlier plans to issue the bonds on parity with Hyland Hills' other existing debt, have had to be dropped, and alternate financing arrangements have had to be negotiated between the City and Hyland Hills. This has slowed the discussions considerably, as the Board and Council and their respective staffs, have developed, considered and eliminated various arrangements.

It is important to note that if the interim loan is not achieved, the construction of the Ice Centre would not be able to progress on schedule. This in turn would cause the finished facility to miss the Fall, 1998 "window" for hockey leagues and other related ice activities that start in September.

In reviewing the progress of this project, three bond schedules have been produced and revised, to accommodate the necessary deliberations between the City and Hyland Hills. Both parties are confident of successful completion of the IGA, the financing and the construction itself, and have agreed to move ahead with construction. On Monday, December 29, Staffs and attorneys from the two entities reached a "meeting of the minds" on the last components of the final IGA. The agreement will be ready for the two respective governing bodies to review by mid-January. It is reasonable and prudent to advance the funds to keep the project on schedule, and to allow the continuance of the diligence on the parts of both organizations.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 12, 1998

Subject: Resolution No. re Ice Centre Reimbursement

Prepared by: Mary Ann Parrot, Finance Director

Introduction

Council action is required to adopt a "Reimbursement Resolution", in acknowledgement and approval of the City's intent to issue \$14 million in Ice Centre financing, and in acknowledgement and approval of the City's intent to use financing proceeds to reimburse itself for construction costs between now and March, 1998, the date for the issuance of the financing Certificates of Participation (COP's).

Summary

City Council is requested to review and approve the attached resolution regarding Ice Centre Financing and the approval of reimbursement from bond proceeds for City funds advanced from the Promenade East Project Account for construction of the Ice Centre.

The resolution is required by Federal law in order for a municipality to pre-pay construction costs, and subsequently reimburse itself from financing proceeds, once the debt is issued. Staff expects to issue the financing Certificates of Participation (COP's) within the next 60 days.

Staff Recommendation

Adopt Resolution No. approving the Reimbursement Resolution for the Ice Centre, thus acknowledging the intent to issue debt for the Ice Centre, and approving the City's intent to reimburse itself from financing proceeds for the costs of construction underwritten by the City's General Capital Improvement Fund prior to the sale of the debt.

Background Information

Several actions need to be taken prior to issuance of the Ice Centre financing, depending on the timing of the issuance and the construction schedule. One of these actions is for the City Council to adopt a "Reimbursement Resolution". The key provision of this resolution will allow the City to reimburse itself from the proceeds of the financing issue, when sold in March, 1998, for construction costs incurred within the past 60 days. The general terms of the resolution are explained below.

Current Federal law mandates a municipality to pass the Reimbursement Resolution which contains several provisions:

- > an announcement and acknowledgement of the municipality's expectation to issue bonds

- > an announcement and acknowledgement that the municipality will reimburse itself from bond proceeds for construction costs pre-funded through other means, in this case by the City through the Promenade East Project.

Because the Ice Centre project plans and designs are underway, and construction has begun with foundation digging, it is necessary to keep the project on schedule. Staff anticipates the need to spend a total of \$2 million dollars between now and the issuance of Certificates of Participation, projected for late March, 1998.

If this action is not approved, the City cannot reimburse itself from financing proceeds for construction costs, and would underwrite the construction partly from the General Fund, which cost is not currently budgeted.

This action will not impact the negotiations which are underway to finalize the IGA with Hyland Hills, and will not impact the planned financing in any way. In fact, this action will allow the City to proceed with construction, uninterrupted, and allow for the project to proceed smoothly. Moreover, this action does not impede or complicate the upcoming financing in any way, but in fact, facilitates the issuance of the Certificates of Participation, as it allows Staff to continue to move forward with the planned financing without the concern of halting progress on the construction.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO. _____

INTRODUCED BY COUNCILLORS

SERIES OF 1998

ICE CENTRE FINANCING AND REIMBURSEMENT OF COSTS

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF WESTMINSTER TO ISSUE TAX-EXEMPT OBLIGATIONS IN AN APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$14,000,000 TO FINANCE AN ICE CENTRE; AND AUTHORIZING THE OFFICERS, EMPLOYEES AND AGENTS OF THE CITY TO PROCEED AND CONTINUE WITH STEPS PRELIMINARY TO THE ISSUANCE OF SUCH OBLIGATIONS.

WHEREAS, the City of Westminster (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the State Constitution (the "Constitution") and laws of the State of Colorado; and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, the City intends and proposes to issue, tax-exempt obligations (the "Obligations") in an approximate aggregate principal amount of \$14,000,000, in one or more series, to finance an Ice Centre, together with the costs of funding any reserve funds for the Obligations, the costs of securing the Obligations and costs incidental to the authorization, issuance and sale of the Obligations (collectively, the "Project").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, IN THE COUNTIES OF ADAMS AND JEFFERSON, STATE OF COLORADO:

Section 1. All action (not inconsistent with the provisions of this resolution) heretofore taken by the City Council and the officers, employees and agents of the City directed toward the Project and the issuance and sale of the Obligations therefor, is hereby ratified, approved and confirmed.

Section 2. The City intends to issue the Obligations in the approximate aggregate principal amount of \$14,000,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the City prior to the issuance of the Obligations, upon terms acceptable to the City, as set forth in a bond ordinance or resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith.

Section 3. The officers, employees and agents of the City shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by this resolution.

Section 4. The cost of financing the Project will be paid out of the proceeds of the Obligations or other available moneys of the City.

Section 5. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

Section 6. If any section, paragraph, clause or provision of this resolution or the question shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution or the question.

Section 7. All acts, orders and resolutions, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 8. This resolution shall be in full force and effect upon its passage and approval.

Passed and adopted this 12th day of January, 1998.

ATTEST:

Mayor

City Clerk

Date: January 12, 1998

Subject: Financial Advisor Services Contract

Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council approval is requested for the execution of the contract for \$10,000 with James Capital Advisors for their work in assisting with the Ice Centre financing. The contract would be effective immediately, as the project is underway. Funds for this expense will be charged as a cost of issuance as part of the Ice Centre financing.

Summary

Discussions regarding the Ice Centre IGA with Hyland Hills and negotiations between the City and Hyland Hills have been on-going for approximately six months. These discussions have included the City's Financial Advisor, Hanifen-Imhoff, currently under contract with the City until 1999. During these discussions and negotiations, both the City and Hanifen-Imhoff began to recognize a potential conflict of interest arising, because of Hanifen-Imhoff's work with Hyland Hills on their prior bond issues. Hanifen's contract contains language addressing the potential for conflict when the firm acts as both Financial Advisor and Underwriter for the financing.

Staff and Hanifen personnel came together in a meeting in late November, to discuss and resolve the situation. During this discussion, the City and Hanifen-Imhoff agreed to Hanifen's resignation as Financial Advisor on just this financing, and retention of Hanifen as the Underwriter (a separate function).

Staff then discussed the feasibility of hiring James Capital Advisors, Inc., James Manire, President, for this financing. After several discussions, James Manire offered a quote of \$10,000 for this work, to begin immediately. Mr. Manire has the experience and contacts necessary to facilitate the successful packaging of this financing. His fee is reasonable, given comparison to other fee schedules.

Staff Recommendation

Authorize the Finance Director to sign a contract with James Capital Advisor's Inc in the amount of \$10,000 for work as Financial Advisor to the City for the Ice Centre financing.

Background Information

The purpose of a Financial Advisor is separate and distinct from that of an Underwriter, and both functions are widely recognized in the market as valuable and necessary. The Financial Advisor participates in the negotiations surrounding the financing, the structure of the financing, and subsequent decision to market the financing.

The Underwriter participates in developing the marketing plan for the bonds, and buys the bonds, usually selling them to other investors, in many ways acting as the "wholesale" agent to get the bonds to the market, to the retail investors.

In the case of the Financial Advisor, participating in the negotiations between the City and Hyland Hills, several key issues required in-depth negotiations between the City and Hyland Hills, due to the unique character of the Ice Centre venture, and the newness of this financing arrangement to both sides. In addition, Hyland Hills' existing bond covenants presented serious constraints to achieving equity for the City in this financing. Staffs from both organizations came together numerous times over the past six months, starting in earnest in August, 1997, to attempt to solve the issues and move forward with the financing. It was during these meetings that Hanifen staff and City Staff both recognized the difficult position in which Hanifen was placed, as they attempted to serve both clients in a professional manner.

Discussions ensued with Hanifen, and staff from both sides believe the solution recommended above solves the problems dealing with the Ice Centre financing, and preserves the relationship with Hanifen-Imhoff, as intended.

The qualifications of James Capital Advisors, James Manire, President, include:

- > eleven years with Boettcher Securities (merged with Kemper Securities) and Piper-Jaffrey as Financial Advisor and Underwriter
- > experience with Special Recreation District financings, 04ique and complex, and successful financings arranged for several of these entities
- > a statement of capabilities, accompanied by a summary list of projects and Mr. Manire's resume.

The scope of Mr. Manire's contract will include:

- > participating and assisting in the negotiations with Hyland Hills to consummate the Intergovernmental Agreement regarding the Ice Centre Financing
- > participating on the financing team to structure the financing, draft the financing documents and secure adequate insurance, surety bonding, or other credit enhancement for the financing, and to design the marketing for the financing, in coordination with Hanifen-Imhoff
- > attending the negotiations with Hanifen-Imhoff to finalize their fees as Underwriter, and attending the sale of the Certificates of Participation, as a negotiated sale, by Hanifen-Imhoff, anticipated in March, 1998, and evaluating the financing on a post-sale basis, to allow the City to critique its position in the market.

James Capital Advisors is currently the only firm in the State of Colorado which is an independent financial advisor firm. Selecting another firm (combining Financial Advisor and Underwriting functions) would have presented the potential for conflict; in addition, James Capital has credentials and experience relevant to this particular issue. Lastly, because the timing on the financing is imminent, there is no time to draft and circulate an RFP, and review and select an advisor on a competitive basis.

An alternative to hiring an independent Financial Advisor would be to continue without one for this issue. Staff considered this alternative, but is not recommending this approach for the following reasons: the structure of the financing is closely tied to credit enhancement vis-a-vis insurance and surety bond facilities. Securing these is vital to the viability of the financing and is the job of the Financial Advisor. Secondly, the City's best interests in obtaining least-cost financing are served when an independent Financial Advisor is retained to participate on the day of the sale of the issue.

Staff is recommending the retention of James Capital Advisor, Inc., as the ideal solution for the City, maintaining the value of the long-term relationship with Hanifen-Imhoff, at the same time, allowing the City to structure the financing it needs to achieve a successful venture.

Respectfully submitted,

William M. Christopher
City Manager

AGREEMENT
TO FURNISH FINANCIAL ADVISOR SERVICES
TO THE
CITY OF WESTMINSTER
FOR THE ICE CENTRE FINANCING

THIS AGREEMENT, made and entered into this _____ day of _____, 19__ between the CITY OF WESTMINSTER, hereinafter called the "City", and James Capital Advisors, Inc., hereinafter called the "Consultant", is as follows:

WHEREAS, the City wishes to design and assemble a complete financing package for the Certificates of Participation for the Ice Centre financing, and

WHEREAS, the City desires to engage the Consultant to render the professional services as Financial Advisor described in this Agreement and the Consultant is qualified and willing to perform such services; and

WHEREAS, this Agreement is expressly contingent upon the approval of the City of Westminster's City Council of all the terms set forth herein. In the event this Agreement is not approved in its entirety by City Council, neither Party shall be bound to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, the City and the Consultant agree as follows:

I. THE PROJECT

The Project consists of the design and assembly of the financing package for the financing for the Ice Centre, including the negotiations surrounding the Intergovernmental Agreement between Hyland Hills Park and Recreation District and the City of Westminster.

II. CONSULTANT'S SERVICES AND RESPONSIBILITIES

The Consultant will provide the professional and technical Services as described in Appendix A, attached hereto and incorporated herein by this reference.

III. ADDITIONAL SERVICES

When authorized by the City, the Consultant agrees to furnish or obtain from others, additional professional services in connection with the Project due to changes in the scope of the Project or its design, subject to mutual agreement as to additional compensation for additional services.

IV. CONSULTANT'S FEE

As compensation for the basic Services described in this Agreement, the Consultant shall be paid a lump sum fee of \$10,000, which shall constitute full and complete payment for said Services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement. Such fee shall be included in the costs of issuance for the financing, and shall be paid from financing proceeds at the time of settlement.

V. COMMENCEMENT & COMPLETION OF SERVICES

The Consultant understands and agrees that time is an essential requirement of this Agreement. The Services shall be completed as soon as good practice and due diligence will permit.

In any event, the Services shall be completed within six months after the Consultant receives notice to proceed, exclusive of time lost or due to delays beyond the control of the Consultant.

VI. TERMINATION

A. This Agreement may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of a substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party.

B. This Agreement may be terminated by the City for its convenience upon fifteen (15) days prior written notice to the Consultant.

C. In the event of termination as provided in this Article, the City shall pay the Consultant in full for Services performed from the date of notice of termination plus any Services the City deems necessary during the notice period. Said compensation shall be paid upon the Consultant's delivering or otherwise making available to the City all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing the Services included in this Agreement, whether completed or in progress.

VII. INSURANCE

During the course of the Services, the City's policy has been for the Consultant to maintain Workmen's Compensation Insurance in accordance with the Workmen's Compensation laws of the State of Colorado, Professional Liability Insurance in the minimum amount of \$500,000, but in any event sufficient to cover Consultant's liability under paragraph X.D.1. below, Automobile Liability of \$150,000 per person/\$600,000 per occurrence, and Comprehensive General Liability of \$150,000 per person/\$600,000 per occurrence.

The City acknowledges the Consultant does not carry Workmen's Compensation Insurance because he is a sole proprietor, and the Consultant agrees to hold harmless the City regarding claims relating to this insurance.

The City acknowledges the Consultant does not carry Comprehensive General Liability Insurance because he is a sole proprietor, and the Consultant agrees to hold harmless the City regarding claims relating to this insurance.

The City of Westminster acknowledges the Consultant does not own vehicles. Notwithstanding the above, the City acknowledges and accepts Consultant's current auto insurance coverage in \$250,000 per person, \$500,000 per occurrence. Consultant understands and agrees that a lack of insurance coverage does not reduce or eliminate any liability or responsibility herein.

The Consultant shall provide certificates of insurance to the City indicating compliance with this paragraph.

VIII. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disability.

Such actions shall include, but not be limited to the following: employment; upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

IX. PROHIBITED INTEREST

A. The Consultant agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further agrees that in the performance of the Agreement, no person having any such interests shall be employed.

B. No official or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

X. GENERAL PROVISIONS

A. Independent Contractor. In the performance of the Services, the Consultant shall act as an independent contractor and not as agent of the City except to the extent the Consultant is specifically authorized to act as agent of the City.

B. Books and Records. The Consultant's books and records with respect to the Services and reimbursable costs shall be kept in accordance with recognized accounting principles and practices, consistently applied, and will be made available for the City's inspection at all reasonable times at the places where the same may be kept. The Consultant shall not be required to retain such books and records for more than three (3) years after completion of the Services.

C. Ownership of Documents. All documents and the like relating to the Services shall be the joint property of the City and Consultant. Upon completion of the Services, or at such other time as the City may require, the Consultant shall deliver, upon request by the City a complete set of documents and such additional copies thereof as the City may request, corrected as of the date of completion of the Project.

D. Responsibility; Liability.

1. Professional Liability. The Consultant shall exercise in its performance of the Services the standard of care normally exercised by nationally recognized consulting organizations engaged in performing comparable services. The Consultant shall be liable to the City for any loss, damages or costs incurred by the City as a result of any failure of the Consultant to comply with these standards.

2. Indemnification. The Consultant shall indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Services, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph D.2.

In any and all claims against the City or any of its agents or employees by any employee of the Consultant, any subcontractor of the Consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph D.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

In the event it becomes necessary for the City to bring an action to enforce any provision of this Agreement or to recover any damages the City may incur as a result of the breach of this Agreement, including, but not limited to defective work, and the City prevails in such litigation, the Consultant shall pay the City its reasonable attorney fees as determined by the Court.

E. Communications. All communications relating to the day-to-day activities for the Project shall be exchanged between the respective Project representatives of the City and the Consultant who will be designated by the parties promptly upon commencement of the Services.

All other notices and communications in writing required or permitted hereunder shall be delivered personally to the respective representatives of the City and the Consultant set forth below or shall be mailed by registered mail, postage prepaid, return receipt requested to the parties at their addresses shown herein. Notices hereunder shall be effective three (3) days after mailing.

F. Assignment. The Consultant shall not assign this Agreement in whole or in part, including the Consultant's right to receive compensation hereunder, without the prior written consent of the City; provided, however, that such consent shall not be unreasonably withheld with respect to assignments to the Consultant's affiliated or subsidiary companies, and provided, further, that any such assignment shall not relieve the Consultant of any of its obligations under this Agreement. This restriction on assignment includes, without limitation, assignment of the Consultant's right to payment to its surety or lender.

G. Applicable Laws. This Agreement, and all questions concerning the execution, validity or invalidity, capacity of the parties, and the performance of this Agreement, shall be interpreted in all respects in accordance with the Charter and Code of the City of Westminster and the laws of the State of Colorado.

H. Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Services for the Project.

INSURANCE CERTIFICATES REQUIRED BY THIS AGREEMENT SHALL BE SENT TO FINANCE DEPARTMENT, ATTENTION: Mary Ann W. Parrot.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first appearing above.

JAMES CAPITAL ADVISORS INC CITY OF WESTMINSTER

By _____
Title: _____
Address: _____

By _____
Mary Ann W. Parrot, Finance Director
Address:
4800 West 92nd Avenue
Westminster, CO 80030

ATTEST:

ATTEST:

Title: _____

City Clerk

APPROVED AS TO LEGAL FORM

By
City Attorney

APPENDIX A: SCOPE OF PROJECT

James Capital Advisors, Inc., shall perform the following services, in relation to the execution of the contract specified and approved by City Council action on January 12, 1998:

- > participate in the negotiations and completion of the design of the Intergovernmental Agreement (hereinafter called "IGA") between the Hyland Hills Park and Recreation District and the City of Westminster for the Ice Centre Certificates of Participation;
- > participate in the design of the financing for the Certificates of Participation, including the structure of the financing, the coordination of the financing with the terms of the IGA, obtaining insurance and/or surety bonding, or other credit enhancement, as deemed necessary by the financing team of the City (defined herein as City Manager, City Attorney(s), Finance Director, Director of Parks and Recreation, and Bond and Disclosure Counsels);
- > participate in the negotiations of the Underwriting fees with Hanifen-Imhoff, the City's underwriter for this issue, and coordinate the marketing plan and financial structure of the financing with Hanifen-Imhoff, as necessary for a successful marketing;
- > attend the sale of the financing, and prepare a post-marketing analysis of the financing; attend the closing of the financing and participate in activities as needed relating to the sale and closing.

Date: January 12, 1998

Subject: Resolution No. re Private Activity Bonds Allocation

Prepared by: Mary Ann Parrot, Finance Director
John Carpenter, Community Development Director

Introduction

City Council approval is requested to commit the 1998 Private Activity Bond Allocation of \$2.32 million to Westminster Economic Development Authority (the "Authority" or "WEDA"), to enable the conversion of taxable bonds for WEDA to tax-exempt bonds for WEDA, thus reducing interest costs over the life of the issue by approximately \$87,200 per year.

Summary

City Council is asked to consider committing the Private Activity Bond (PAB) Allocation for 1998 and 1999, to Westminster Economic Development Authority (WEDA). This action will reduce the interest rate on the \$2,323,000 of WEDA bonds by approximately 2%, thus saving an estimated \$87,200 in interest payments on an annual basis.

Staff Recommendation

Adopt Resolution No. allocating the 1998 Private Activity Bond Allocation to the Westminster Economic Development Authority, for use in converting the taxable bonds to tax-exempt.

Background Information

On an annual basis, the State of Colorado releases the listing of allocation of the Federal private activity bonds which the US Government allows to be issued annually. The Federal Government allocates limited capacity to issue tax-exempt bonds for private activity to each state. Each state then allocates their portion across the cities and towns using a population-based formula. For 1998, the City of Westminster received preliminary approval for \$2,323,000, an amount which was approved in final form on December 28, 1997.

In addition to the above, City Council and the Westminster Economic Development Authority approved, on December 15, 1997, the sale of \$6.46 million in Westminster Economic Development Authority (WEDA) Bonds, for the purpose of redevelopment of the Westminster Plaza in South Westminster, a priority initiative for over ten years.

The bonds issued were a mix of tax-exempt and taxable bonds because the project is basically a "private activity", or an initiative considered to be a corporate activity according to interpretation of Federal tax laws. For this reason, the City used its 1997 Private Activity Bond Allocation of \$2.1 million to issue tax-exempt bonds for WEDA.

The remainder of the bonds (\$3.46 million) issued were taxable. Staff has recommended to Council that these taxable bonds be converted as soon as possible, in order to realize the lower interest costs of approximately \$87,000 per year.

In order to convert the taxable to tax-exempt, the City will need to commit its Private Activity Bond Allocation from the State of Colorado, to this conversion. With Council's concurrence, staff will pursue the following actions:

- > Convert \$2.345 million of taxable bonds to tax-exempt bonds in mid-January, 1998. This amount is comprised of the 1998 allocation of \$2.323 million plus left over allocation from the 1997 WEDA allocation of \$.22 million, for a total of \$2.345 million. This leaves a remaining piece of \$2.015 million in taxable bonds, which can be converted at a later date.
- > Apply to the State of Colorado in 1998 for any unused allocation in an effort to convert the remaining balance of \$2.015 million in 1998.
- > If conversion is not possible in 1998, use the 1999 allocation, subject to City Council approval, to convert the balance of \$2.015 million to tax-exempt.

It is recommended that City Council approve the resolution designating the 1998 Private Activity Bond Allocation for use in converting taxable WEDA bonds to tax-exempt bonds. This resolution does not include any reference to the 1999 allocation since the designated use for 1999 will be delayed until that year, if needed.

Alternative options to designating the 1998 PAB to the WEDA taxable bonds would be to: (1) withhold the desired designation and take a "wait and see" approach on how best to use the \$2.3 million PAB allocation or (2) designate it for a future economic development prospect or (3) earmark the allocation for future senior housing or combine the City's allocation with other entities to provide financing for affordable single family homes purchases. None of these four options would achieve the desired reduced interest costs for the WEDA bonds. While these alternative options each have merit and their own advocates, it is recommended to use the allocation on the WEDA bonds.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

RESOLUTION

RESOLUTION NO. _____

INTRODUCED BY COUNCILLORS

SERIES OF 1998

PRIVATE ACTIVITY BOND ALLOCATION TO WEDA

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF WESTMINSTER TO ISSUE BONDS IN AN APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$2,323,000 TO FINANCE A QUALIFIED REDEVELOPMENT PROJECT; AND AUTHORIZING THE OFFICERS, EMPLOYEES AND AGENTS OF THE CITY TO PROCEED AND CONTINUE WITH STEPS PRELIMINARY TO THE ISSUANCE OF SUCH BONDS.

WHEREAS, the City of Westminster (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the State Constitution (the "Constitution") and laws of the State of Colorado; and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, pursuant to the Private Activity Bond Ceiling Allocation Act, Title 24, Article 32, Part 17, of Colorado Revised Statutes (the "Allocation Act"), the City has been allocated private activity bond "volume cap" for 1998 in the amount of \$2,323,000; and

WHEREAS, the Westminster Economic Development Authority ("WEDA") issued its Taxable Convertible Tax Increment Adjustable Rate Revenue Bonds (Westminster Plaza Urban Renewal Project) Series 1997B (the "Bonds") in the aggregate original principal amount of \$4,360,000, to finance qualified redevelopment purposes (the "Project") as described in Section 144(c) of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, in order to lower the interest expense to be paid by WEDA, the City desires to assign its 1998 volume cap in the amount of \$2,323,000 to WEDA to use to convert a portion of the Bonds to Tax-Exempt Tax Increment Adjustable Rate Revenue Bonds (Westminster Plaza Urban Renewal Project) Series 1997A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, IN THE COUNTIES OF ADAMS AND JEFFERSON, STATE OF COLORADO:

Section 1. All action (not inconsistent with the provisions of this resolution) heretofore taken by the City Council and the officers, employees and agents of the City directed toward the Project and the issuance and sale of the Bonds therefor, is hereby ratified, approved and confirmed.

Section 2. The City hereby assign its 1998 volume cap in the amount of \$2,323,000 to WEDA to use to convert a portion of the Bonds to Tax-Exempt Tax Increment Adjustable Rate Revenue Bonds (Westminster Plaza Urban Renewal Project) Series 1997A.

Section 3. The officers, employees and agents of the City shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by this resolution, including without limiting the generality of the foregoing, the following:

- (i) notifying the Colorado Department of Local Affairs of the assignment of its initial 1998 allocation of private activity bond volume cap to WEDA for the Project;
- (ii) executing a form of assignment of its initial 1998 allocation of private activity bond volume cap to WEDA in a form satisfactory to the Colorado Department of Local Affairs;
- (iii) obtaining (to the extent necessary) an additional share of the allocation for 1998 allotted to the State of Colorado pursuant to Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"); and
- (iv) electing to carry forward any unused private activity bond volume cap allocation for 1998 pursuant to Section 146(f) of the Code.

Section 4. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

Section 5. If any section, paragraph, clause or provision of this resolution or the question shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution or the question.

Section 6. All acts, orders and resolutions, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 7. This resolution shall be in full force and effect upon its passage and approval.

Passed and adopted this 12th day of January, 1998.

ATTEST:

Mayor

City Clerk

Date: January 12, 1998
Subject: Fuel Tank Upgrades
Prepared by: Frank J. Grasmugg, Fleet Manager

Introduction

City Council approval is being requested to authorize an expenditure of \$79,800 with E.T. Technologies for the purpose of upgrading the fuel storage sites at the Big Dry Creek Wastewater Reclamation Facility and the removal of underground storage tanks at the Municipal Service Center Fleet Facility and the Police Building. Funds for this expense are available in the 1998 General Capital Improvement Fund to be supplemented with carryover from the 1997 Fleet Maintenance Budget for this purpose.

Summary

In April 1997, City Staff sent out Requests for Proposal for fuel tank work at various City facilities. With the return of three responses, it was determined that E.T. Technologies, Inc. was the most reasonably priced firm capable of completing the required work. However, sufficient funds were not available in the 1997 budget for the complete project, so the awarding of the contract was delayed until additional dollars were made available in the 1998 Capital Improvement Program. Staff proposes to charge the expense for the project to the 1998 operating and capital project budgets and then reimburse the 1998 operating fund when the 1997 carryover balance from the Fleet Maintenance budget is acted on later this year.

The necessary work includes removal of three 1,000 gallon underground storage tanks at the Municipal Service Center Fleet Facility. These tanks, normally used to store oils, have been replaced with smaller quantity above ground storage tanks and are no longer needed.

Work is also to include the removal of two 10,000 gallon underground fuel storage tanks at the Big Dry Creek Wastewater Reclamation Facility and the replacement of those tanks with one above ground 6,000 gallon split fuel storage tank.

Additionally, the Request for Proposal also included the removal of an existing 500 gallon underground storage tank at the Police Building that supplies the emergency generator.

All of this work is necessary to remain in compliance with EPA regulations relative to underground storage tanks that take effect in December, 1998.

Staff Recommendation

Authorize an expenditure of \$79,800 to E.T. Technologies, Inc. for the completion of fuel tank upgrade work at Big Dry Creek Wastewater Reclamation Facility and the removal of underground storage tanks at the Municipal Service Center Fleet Facility and the Police Building, and charge the expenditures to the appropriate accounts in the 1998 Fleet operating budget and the 1998 General Capital Improvement Fund.

Background Information

By December, 1998, certain upgrades to underground fuel storage tanks will be necessary to be in compliance with EPA regulations. Those EPA regulations require underground storage tanks be fitted with elements such as spill protection, overflow protection and leak detection. Upgrades to the City's underground storage tanks at the Municipal Service Center were completed in 1996. To bring the City into compliance with the EPA regulations, it is necessary to perform certain work at remaining sites within the City. Those sites are the Big Dry Creek Wastewater Reclamation Facility, the Municipal Service Center Fleet Facility, and the Police Building.

The work necessary at the Big Dry Creek Wastewater Reclamation Facility includes the removal of two existing 10,000 gallon underground storage tanks and a replacement of those tanks with above ground storage tanks of the concrete vault variety. The new above ground storage tanks will meet the EPA upgrade requirements. The tanks will also be shielded on three sides by a brick wall matching the existing facility.

At the Municipal Service Center Fleet Facility, compliance with the EPA regulations will most easily be accomplished by the removal of three underground storage tanks, each 1,000 gallons, that had in the past been used for motor oil, automatic transmission oil and antifreeze. These tanks have been replaced by smaller quantity above ground storage tanks.

At the Police Building, there currently exists an underground storage tank of 500 gallons that supplies the emergency generator in the event of loss of electrical power to the Police facility. Rarely has more than 50 gallons of fuel a year been used at the Police Building in the routine maintenance and operation of that emergency generator making the 500 gallon underground storage tank unnecessary. To accommodate the removal of the underground storage tank, a large above ground storage tank is to be added to the Police generator pad to allow for 24+ hours of operation for the emergency generator.

In April 1997, Requests for Proposals for the required work were sent out to various environmental construction firms. Responses came back from Kubat Equipment, Eaton Metal Products Co., and E.T. Technologies, Inc. The total bid amounts and the bids for selected portions of the total bid were as follows:

Vendor	Total Bid	Selected Item Bid
E.T. Technologies Inc.	88,800	\$ 79,800
Eaton Metal Products Co.	90,493	Not provided
Kubat Equipment	\$104,239	\$ 90,401

Of the three responses to the Request for Proposal, E.T. Technologies Inc. came in with the most reasonable response. The amount requested for Council authorization, \$79,800, is for selected elements of the bid response from E.T. Technologies Inc. Not only is E.T. Technologies Inc. the most reasonably priced, it was concluded that they are well suited to performing the necessary work.

Given that sufficient funds were not available in the 1997 Budget to complete the project, the work was delayed until after sufficient additional dollars were approved as part of the 1998 General Capital Improvement Fund Budget. With these combined funding sources, sufficient dollars are available to complete the projects described above. In order to proceed with the project new, 1998 Fleet Operating Fund dollars will be used. These funds will be reimbursed by 1997 carryover dollars which Council will be asked to approve later this year.

Completion of this work and these upgrades will bring to conclusion a project started by Fleet Maintenance in 1992 to reduce the City's liability associated with underground storage tanks. Since that time, underground storage tanks have been removed from the Hydropillar, the old Parks Shop, the Westminster Sports Complex and Fire Station #1.

The breakdown of funding sources is as follows: \$39,800 from the Fleet Division Operating Budget and \$40,000 from the General Capital Improvement Fund project account.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 12, 1998

Subject: Transfer of Records Specialist Position to Municipal Court

Prepared by: Janice Kraft, Support Services Manager and Julia Hume, Court Administrator

Introduction

City Council action is requested to transfer a new Records Specialist position, from the Police Department with associated budgeted funds to the Municipal Court and reclassify the position to Deputy Court Clerk.

Summary

A new Records Specialist position was funded in 1998 for the Police Department to process municipal warrants through the Colorado Crime Information Computer (CCIC) system. After further consideration and evaluation, Staff has determined that assignment of this position to the Municipal Court would refine the processing of warrants, make the system more efficient and timely, and directly align the position to the operation responsible for the municipal warrants. The duties and responsibilities of the position would remain the same as previously approved by City Council.

Recommendation

Authorize the transfer of the new Records Specialist position and the funds budgeted for this position from the Police Department to the Municipal Court with the position to be reclassified to Deputy Court Clerk.

Background Information

The approved 1998 budget included a 1.0 FTE Records Specialist for the Police Department to meet the demands of municipal warrant processing.

The Westminster Municipal Court will issue a warrant for an individual for such violations as failure to appear for a scheduled court date, failure to pay a fine, or failure to comply with a court order.

An actual warrant is printed and then hand delivered to the Westminster Police Department for entry into the Colorado Crime Information Computer (CCIC) system. CCIC is the computer network accessed by all law enforcement agencies in the State of Colorado to determine if a subject has a warrant outstanding for his/her arrest. There are approximately 15,000 Westminster Municipal Court warrants in the CCIC system.

Preparation of these warrants, entry into CCIC, confirmation to other law enforcement agencies, and cancellation upon arrest or surrender averages approximately 80 hours of employee work time a week. The process is cumbersome, not very timely and has several built in potential failure points.

Paperwork is hand delivered or faxed back and forth between the Municipal Court and the Police Department. There can be a delay of several days to a week between when the warrant is issued and when it is finally entered into the CCIC system. It is not uncommon for a warrant to be issued and the subject arrested before the warrant ever reaches the Police Department or is entered into CCIC. The City has experienced situations of an individual being arrested for a warrant that he/she had previously taken care of at the Municipal Court, but paperwork was delayed or lost enroute from the Court to the Police Department. With the current system there exists great liability and potential lawsuits for false arrest.

Additionally, the Police Department was recently certified on the new method of reporting crimes to the State of Colorado and the Federal Bureau of Investigation. The National Incident Based Reporting System (NIBRS) requires an increase in computer report entry time and detail. This increase has made a significant impact on the workload of the Police Records Section.

Staff from the Police Department and the Municipal Court evaluated options for streamlining the current warrant process and determined that little or no change could be made to enhance the efficiency. Due to the remote location of the Municipal Court to the Police Department and the fact that both have computer systems that are not interfaced, paperwork must continue to be relayed back and forth between them.

A new 1.0 FTE position was approved by City Council in the Police Department budget for the purpose of handling increased workloads and demands of the warrant process. Subsequent to budget approval, Staff determined that the responsibility for warrants truly belongs to the Municipal Court and this position is better defined as a Deputy Court Clerk. The Police Department will continue to have involvement in this process as Records will be responsible for confirmation and after-hours cancellation of warrants since the Municipal Court is open only during normal business hours.

Alternatives

Retain the new 1.0 FTE position as a Records Specialist in the Police Department and continue processing the warrants as it is currently done.

Respectfully submitted,

William M. Christopher
City Manager

Date: January 12, 1998

Subject: Title V, Procedures for denial, non-renewal, suspension, or revocation of licenses.

Prepared by: Sharon Widener, Assistant City Attorney

Introduction

City Council action is requested to pass on first reading, the proposed amendments to Title V, revising the procedures for the denial, non-renewal, suspension, or revocation of licenses.

Summary

Various sections of Chapters Two through Twenty-two of Title V will be amended, especially those sections dealing with the denial, non-renewal, suspension, and revocation of various licenses required by the City. A generally consistent procedure will be established: denials of licenses may be appealed to the Special Permit and License Board; where it is proposed that a license be denied renewal, suspended, or revoked, notice of the requested action must be furnished the licensee and a hearing conducted by the Special Permit and License Board where the licensee can be heard. This procedure will be generally consistent for the various types of licenses and will comply with the requirements of due process of law, notice and opportunity to be heard.

Staff Recommendation

Pass Councillor's Bill No. on first reading amending Title V to provide that license denials may be appealed to the Special Permit and License Board and non-renewals, suspensions, and revocations of existing licenses will heard by the Special Permit and License Board.

Options:

1. The present system may be retained. This option is not recommended because some current procedures may be vulnerable to challenge as violations of due process.
2. Hearings and appeals could be conducted by a hearing officer hired for the specific appeal or hearing, instead of the Special Permit and License Board.
3. Hearings could be conducted by the Special Permit and License Board or a hearing officer, with an appeal to City Council prior to any Court action. If this option is favored, Staff should be directed to bring specific procedures for conduct of appeals to the Council for adoption.

Background Information

Title V of the Westminster Municipal Code provides for licensing and permits for a variety of subjects including business licenses, licenses and registration for occupations such as security guards and contractors, and public entertainment entities such as amusement machine centers and dance halls, as well as diverse businesses such as massage parlors and day care centers. While reviewing a particular chapter of this title, it came to Staff's attention that the various chapters concerning various licenses are inconsistent with each other, sometimes contradictory, and incomplete when dealing with the procedures to be used for issuing or denying licenses, renewing them, or taking action to suspend or revoke them. While some inconsistencies are to be expected because of the varied nature of the licenses, some of the problems noted will make it difficult to fairly and efficiently take action concerning the licenses if such action is needed.

For example, some licenses, such as dance hall licenses, may be revoked after action by the Special Permit and License Board, while others, such as business licenses, may be revoked by the City Manager; escort services licenses are issued by the Special Permit and License Board after public hearing while sales tax licenses are issued by the Finance Director. More important, the procedures established for revoking a license may be vulnerable to challenge with regard to compliance with due process of law, or the procedures state that an appeal may be heard by City Council, but provide no guidance on how such an appeal is to be conducted. Chapter One establishes general rules and procedures but some of the license provisions conflict with the broader provisions of Chapter One.

Staff anticipates a thorough review and revision of Chapter One at a later time. The present ordinance includes revisions to Chapters Two through Twenty-two as needed for better compliance with due process and consistent practice.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1998 INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE V OF THE WESTMINSTER MUNICIPAL CODE, PROCEDURES FOR DENIAL, NON-RENEWAL, SUSPENSION, OR REVOCATION OF LICENSES.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title V of the Westminster Municipal Code is hereby amended to read as follows:

CHAPTER 2 - BUSINESS LICENSES

5-2-5: LICENSE DENIAL, CANCELLATION, NON-RENEWAL, SUSPENSION OR REVOCATION:

(A) A license may be denied, cancelled, DENIED RENEWAL, suspended or revoked ~~by the City Manager~~ for ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, OR FOR any reason set forth in Chapter 1 of this Title.

~~(B) An applicant may appeal a denial or a licensee may appeal a proposed cancellation, suspension or revocation of a license to the City Council pursuant to Chapter 1 of this Title.~~

(B) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED ON THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(C) ANY OF THE FOLLOWING CIRCUMSTANCES MAY BE CONSIDERED CAUSE FOR DENIAL OF A LICENSE:

(1) THE REQUIRED FEES HAVE NOT BEEN PAID.

(2) THE APPLICATION IS INCOMPLETE OR CONTAINS FALSE, MISLEADING, OR FRAUDULENT STATEMENTS.

(3) NONCONFORMANCE OF THE BUSINESS, PREMISES, BUILDING, OR LAND USE WITH THIS CODE.

(4) ANY REASON STATED IN SECTION 5-1-5 OF THIS CODE.

(D) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE CITY MANAGER, FOR THE REASONS LISTED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(E) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(F) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(G) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

CHAPTER 3 - HOME OCCUPATION LICENSE

5-3-3: LICENSE APPLICATION AND ADMINISTRATION:

(B) All home occupation licenses issued pursuant to this Chapter shall expire on December 31st of the year issued. An application for renewal of a home occupation license shall be filed with the City Clerk. In the event a suspension or revocation proceeding is pending when a license renewal application is filed, the application shall not be acted upon until the decision is issued. RENEWAL OF A LICENSE MAY BE DENIED AS PROVIDED BELOW.

5-3-5: LICENSE DENIAL, CANCELLATION, DENIAL OF RENEWAL, SUSPENSION OR REVOCATION:

(A) A license may be denied, cancelled, DENIED RENEWAL, suspended or revoked ~~by the City Manager~~ for ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, OR FOR any reason set forth in Chapter 1 of this Title. Grounds for such action may also include:

(1) Nonconformance of the premises to the requirements of this Code;

(2) Nonconformance of the occupation or of the applicant or licensee with the limitations specified in Section 11-4-10 of this Code.

~~(B) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license to the City Council pursuant to Chapter 1 of this Title.~~

(B) ANY OF THE FOLLOWING CIRCUMSTANCES MAY BE CONSIDERED CAUSE FOR DENIAL OF A LICENSE:

(1) THE REQUIRED FEES HAVE NOT BEEN PAID.

(2) THE APPLICATION IS INCOMPLETE OR CONTAINS FALSE, MISLEADING, OR FRAUDULENT STATEMENTS.

(3) NONCONFORMANCE OF THE BUSINESS, PREMISES, BUILDING, OR LAND USE WITH THIS CODE.

THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(C) A LICENSE MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE.

(D) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING, AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE APPLICANT OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(E) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(F) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(G) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

CHAPTER 4 - SALES AND USE TAX LICENSE

5-4-4: LICENSE APPLICATION AND ADMINISTRATION:

(B) An application for renewal shall be filed with the City Clerk.

Licenses shall be in effect for one year and shall be ~~automatically~~ renewed upon renewal of the Business License or Home Occupation License, or upon completion of a license renewal request. RENEWAL OF A LICENSE MAY BE DENIED AS PROVIDED BELOW.

5-4-5: LICENSE DENIAL, CANCELLATION, OR REVOCATION:

(A) A license may be denied for any reason stated in Chapter 1 of this Title, ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, OR AS LISTED BELOW. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(1) THE REQUIRED FEES HAVE NOT BEEN PAID.

(2) THE APPLICATION IS INCOMPLETE OR CONTAINS FALSE, MISLEADING, OR FRAUDULENT STATEMENTS.

(3) NONCONFORMANCE OF THE BUSINESS, PREMISES, BUILDING, OR LAND USE WITH THIS CODE.

(B) The Finance Director may cancel any license:

(1) Upon receipt of a written notice that the taxpayer is no longer engaged in business in the City;

(2) Upon the taxpayer's failure to respond to three consecutive notices of delinquency. The Finance Director shall give notice to the taxpayer that the license has been cancelled.

~~(C) The Finance Director may, after a reasonable notice and public hearing, issue a finding and order to revoke the license of any person found to have violated any provision of Title IV of this Code.~~

~~(D) Any person may appeal a finding and order revoking their license to District Court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedures.~~

(C) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE.

(D) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING, AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE APPLICANT OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(E) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE FINANCE DIRECTOR, UPON THE GROUNDS LISTED IN CHAPTER 1 OF THIS TITLE OR AS STATED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(F) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(G) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(H) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(E)~~(I) No taxpayer shall continue engaging in business in the City after their license has been cancelled or revoked.

~~(F) Adverse action against a license, hearings and appeals shall be conducted pursuant to Title IV of this Code.~~

CHAPTER 5 - CONTRACTOR'S REGISTRATION

5-5-6: RENEWAL: All registrations shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. RENEWAL MAY BE DENIED PURSUANT TO THE PROVISIONS BELOW.

5-5-7: ~~LICENSE~~ REGISTRATION DENIAL, CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, AND REVOCATION:

(A) The City Manager may suspend or revoke any registration for unskillfulness, carelessness or willful violation of ~~his~~ THE CITY MANAGER'S directions by a registered contractor, AFTER NOTICE AND HEARING AS PROVIDED BELOW.

(B) A REGISTRATION MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE REGISTERED CONTRACTOR.

(C) A REGISTRATION MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE CONTRACTOR HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING, AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE CONTRACTOR OR MAILED TO THE ADDRESS CONTAINED IN THE REGISTRATION, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(D) AN APPLICATION FOR A NEW REGISTRATION MAY BE DENIED BY THE CITY MANAGER, UPON THE GROUNDS LISTED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(E) A REGISTRATION MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(F) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW REGISTRATION OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(G) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(B) A registration may be denied, cancelled, suspended or revoked by the City Manager for any reason set forth in Chapter 1 of this Title.~~

~~(C) An applicant may appeal a denial or a registrant may appeal a cancellation, suspension or revocation of a registration to the City Council pursuant to Chapter 1 of this Title. The City Council may delegate any hearing to another decision maker who holds the necessary expertise to determine the appeal and make a recommendation to the City Council.~~

CHAPTER 6 - PEDDLERS AND SOLICITORS

5-6-10: ENFORCEMENT; LICENSE DENIAL, SUSPENSION, CANCELLATION, OR REVOCATION:

(C) A LICENSE MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE.

(D) A LICENSE MAY BE CANCELLED, DENIED RENEAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(E) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE CITY MANAGER, UPON THE GROUNDS LISTED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(F) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(G) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(H) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(C) A peddler's or solicitor's license may be cancelled, suspended or revoked by the City Manager for any reason set forth in Chapter 1 of this Title.~~

~~(D) Any notice may be served personally on a licensee and any notice required to be posted at the licensee's place of business shall be instead mailed to the licensee at the licensee's last known address.~~

~~(E) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license to the City Council pursuant to Chapter 1 of this Title.~~

CHAPTER 7 - SOLID WASTE COLLECTION

5-7-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:

(A) A license may be denied, cancelled, DENIED RENEWAL, suspended or revoked ~~by the City Manager~~ FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER OR for any reason set forth in Chapter 1 of this Title OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE.

(B) A license may be suspended or revoked on the grounds of repeated violations of this Code.

(C) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(D) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE CITY MANAGER, UPON THE GROUNDS LISTED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(E) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(F) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(G) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(C) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license to the City Council pursuant to Chapter 1 of this Title.~~

CHAPTER 8 - PAWNBROKERS

5-8-6: LICENSE DENIAL, SUSPENSION, CANCELLATION OR REVOCATION:

(A) A LICENSE MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE.

(B) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(C) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE CITY MANAGER, UPON THE GROUNDS LISTED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(D) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(E) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(F) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(A) A license may be denied, cancelled, suspended or revoked by the City Manager for any reason set forth in Chapter 1 of this Title.~~

~~(B) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license to the City Council pursuant to Chapter 1 of this Title.~~

CHAPTER 9 - AMUSEMENT CENTERS

5-9-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:

~~(A) A license may be denied for any reason set forth in this Chapter or Chapter 1 of this Title.~~

~~(B)~~ (A) Upon the motion of ~~the City Manager or, upon its own motion,~~ the Special Permit and License Board may cancel, suspend or revoke any license at any time on the grounds that it is:

(1) Detrimental to the public health, safety or welfare due to the location of the amusement center,

(2) Because of the proximity of said location to schools, churches, or other places where the public may congregate,

(3) Based on the criteria set forth in section 5-9-2(A)(8), or

(4) Based on violation of the provisions of this Code or any other law.

(5) BASED ON THE PROVISIONS OF CHAPTER 1 OF THIS TITLE.

(B) A LICENSE MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE.

(C) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(D) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE SPECIAL PERMIT AND LICENSE BOARD, UPON THE GROUNDS LISTED ABOVE.

(E) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(F) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT ALL HEARINGS PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(G) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(C) A license shall be denied, cancelled, suspended or revoked only after the licensee has been given notice, unless summary suspension is permitted by law, and a hearing has been held, if requested by the licensee pursuant to Chapter 1 of this Title.~~

~~(D) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license pursuant to Chapter 1 of this Title.~~

(H) Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title IX of this code and the license of said premises shall be revoked.

CHAPTER 13 - SECURITY GUARDS

5-13-5: INVESTIGATION AND ISSUANCE:

(A) Upon receipt of an application filed pursuant to this Chapter, the City Manager or his designee shall review the application, refer the application to the Chief of Police for review, and within thirty (30) days shall either issue or deny the license. The thirty (30) day period shall not begin to run until all information required under this Chapter has been submitted.

(B) Any of the following circumstances may be considered cause for denial of a license:

- (1) The applicant is under twenty one (21) years of age;
- (2) The applicant was convicted of a felony within ten (10) years immediately preceding the date of application;
- (3) The applicant was convicted of a misdemeanor or ordinance violation involving moral turpitude or violence within five (5) years immediately preceding the date of application;
- (4) The applicant has failed to comply with any of the provisions of this Chapter;
- (5) The applicant's character and reputation is not satisfactory to the City Manager.
- (6) The applicant does not have the basic skills to speak and to comprehend the spoken English language as determined by the City Manager or his designee.
- (7) THE REQUIRED FEES HAVE NOT BEEN PAID.
- (8) THE APPLICATION IS INCOMPLETE OR CONTAINS FALSE, MISLEADING, OR FRAUDULENT STATEMENTS.
- (9) NONCONFORMANCE OF THE BUSINESS, PREMISES, BUILDING, OR LAND USE WITH THIS CODE.
- (10) ANY REASON STATED IN CHAPTER 1 OF THIS TITLE.

(C) Upon review and approval by the City Manager or his designee, and payment of the required fee, the Security Guard business license shall be issued. THE APPLICATION FEE PAID FOR ANY LICENSE SHALL BE NONREFUNDABLE.

~~(D) If an application is denied, the applicant shall be notified of the denial and the grounds therefor in writing. The application fee paid for any license shall be nonrefundable.~~

~~(E)~~(D) The grounds specified for denial in this Section shall apply to individual applicants, as well as directors, officers or general partners of any applicant.

5-13-7: RENEWAL: All security guard business licenses issued pursuant to this chapter, shall expire on December 31st of the year in which the license was issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. RENEWAL MAY BE DENIED AS PROVIDED BELOW.

5-13-8: LICENSE DENIAL, SUSPENSION, CANCELLATION, NON-RENEWAL, OR REVOCATION:

(A) A license may be denied, cancelled, DENIED RENEWAL, suspended or revoked by the City Manager for ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.

(B) A license shall MAY be ~~denied~~, cancelled, DENIED RENEWAL, suspended or revoked ~~only~~ after the licensee has been given notice AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING. THE NOTICE SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

~~unless summary suspension is permitted by law, and a hearing has been held, if requested by the licensee pursuant to Chapter 1 of this Title.~~

(C) AN APPLICATION FOR A NEW LICENSE MAY BE DENIED BY THE CITY MANAGER OR DESIGNEE, UPON THE GROUNDS LISTED ABOVE. THE APPLICANT MAY APPEAL A DENIAL TO THE SPECIAL PERMIT AND LICENSE BOARD, UNLESS THE REASON FOR THE DENIAL IS AN INCOMPLETE APPLICATION, NONCONFORMANCE WITH PROVISIONS OF THIS CODE SUCH AS ZONING OR THE BUILDING CODE, OR FAILURE TO PAY REQUIRED FEES. THE REASON FOR THE DENIAL OF THE APPLICATION SHALL BE PROVIDED TO THE APPLICANT IN WRITING.

(D) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(E) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(F) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(C) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license to the City Council pursuant to Chapter 1 of this Title.~~

CHAPTER 15 - MASSAGE PARLORS

5-15-6: RENEWAL:

(A) All licenses issued pursuant to this Chapter shall expire December 31st of the year for which issued unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees, UNLESS RENEWAL IS DENIED AS PROVIDED BELOW.

~~(B) The City Council shall consider the application to renew a massage parlor license and shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications. The City Council may cause a hearing on the application for renewal to be held.~~

~~At the direction of the City Council, the hearing may be conducted by the Special Permit and License Board. Publication, posting and notice requirements shall be the same as for a hearing on an original application. A license to render services as a massage therapist shall be renewed by the City Manager if the applicant qualifies as a massage therapist pursuant to Section 5-15-2(F) and a criminal history check reveals no drug or prostitution related convictions. The city Manager may deny a renewal of a license to render services as a massage therapist if the applicant has committed prior violations of this Chapter.~~

5-15-7: LICENSE DENIAL, DENIAL OF RENEWAL, SUSPENSION, OR REVOCATION:

~~(A) The City Council may for good cause, on its own motion or after receipt of a complaint, deny, suspend or revoke a license issued pursuant to this Chapter. Publication, posting and notice requirements shall be the same as for a hearing on an original application.~~

(A) A LICENSE MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE, ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE, OR ANY OF THE FOLLOWING:

~~Cause for denial, suspension or revocation shall include, but not be limited to the following:~~

- (1) The issuance would be detrimental to the public health, safety, or welfare due to the character, reputation, or moral integrity of the applicant;
- (2) The character of the applicant or licensee, or its officers, directors, or partners is such that a violation of this Chapter would be likely to result if a license were granted;
- (3) The licensed premises have been inactive for at least three (3) months;
- (4) Violation by the licensee or by any of its agents, servants, or employees of state law or of this Code;
- (5) For any cause specified by law.

~~(B) A license shall be denied, cancelled, suspended or revoked only after investigation, notice to the licensee, and a hearing has been held, if requested by the licensee, pursuant to Chapter 1 of this Title. At the direction of the City Council, any hearing may be conducted by the Special Permit and License Board.~~

(B) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(C) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(D) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(E) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

5-15-8: CHANGE OF LOCATION; TRANSFER OF BUSINESS OR STOCK:

(A) No change of location for licensed premises shall be allowed.

(B) Transfer of Business or Stock:

(1) Within thirty (30) days after the transfer of ownership of a massage parlor, or of the transfer of ownership of ten percent (10%) or more of a partnership interest or of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of two hundred and fifty dollars (\$250).

(2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, ~~recommend to the City Council that~~ REFER THE MATTER TO THE SPECIAL PERMIT AND LICENSE BOARD FOR a public hearing ~~be held~~ regarding the transfer, at which parties in interest may be heard.

(3) ~~In the event City Council accepts the City Manager's recommendation that a public hearing be held on the transfer, it shall refer the transfer to~~ The Special Permit and License Board ~~or~~ SHALL hold the hearing ~~at the next regular City Council meeting~~ after proper notice is given. Publication, posting and notice requirements shall be the same as are required for a hearing on an original application.

(4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board ~~or the City Council~~ shall consider only the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the Code and state statutes.

CHAPTER 16 - DANCE HALLS AND CABARETS

5-16-6: RENEWAL:

(A) All dance hall licenses issued pursuant to this Chapter shall expire one year from the date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

(B) Cabaret licenses issued pursuant to this Chapter shall expire concurrently with the expiration of the fermented malt beverages or alcoholic beverages license issued to the establishment, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

~~(C) A dance hall renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications. A LICENSE MAY BE DENIED RENEWAL FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE, FOR ANY OF THE REASONS SET FORTH BELOW, OR ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSE. Cabaret License renewals shall be considered by the Special Permit and License Board concurrently with the licensee's liquor license renewal.~~

5-16-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION

~~(A) A license may be denied, cancelled, suspended or revoked for any reason set forth in Chapter 1 of this Title.~~

~~(B)~~(A) Upon the motion of the City Manager or, upon its own motion, the Special Permit and License Board may deny, DENY RENEWAL, suspend or revoke any license at any time on the grounds that it is:

- (1) Detrimental to the public health, safety or welfare due to the location of the dance hall or cabaret;
- (2) Because of the proximity of the location to schools or churches or other places where the public may congregate; or
- (3) Based on the criteria set forth in section 5-16-4~~(G)~~H).

~~(C) A license shall be denied, cancelled, suspended or revoked only after the licensee has been given notice, unless summary suspension is permitted by law, and a hearing has been held, if requested by the licensee pursuant to Chapter 1 of this Title.~~

~~(D) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license pursuant to Chapter 1 of this Title.~~

(B) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(C) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(D) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL OF THE DENIAL OF A NEW LICENSE OR A HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(E) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(E)~~(F) Any place licensed hereunder, including the parking lots and streets and sidewalks adjacent thereto which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this code and the license of the premises shall be revoked.

CHAPTER 19 - ESCORT SERVICES

5-19-6: RENEWAL:

(A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications. The City ~~Council~~ MANAGER, IN THE MANAGER'S SOLE DISCRETION, may cause a hearing on the application for renewal to be held. ~~At the direction of the City Council,~~ The hearing ~~may~~ SHALL be conducted by the Special Permit and License Board. Publication, posting and notice requirements shall be the same as for a hearing on an original application.

5-19-7: LICENSE DENIAL, CANCELLATION, DENIAL OF RENEWAL, SUSPENSION OR REVOCATION:

~~(A) A license may be denied, cancelled, suspended or revoked for any reason set forth in Chapter 1 of this Title.~~

~~(B) Upon the motion of the City Manager or, upon its own motion, the City Council may deny, suspend or revoke any license at any time for good cause or on the grounds that it is:~~

(A) A LICENSE MAY BE DENIED, CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED FOR ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER, FOR ANY REASON SET FORTH IN CHAPTER 1 OF THIS TITLE, ON THE GROUNDS THAT THE HEALTH, SAFETY OR WELFARE OF THE COMMUNITY MAY BE ENDANGERED BY THE CONTINUED OPERATION OF THE LICENSEE, OR ON THE GROUNDS STATED BELOW:

(1) The issuance would be detrimental to the public health, safety, or welfare due to the character, reputation, or moral integrity of the applicant;

(2) The character of the applicant, or its officers, directors or partners is such that a violation of this Chapter would be likely to result if a license were granted;

(3) The applicant, or any of its officers, directors or partners, has held a license pursuant to this Chapter or the applicable state statute, which has been suspended or revoked or for which renewal has been denied within two (2) years prior to the date of the current application.

(4) The applicant is a member of any class of persons prohibited by state law to hold a license pursuant to this Chapter.

(5) Based on any violation of the provisions of this Code or any other law.

(B) A LICENSE MAY BE CANCELLED, DENIED RENEWAL, SUSPENDED OR REVOKED AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(C) A LICENSE MAY BE SUMMARILY SUSPENDED FOR NO MORE THAN THIRTY (30) DAYS BY THE CITY MANAGER WHEN REQUIRED FOR THE IMMEDIATE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. A HEARING SHALL BE SCHEDULED AS SOON AS MAY BE REASONABLY POSSIBLE.

(D) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT AN APPEAL HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(F) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

~~(C)~~(F) A license shall be denied unless the applicant meets the following qualifications:

(1) If an individual, he has attained the age of eighteen (18) years; or

(2) If a partnership or limited partnership, all partners have attained the age of eighteen (18) years; or

(3) If a corporation, the directors and all officers thereof have attained the age of eighteen (18) years; and

(4) If an individual, he is a resident of this State for one hundred twenty (120) days immediately prior to the filing of the application with the City Clerk; or

(5) If a partnership or limited partnership, all of the partners thereof are residents of this State for one hundred twenty (120) days immediately prior to the filing of the application with the City Clerk; or

(6) If a corporation, the directors and all of the officers thereof are residents of this State for one hundred twenty (120) days immediately prior to the filing of the application with the City Clerk; and

(7) If a corporation, the corporation is qualified with the Secretary of State to do business in this State or is incorporated under the laws of this State.

~~(D) An applicant may appeal a denial or a licensee may appeal a cancellation, suspension or revocation of a license pursuant to Chapter 1 of this Title.~~

5-19-8: TRANSFER:

(A) Within (30) days after the transfer of ownership of an amusement center, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of Two Hundred and Fifty Dollars (\$250.00).

(B) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, ~~recommend to the City Council~~ DIRECT that a public hearing be held regarding the transfer, at which parties in interest may be heard.

(C) ~~In the event the City Council accepts the City Manager's recommendation that a public hearing be held on the transfer, it shall refer the transfer to~~ The Special Permit and License Board ~~or~~ SHALL hold the hearing ~~at the next regular City Council meeting~~ after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application.

(D) At the hearing, all interested parties may appear and be heard, provided, however, that the Board ~~or City Council~~ shall consider only the character of the new owner or owners and whether the new owner or owners comply with all requirements of the code and rules and regulations adopted pursuant to the code. If the new owner or owners are not approved, the license may be revoked.

CHAPTER 20 - FAMILY CARE HOMES, CHILD CARE CENTERS, AND RESIDENTIAL CARE FACILITIES

5-20-5: LICENSE REVIEW

(A) All licenses to operate a residential care facility or a Child Care Center shall be reviewed annually by the City Manager. Such review shall include, but shall not be limited to, a determination that the facility or center is still in use, consideration of the nature and number of complaints made regarding the facility or center, and consideration of whether any substantial changes have been made to the premises or the services provided. In the case of a correction home, the City Manager shall also consider compliance with the written plans required in 5-20-4 (B).

(B) Upon favorable review, the license shall automatically be renewed; otherwise, ~~the procedure for denial, suspension and revocation contained in Chapter 1 of this Title shall be followed.~~ THE LICENSE MAY BE DENIED RENEWAL AFTER THE LICENSEE HAS BEEN GIVEN NOTICE AND HEARING. THE NOTICE SHALL SET FORTH THE REASONS FOR THE PROPOSED ACTION, IN WRITING, AND SHALL BE GIVEN BY PERSONAL DELIVERY TO THE LICENSEE OR MAILED TO THE ADDRESS CONTAINED IN THE LICENSE, POSTAGE PREPAID, OR AS PROVIDED IN CHAPTER 1 OF THIS TITLE. SAID NOTICE SHALL BE GIVEN NO LESS THAN TEN (10) DAYS PRIOR TO A HEARING TO BE SCHEDULED BEFORE THE SPECIAL PERMIT AND LICENSE BOARD.

(C) THE SPECIAL PERMIT AND LICENSE BOARD SHALL CONDUCT THE HEARING PURSUANT TO THE PROCEDURES ESTABLISHED FOR HEARINGS IN CHAPTER 1 OF THIS TITLE. THE SPECIAL PERMIT AND LICENSE BOARD SHALL DELIVER ITS DECISION IN WRITING WITHIN THIRTY (30) DAYS.

(D) DECISIONS OF THE SPECIAL PERMIT AND LICENSE BOARD ARE FINAL, SUBJECT ONLY TO APPEAL TO A COURT OF COMPETENT JURISDICTION.

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 12th day of January, 1998.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of January, 1998.

ATTEST:

Mayor

City Clerk

Date: January 12, 1998

Subject: Semper Water Treatment Facility Rehabilitation

Prepared by: Ron Hellbusch, Director of Public Works and Utilities
Allen Moles, Utilities Project Engineer

Introduction

City Council action is requested to approved the transfer of existing funds in the amount of \$785,631 from the existing Semper Water Treatment Facility Expansion Capital Project Account to a new Capital Improvement Project Account called the Semper Water Treatment Facility Rehabilitation. These funds will be used to pay for the construction of design and repairs to the existing High Service Pump Station, the existing Chlorine Storage room in the Bulk Chemical building, evaluation of the HVAC systems for the Bulk Chemical Building, and the costs of the City's special consultants, including outside legal counsel.

Summary

The amount of retainage funds remaining in the Semper Water Treatment Facility Expansion contract with Centric/Jones is \$785,631. The City and their special consultants have uncovered several problems with the High Service Pump Station, Clearwell, Chlorine Storage room, and heating and ventilating system for the Bulk Chemical building. The \$785,631 retainage funds will be used to pay part of the costs associated with: repairing the problems with the masonry, evaluating the facilities for additional problems and litigation to recover damages.

Staff Recommendation

Authorize the City Manager to transfer \$785,631 retainage funds from the existing Semper Water Treatment Facility Expansion Capital Project Account to the new Semper Water Treatment Facility Rehabilitation Capital Improvement Project Account in the Utility Fund.

Background Information

The High Service Pump Station is a critical facility used for pumping water from the Semper Water Treatment Facility to the distribution system. Without the High Service Pump Station in service, the City will not be able to provide enough water to meet the summer demands of the distribution system unless the City utilizes emergency water interconnectors with other water providers such as the the Denver Water system.

Inspections of the masonry walls and a review of the reinforcing shop drawings for the High Service Pump Station and the Chlorine Storage room by City's Staff and their special consultants have determined there are problems with the masonry walls.

In the Chlorine Storage room of the Bulk Chemical building, the hoist system used to move the 4,000 pound chlorine containers is not properly attached to the masonry walls. Due to a concern for worker safety, temporary measures have been taken to eliminate known dangers until a thorough evaluation can be completed.

Staff believes that there are problems with the ventilation system in the chemical buildings making it necessary to have an evaluation of the HVAC system.

The \$785,631 is the amount remaining in the Semper Water Treatment Facility Expansion retainage contract with Centric/Jones, because the City has terminated its contract with Centric/Jones. The amount remaining in the contract consists of 5 percent retainage that has been withheld from the construction contract, money to pay for work that Centric/Jones did not complete, and money to pay for work that was completed by Centric/Jones. This existing money will be used to offset some of the costs associated with evaluating and repairing: the masonry walls of the High Service Pump Station; the masonry walls of the Chlorine Storage room; the heating and ventilating system of the Bulk Chemical building; and the cost of the City's special consultants, including outside legal counsel.

Respectfully submitted,

William M. Christopher
City Manager