



CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Employee Service Awards Presentation
 - B. 2009 Metropolitan Mayors' and Commissioners' Youth Award
 - C. Open Space/Forestry Volunteer Recognition for a Decade of Service
7. Citizen Communication (5 minutes or less)

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 Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
 - A. Financial Report for January 2009
 - B. Asphalt and Crackseal Materials Contract Award
 - C. Purchase of Gasoline and Diesel Fuel for City Vehicles
 - D. Median Maintenance and ROW Spraying Contract Award
 - E. 112th Avenue, Clay Street to Huron Street Project Street Light Costs
 - F. Church Ranch Hotel Companies Business Assistance Agreement Change in Term
 - G. Second Reading of Councillor's Bill No. 2 re FY2008 Budget Amendment
 - H. Second Reading of Councillor's Bill No. 3 re Utility Capital Project Reserve Fund Transfer
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 4 re 2008 4th Quarter Budget Supplemental Appropriation
 - B. Councillor's Bill No. 5 re Amending Chapters 1, 2, and 5 of Title XIII of the W.M.C. re Parkland and Open Space
 - C. Resolution No. 8 re Policies for the Use of Open Space Properties, Parklands, and Other City Owned Properties
 - D. Resolution No. 9 re Right-of-Way Acquisition for 112th Avenue, Clay Street to Huron Street Improvements
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
13. Adjournment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (separate agenda)

WESTMINSTER HOUSING AUTHORITY MEETING (separate agenda)

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.

- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.

- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.

- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;

- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);

- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;

- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.

- J.** Final comments/rebuttal received from property owner;

- K.** Final comments from City Staff and Staff recommendation.

- L.** Public hearing is closed.

- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, FEBRUARY 9, 2009 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Leslie Annand, Assistant City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Councillor Kaiser, to approve the minutes of the regular meeting of January 26, 2009, as distributed. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that City offices would be closed in observance of Presidents' Day next Monday, February 16, and there would be no City Council study session. Immediately following this meeting, Council would convene in executive session for the following purposes: to discuss City's position on the Comcast Cable Franchise Agreement, receive legal advice with respect thereto, and obtain direction thereon pursuant to WMC §1-11-3(C) (7) and (8) and CRS § 24-6-402 (4)(b) and (e); to obtain direction from City Council about proposed amendments to economic development incentive agreement with Church Ranch Hotel Companies pursuant to WMC § 1-11-3(C)(4), WMC § 1-11-3(C)(7) and CRS § 24-6-402(4)(e); and to discuss potential lawsuit and settlement with City Attorney pursuant to WMC Sections 1-11-3(C)(3), (7) and (8), and CRS Sections 24-6-402(4)(b) and (e).

PRESENTATIONS

Keith Reester, Vice President of the American Public Works Association Colorado Chapter, recognized the Mayor, City Council, and Department of Public Works and Utilities Staff by presenting the Project of the Year Award in the Wastewater Treatment/Collection category for large communities. Accepting the award were Kent Brugler and Tim Woodard. The expansion and renovation of the Big Dry Creek Wastewater Treatment Plant had been accomplished over a three-year period while the plant remained in operation and without any violation of the City's discharge permit. The facility would serve the City well into the future.

CITIZEN COMMUNICATION

With Mayor McNally's encouragement, Amber Jeffries and Lisa Owen, participants in the Ignite Program at their school, said they were in attendance to increase their political awareness. They planned to visit the Colorado Legislature session on Tuesday, February 10.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: find that the Western States Contracting Alliance pricing satisfied City Charter bidding requirements and authorize staff to proceed with the purchase of an Archive I/Q disk-based backup software solution through Dell Computer Corporation in the amount of \$48,269 and purchase of the required disk drives through Lewan and Associates in the amount of \$97,470; find that the Western States Contracting Alliance pricing satisfied City Charter bidding requirements and authorize Staff to proceed with the purchase of an EqualLogic storage area network through Lewan and Associates in an amount of \$151,900 plus a contingency fund of \$5,000; find that the US General Services Administration pricing satisfied City Charter bidding requirements and authorize Staff to proceed with 2009 calendar year purchases of replacement phone systems for City Park Recreation Center, City Park Fitness Center, Christopher

Field and Swim and Fitness Center, as well as upgrades to the City Hall phone system through Axess Communications in an amount not to exceed \$166,000; authorize the purchase of a Volvo L90F Loader from Power Equipment Company based on the Colorado Department of Transportation annual bid in the amount of \$120,609, including the required options and the trade-in allowance for the current loader, and a Volvo EW 210C Excavator from Power Equipment Company, the low bidder from the competitive bid process, in the amount of \$202,824, including the required options for this piece of equipment and the trade-in allowance for the current excavator; authorize payment of \$78,665.59 to Table Mountain Animal Center for the City's 2009 assessment for animal shelter services; authorize payment of \$159,426.08 to Intergraph Corporation for the 2009 Annual Software Maintenance for the integrated Fire and Police Computer Aided Dispatch, Police Records Management System, Fire Records Management System, and Mobile computer application systems; authorize the City Manager to execute a contract with the low bidder, Northern Colorado Constructors, Inc., in the amount of \$2,976,866 for construction of sanitary sewer and waterlines and authorize a ten percent construction contingency of \$297,690; authorize the City Manager to execute a contract with the low bidder, Aslan Construction, Inc., in the amount of \$442,582 for construction of improvements at the Semper Water Treatment Facility, authorize a ten percent construction contingency in the amount of \$44,000, and authorize a contract amendment with the project designer, Boyle Engineering/AECOM, in the amount of \$35,985 for construction phase services; authorize the City Manager to execute a contract for rehabilitation of the Gregory Hill and Kershaw Ditch Pump Station with the low bidder, Velocity Constructors Inc., in the amount of \$531,139, authorize a ten percent contingency of \$53,114, and authorize the transfer of \$400,000 from the 78th Avenue/Stuart Street Water Line Project to the Gregory Hill Pump Station Improvements to fund the improvements; authorize the City Manager to execute a Quit Claim Deed granting a strip of land along the eastern boundary of Jim Baker Reservoir to Adams County for construction of a bike path; authorize the City Manager to execute an intergovernmental agreement with the Urban Drainage and Flood Control District and Adams County for the Little Dry Creek Regional Detention Pond and related channel improvements; authorize the City Manager to execute the Non-exclusive Easement Agreement between the City of Westminster and the Church Ditch Water Authority; and final passage of Councillor's Bill No. 1 appropriating funds received from the State Historical Fund in the amount of \$300,000 for the City's rehabilitation of the Shoenberg Farm dairy barn.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. None did, and it was moved by Councillor Major, seconded by Councillor Kaiser, to approve the consent agenda as presented. The motion passed unanimously.

RESOLUTION NO. 4 ESTABLISHING 2009 RECOVERY CONTRACT INTEREST RATE

It was moved by Councillor Briggs, seconded by Mayor Pro Tem Dittman, to adopt Resolution No. 4 establishing the 2009 calendar year interest rate for non-City funded public improvement recovery contracts at 5.25 percent and an interest rate of 5.24 percent for City-funded public improvements. The motion passed unanimously on roll call vote.

RESOLUTION NO. 5 AUTHORIZING 2009 GREAT OUTDOORS COLORADO GRANT CONTRACT

Upon a motion by Councillor Winter, seconded by Councillor Kaiser, the Council voted unanimously at roll call to adopt Resolution No. 5 authorizing the City Manager to execute a grant agreement with Great Outdoors Colorado for a \$200,000 grant for the development of Westminster Center Park.

RESOLUTION NO. 6 AUTHORIZING 2008 YEAR-END CONTINGENCY TRANSFERS

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Winter, to adopt Resolution No. 6 authorizing the transfer of \$82,000 from the 2008 General Fund contingency account into various operating budgets. At roll call, the motion passed unanimously.

COUNCILLOR’S BILL NO. 2 AMENDING THE FY2008 BUDGET

Mayor Pro Tem Dittman moved to pass Councillor’s Bill No. 2 on first reading amending the FY2008 Budgets of the General Fund, Fleet Maintenance Fund and General Capital Improvement Fund. Councillor Lindsey seconded the motion and it passed unanimously.

ENGINEERING SERVICES FOR RECLAIMED WATER IMPROVEMENT PROJECT

Councillor Briggs moved, seconded by Mayor Pro Tem Dittman, to find, based on the City Manager’s report and recommendation, that the public interest would best be served by authorizing the City Manager to execute a professional services agreement with Black & Veatch Corporation as the sole source for providing design services for the reclaimed water influent storage tank, pump station and treatment plant expansion in an amount not to exceed \$873,604 and authorize a ten percent contingency in the amount of \$87,360. The motion passed with all Council members voting affirmatively.

COUNCILLOR’S BILL NO. 3 TRANSFERRING FUNDS PER THE ADOPTED BUDGET

It was moved by Councillor Briggs and seconded by Mayor Pro Tem Dittman to pass Councillor’s Bill No. 3 on first reading transferring \$1,389,000 from the Utility Capital Project Reserve Fund in accordance with Council’s adopted budget authorization. The motion passed unanimously on roll call vote.

RESOLUTION NO. 7 RENEWING THE ROCKY FLATS STEWARDSHIP COUNCIL IGA

Councillor Lindsey moved to adopt Resolution No. 7 supporting the continuation of the Rocky Flats Stewardship Council for an additional three years. Councillor Major seconded the motion, which passed unanimously at roll call.

ADJOURNMENT

There being no further business to come before the City Council, the Mayor adjourned the meeting at 7:16 p.m.

ATTEST:

Mayor

City Clerk



WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Presentation of Employee Service Awards

Prepared By: Debbie Mitchell, Human Resources Manager
Dee Martin, Human Resources Administrator

Recommended City Council Action

Present service pins and certificates of appreciation to employees celebrating 20, 25 and 30 years of service with the City, and provide special recognition to the City's 25-year employees with the presentation of a \$2,500 bonus.

Summary Statement

- City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 20th, 25th and 30th anniversaries of employment with the City.
- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- The 20, 25, and 30 year group for third quarter 2008 will be celebrated tonight.
 - Mayor Pro Tem Dittman will present the 30-year certificate.
 - Mayor McNally will present the 25-year certificates.
 - Councillor Major will present the 20-year certificates.

Expenditure Required: \$ 7,500

Source of Funds: General Fund -Community Development Department - \$2,500
-Fire Department - \$5,000

Policy Issue

None identified

Alternative

None identified

Background Information

The following 20-year employees will be presented with a certificate and service pin:

Jerry Cinkosky	Facilities Manager	General Services
Viola Duran	Recreation Specialist	Parks, Recreation & Libraries
Sean Layfield	Recreation Specialist- Facilities and Programs	Parks, Recreation & Libraries
Patti Wright	Open Space Volunteer Coord.	Parks, Recreation & Libraries

The following 25-year employees will be presented with a certificate, service pin and check for \$2,500, minus amounts withheld for Federal and State income taxes after their anniversary date:

Steve Baumann	Assist. City Engineer	Community Development
Jim Feggstad	Firefighter II	Fire Department
Paul Spellman	Battalion Chief	Fire Department

The following 30-year employee will be presented with a certificate and service pin:

Dick Leger	Senior Police Officer	Police Department
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On February 5th, the City Manager hosted an employee awards luncheon at which time 5 employees received their 15-year service pin, 5 employees received their 10-year service pin, and 17 employees received their 5-year service pin, while recognition was also given to those who celebrated their 20th, 25th, and 30th anniversary. This represents the first luncheon for 2009 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the first lunch of 2009 is 395 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Background information on each individual being recognized is attached.

The recognition of employees' years of service addresses Council's Strategic Plan goal of Financially Sustainable City Government as part of the overall recognition program developed to encourage and recognize employee commitment to the organization. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their most valuable resource – employees.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 6 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009

SUBJECT: 2009 Metropolitan Mayors' and Commissioners' Youth Award

Prepared By: Phil Jones, Management Analyst

Recommended City Council Action

1. Councillor Winter to recognize the youth selected for the first phase of the Metropolitan Mayors' and Commissioners' Youth Award.
2. Recognize and present certificates of achievement to: Amanda Apodaca, Jessica Banks, Jerome Bender, Tiffaine Casados, Mercedes Cruz, Leonard Dominguez, David Garcia, Scott Huffer, Orilea Medina, Shaniece Montoya, Ashley Shipwash, and Cierra Tenoria.

Summary Statement

- Twelve Westminster youths have been nominated through the Metropolitan Mayors' and Commissioners' Youth Award (MMCYA) program for municipal-level recognition.
- City Council is requested to recognize these youth privately at a reception preceding the February 23, 2009 City Council meeting and publicly during the meeting.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The Metropolitan Mayors' and Commissioners' Youth Award (MMCYA) was established in 1986. This program recognizes young people in our community whose contributions and achievements might otherwise be overlooked. The award honors young people who have overcome personal adversity, created positive change in a difficult environment, or have made strides beyond their limitations.

This fall, nominations were sought for youth ages 13 through 19 who have shown outstanding achievement in the areas of direct service to the community, other youth, the family, or to self. All of the nominees are honored by their respective municipalities. Additionally, if a nominee is selected to continue in the awards process, he or she may be honored by his or her county, and by the entire metropolitan area. Introductory letters and nomination forms were sent to local churches in Westminster, local non-profit organizations, school principals, and school counselors.

Adams County Commissioners will hold a banquet honoring youths who were selected for county-level recognition on March 20. Scott Huffer, Tiffaine Casados, and Amanda Apodaca will be recognized at the Adams County banquet. The metro area recognition will be held in April.

The individuals being recognized tonight by City Council have faced trauma with courage, emotional and physical health ailments with determination, financial hardship with resourcefulness, and challenges in school with perseverance. Due to the sensitive and confidential nature of many of the nominees' backgrounds, the Adams and Jefferson County MMCYA Selection Committees recommend conducting a more general recognition ceremony where descriptions of the adversity each nominee has overcome are not disclosed.

Instead, a description of the award and its criteria will be conveyed, and each nominee's name, age, school and nominator's name will be read as they receive their certificate. Additionally, City Council will host a brief reception for the nominees, nominators, principals and families prior to the Council meeting.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 6 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Open Space/Forestry Volunteer Recognition for a Decade of Service

Prepared By: Patti Wright, Open Space Volunteer Coordinator

Recommended City Council Action

Present recognition certificates to the Open Space/Forestry Volunteers in recognition of ten years of service to the City of Westminster.

Summary Statement

- The Open Space/Forestry Volunteer Program began in 1996 as a way to improve and enhance the City's open space areas. Volunteers were recruited to begin this landmark endeavor in Westminster.
- These volunteers have dedicated their time and energy to the volunteer program, and, collectively, have accumulated over 2,000 volunteer hours over the course of their decade of service.
- These volunteers are supporters of Westminster's open space acquisition and volunteer program and often act as our greatest advocates in recruiting volunteers. They often take new volunteers 'under their wings' to make them feel comfortable and welcome.
- The volunteers to be recognized are Laura Brieser-Smith, John Carpenter, Marilyn Carpenter, Paul Gutknecht, Eric Knopinski, Bob Saindon, Bob Schmidt, Laurainne Schmidt, Scott Smith, and Lloyd Williams.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The Open Space/Forestry Volunteer program began in 1996. The volunteers have completed a variety of projects over the years, including rebuilding the Ranch Barn, constructing the eagle viewing blind at Standley Lake Regional Park, and participating as “Russian-olive Terminators.” They have built open space fences, picked up trash, removed wire fencing, planted trees, built docks, painted barns, pulled weeds, demolished old buildings, winterized flowerbeds, planted native plants, mulched trees, and built trails. They have worked in 100-degree weather and they have worked in the snow. They have dug in mud and they have dug in “concrete” that used to be mud. They have worked with power tools and rock bars and they have laughed and joked the whole time. They never ask for pay, although they sometimes ask for time and a half, and they never complain about the working conditions.

These Open Space/Forestry Volunteers have shown their commitment to the City of Westminster, working in all conditions and advocating for the preservation of natural areas. They meet challenges with optimism and determination. They are volunteering for the benefit of Westminster residents and future generations in Westminster. They donate their time and energy, helping to create vital natural areas and demonstrating their optimism in the future. Everyone in Westminster benefits from the efforts of these volunteers. They truly are the heart of our community.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Financial Report for January 2009

Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

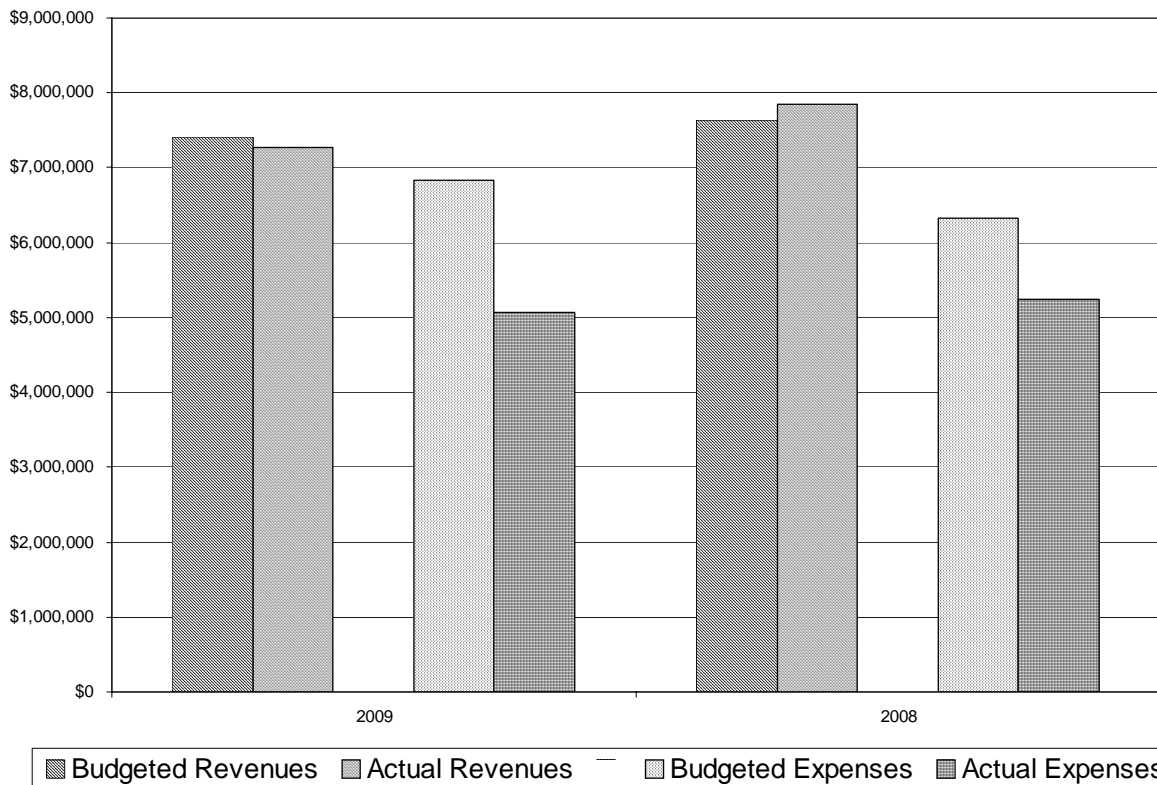
Accept the Financial Report for January as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$2,194,945. The following graph represents Budget vs. Actual for 2008 – 2009.

**General Fund
Budget vs Actual**

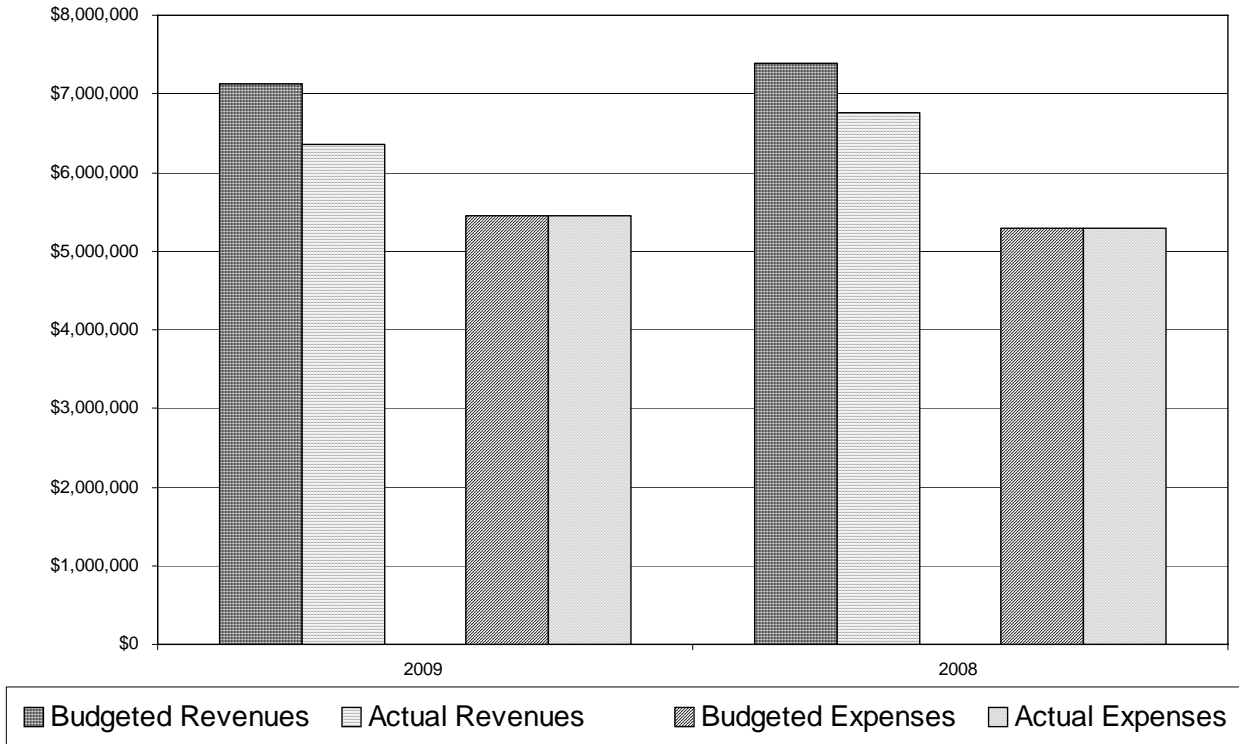


- Expenses are down in January as the majority (71%) of the first payroll was related to services performed in 2008 and the expenses were charge to 2008. This will be caught up at the end of 2009.

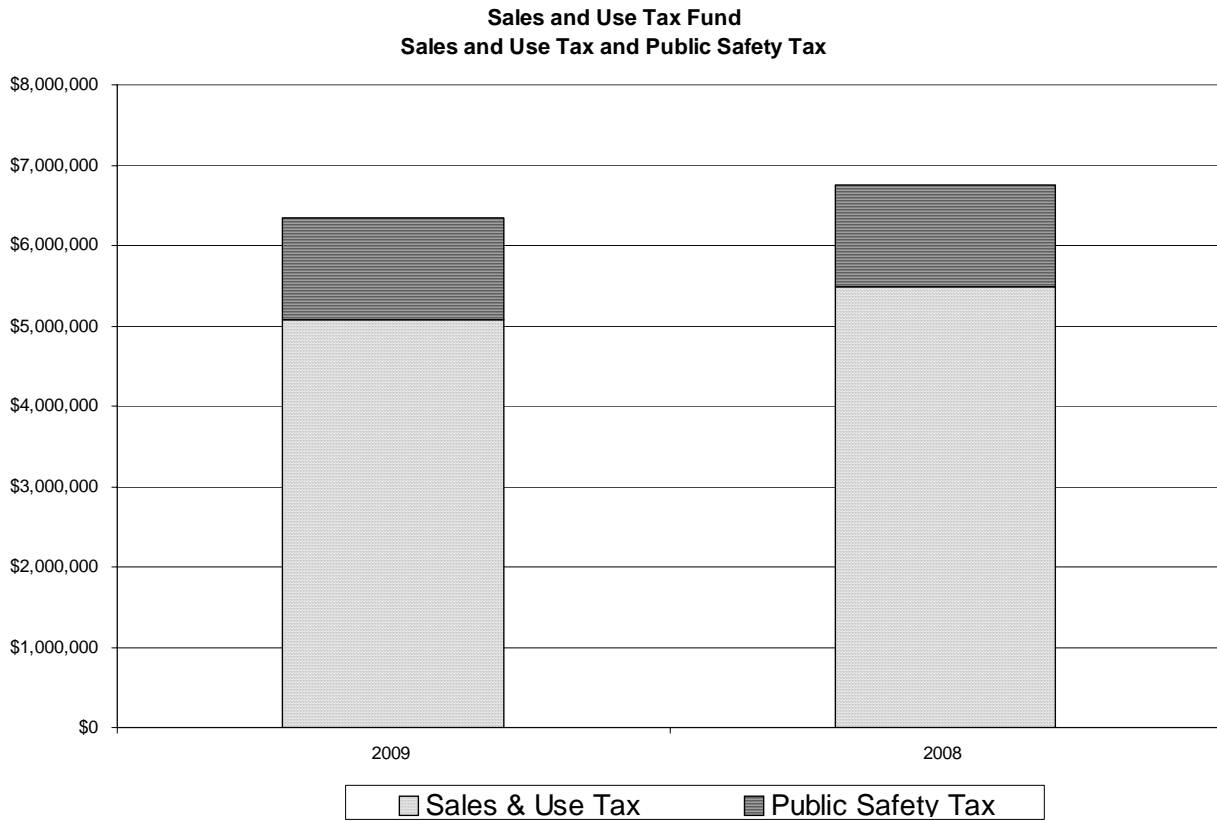
The Sales and Use Tax Fund revenues and carryover exceed expenditures by \$911,506.

- On a year-to-date cash basis, sales & use tax returns are down 6.4% from 2008.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 2.1% from the prior year. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 10.5%.
- The top 50 Sales Taxpayers, who represent about 62% of all collections, were down 5.8% after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 24.0% on a year-to-date basis.
- Building Use Tax is down 82.3% year-to-date from 2008.

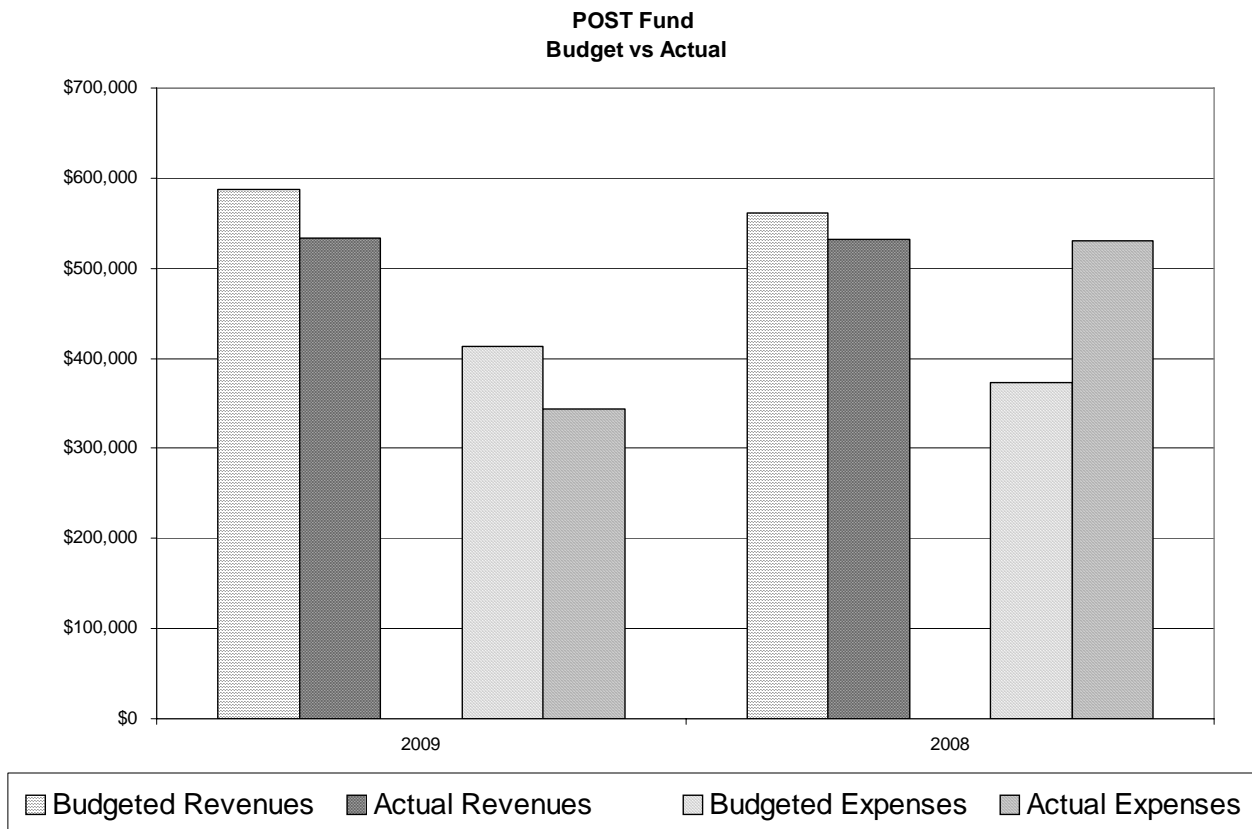
**Sales & Use Tax Fund
Budget vs Actual**



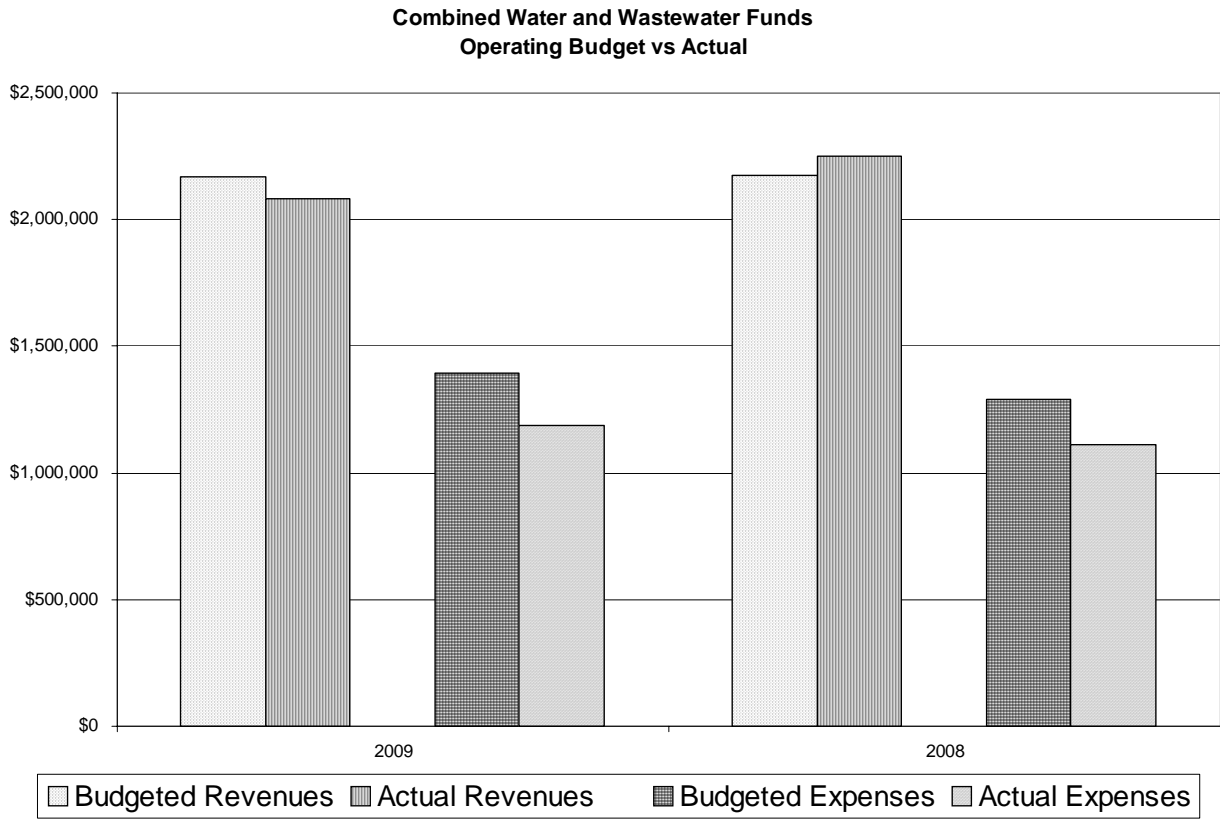
The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.



The Parks Open Space and Trails Fund revenues exceed expenditures by \$189,758.

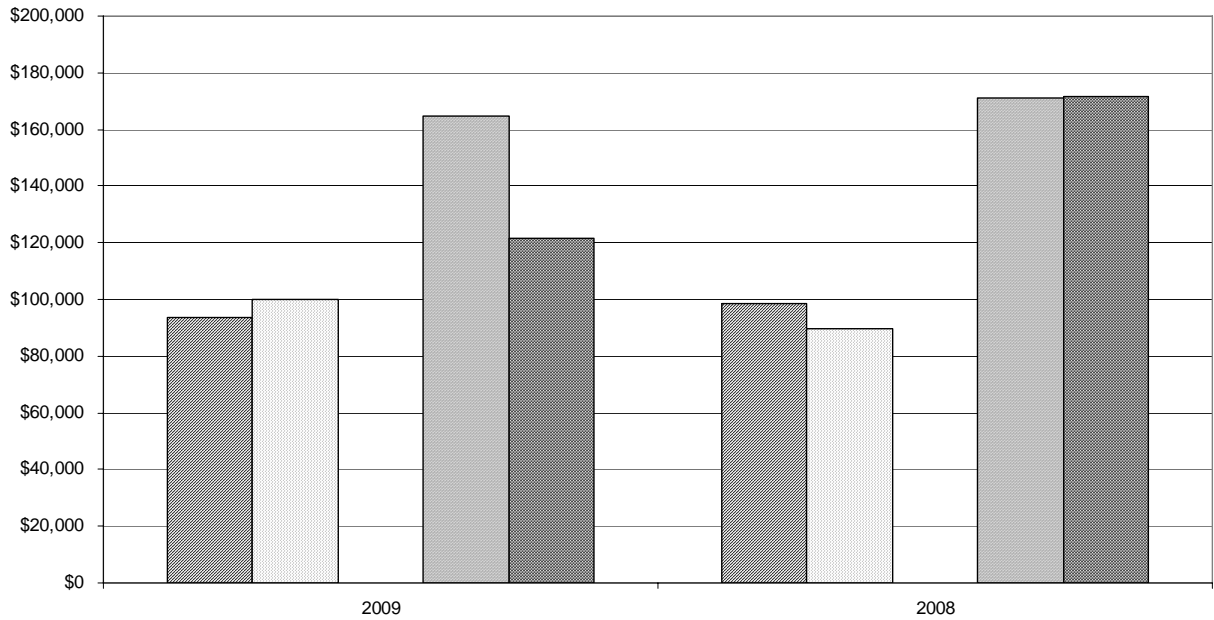


The combined Water & Wastewater Fund revenues and carryover exceed expenses by \$1,776,006. \$22,494,469 is budgeted for capital projects and reserves.



The combined Golf Course Fund expenditures exceed revenues by \$21,570.

**Golf Course Enterprise
Budget vs Actual**



■ Budgeted Revenues ■ Actual Revenues ■ Budgeted Expenses ■ Actual Expenses

- Golf course expenses are down due to personnel expenses being charged to 2008 and a timing difference for the airport land lease payment. In addition, the final 2004 golf cart payment was made in January 2008.

Policy Issue

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

Alternative

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

Background Information

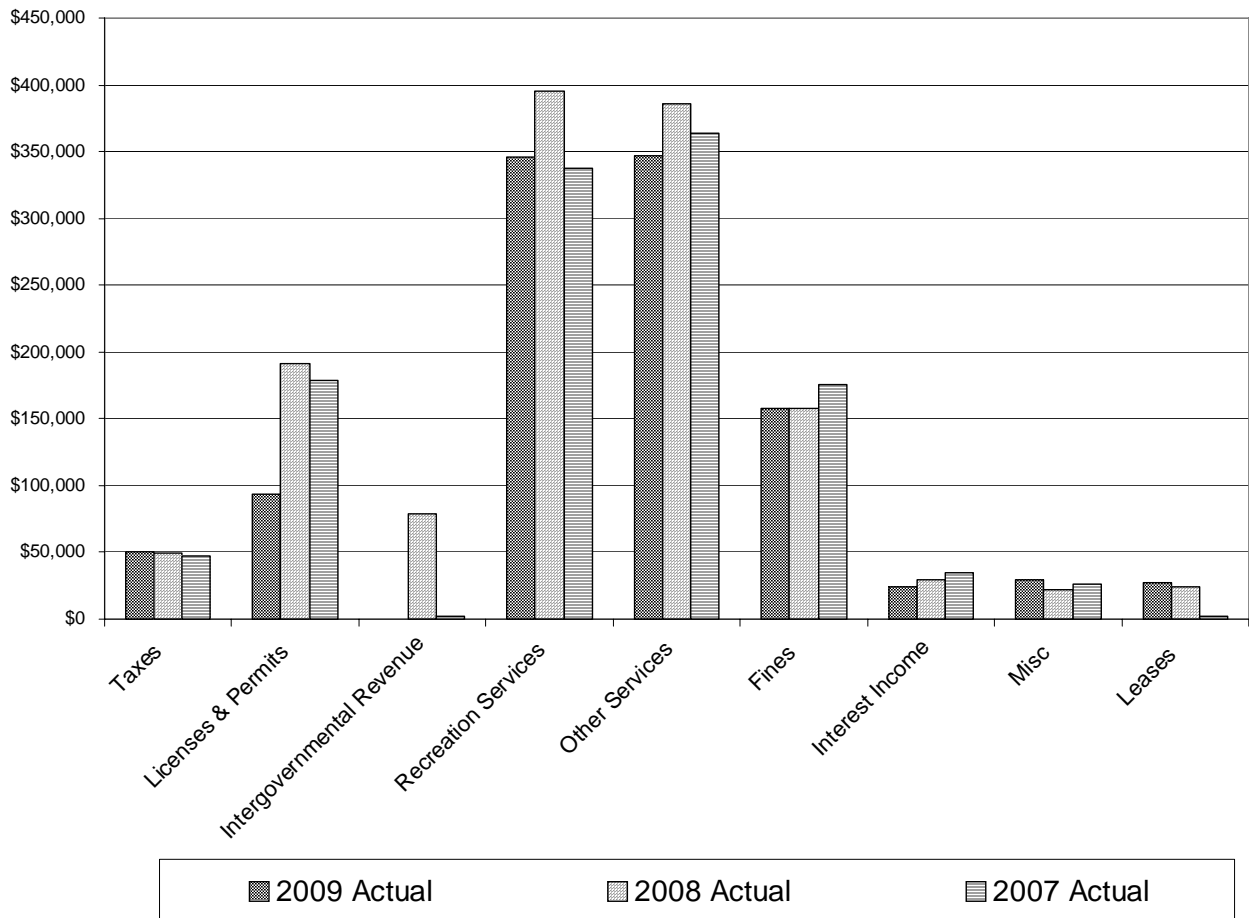
This section includes a discussion of highlights of each fund presented.

General Fund

This fund reflects the result of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions: City Manager, City Attorney, Finance, and General Services.

The following chart represents the trend in actual revenues from 2007 – 2009 year-to-date.

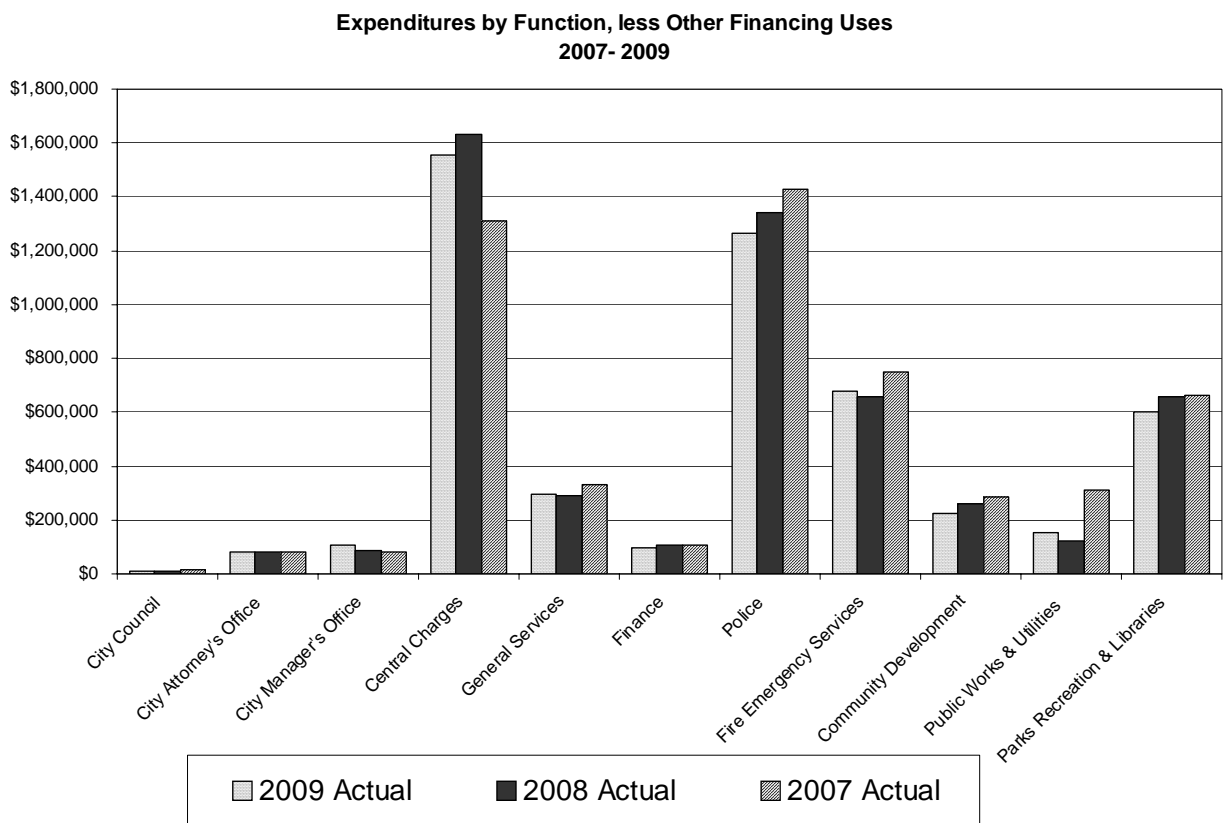
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2007 - 2009**



Significant variances in General Fund revenue categories are explained as follows:

- The decrease in License and Permit revenue reflects commercial and residential building permit activity.
- No intergovernmental revenue has been received to date. 2008 reflects one time grant reimbursement proceeds.
- The decrease in Recreation Services revenue is due primarily to activity at the Sports Center, City Park Recreation Center, and City Park Fitness Center.
- The Other Services variance is due in part to miscellaneous revenues that fluctuate from year to year.

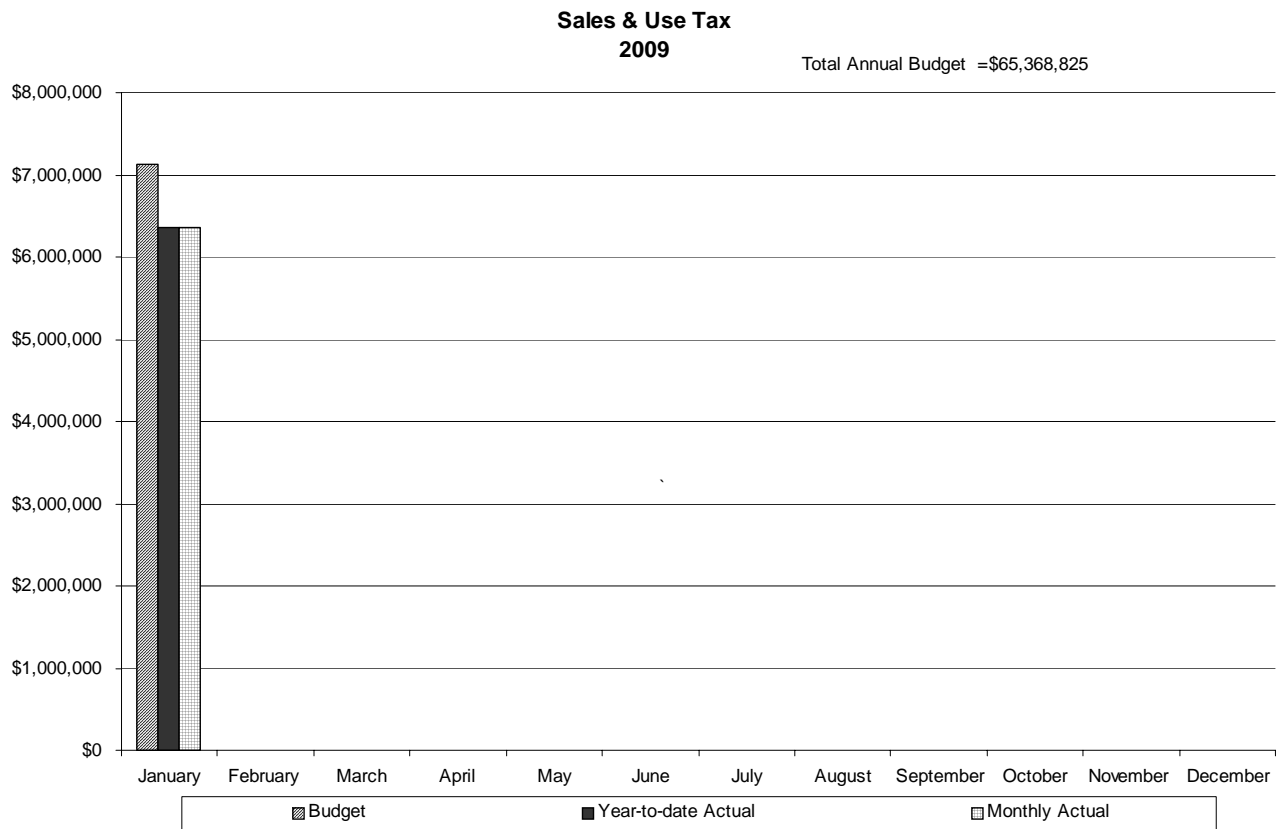
The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2007 –2009.



Sales and Use Tax Funds (Sales & Use Tax Fund and Parks Open Space and Trails Sales & Use Tax Fund)

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the General Capital Improvement Fund, the Debt Service Fund and the Heritage Golf Course Fund. The Parks, Open Space, and Trails Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space land, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Open Space Sales & Use Tax.

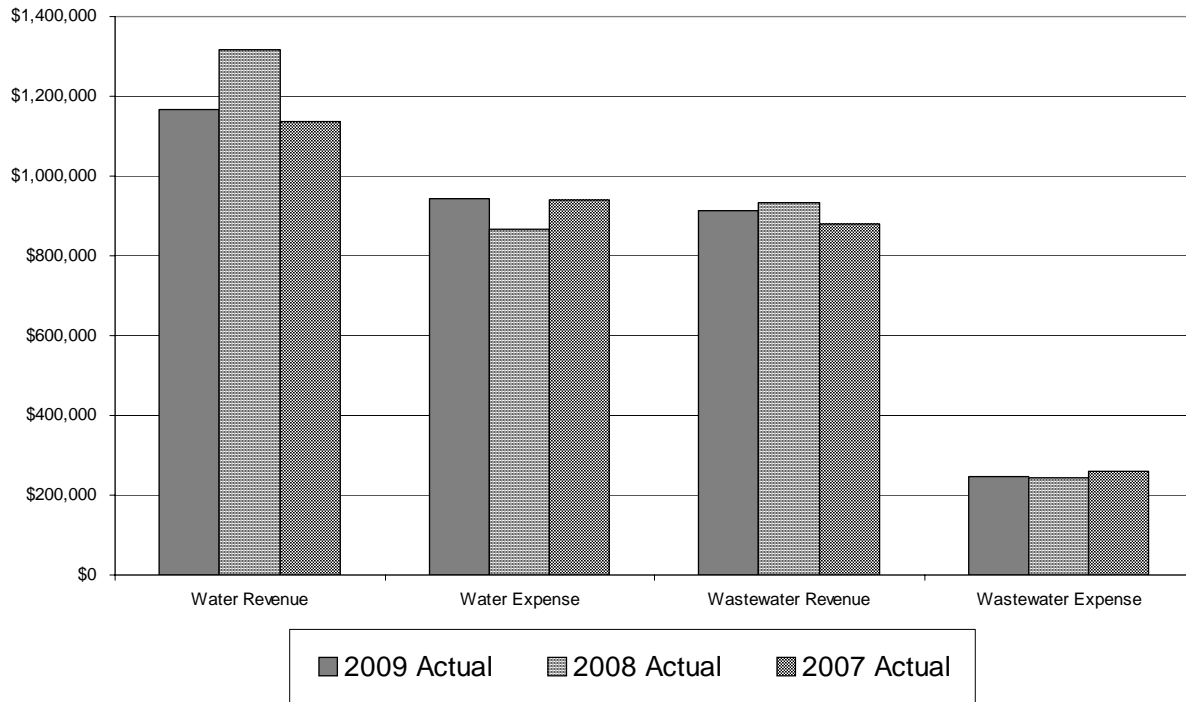


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects and reserves.

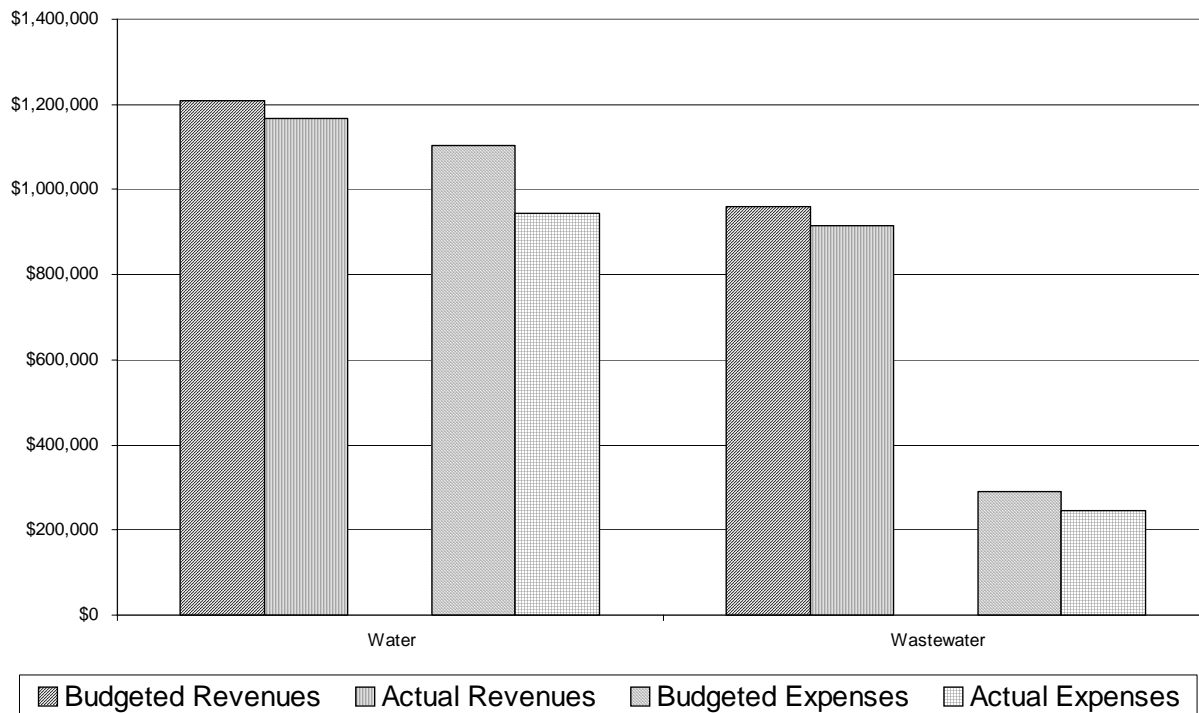
These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds
Operating Revenue and Expenses 2007-2009**



Fluctuation in water revenue between years reflects the effect of weather variations on water consumption as well as changes in billing rates.

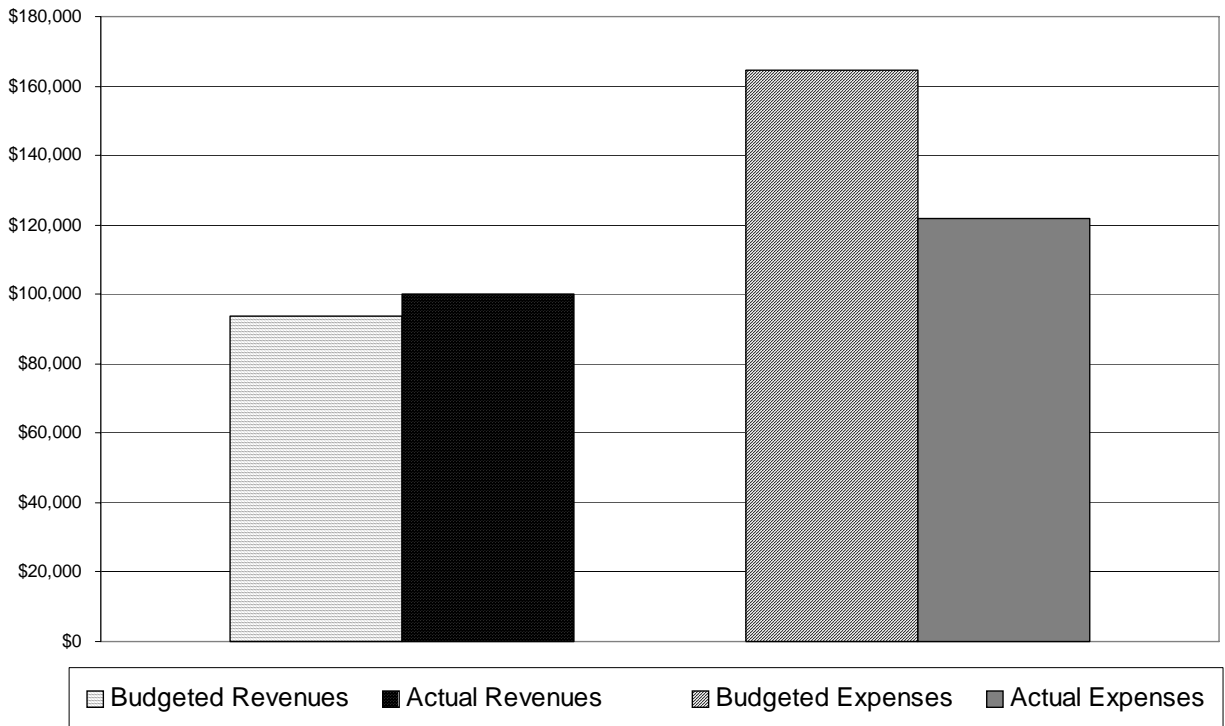
**Water and Wastewater Funds
2009 Operating Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

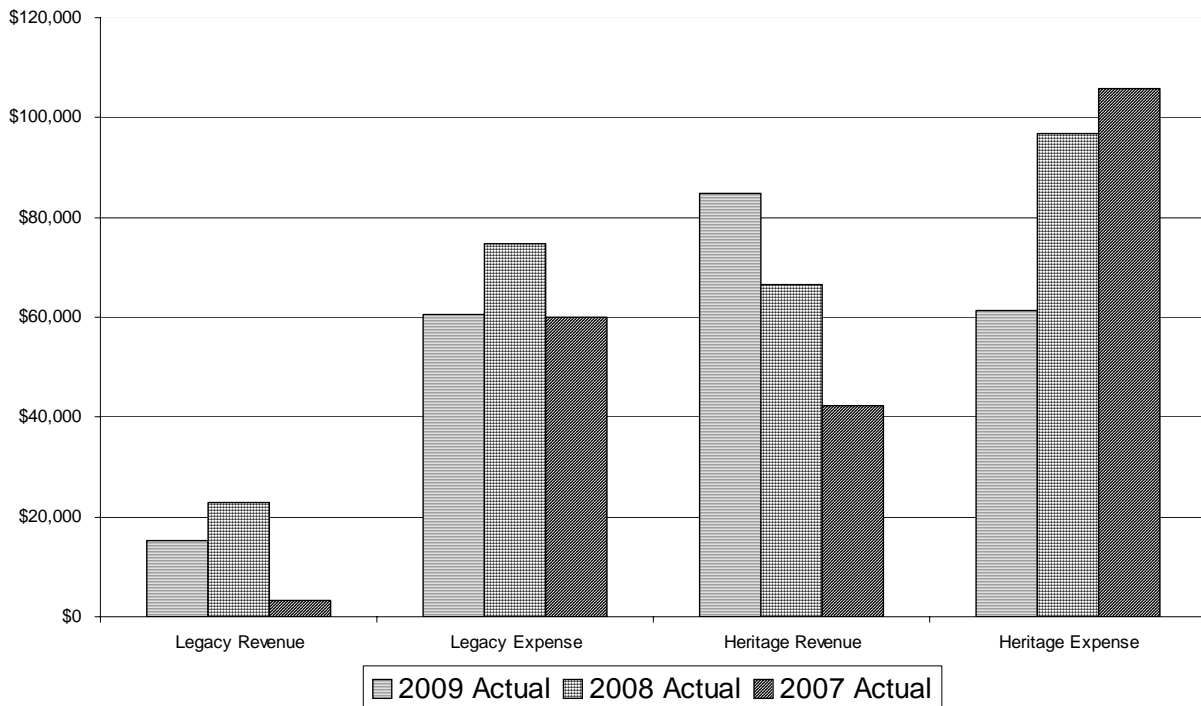
This enterprise reflects the operations of the City's two municipal golf courses.

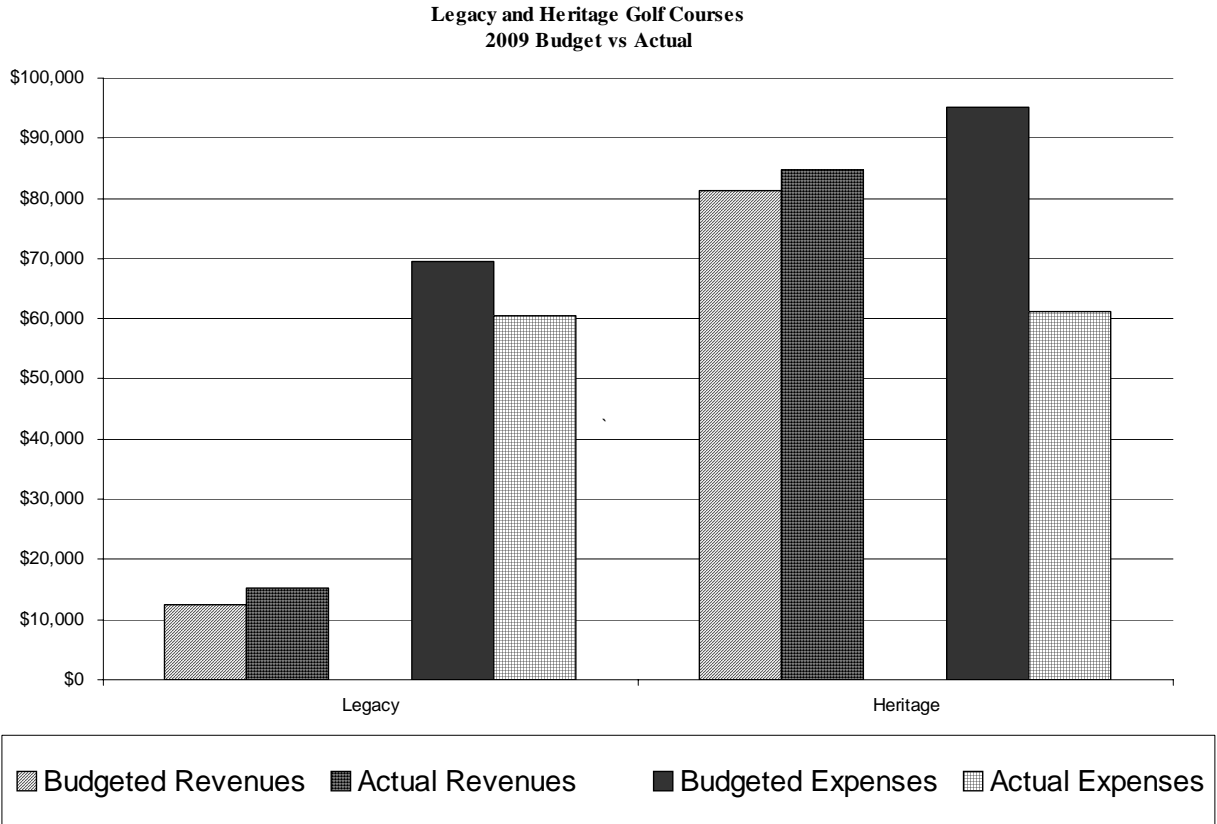
**Combined Golf Courses
2009 Budget vs Actual**



The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses
Revenue and Expenses 2007-2009**





Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Taxes	6,089,541	153,474		50,990	-102,484	33.2%
Licenses & Permits	1,597,600	118,258		94,026	-24,232	79.5%
Intergovernmental Revenue	5,034,622	595		0	-595	N/A
Recreation Services	5,910,792	388,434		346,299	-42,135	89.2%
Other Services	9,231,219	323,848		347,161	23,313	107.2%
Fines	2,211,050	175,417		157,518	-17,899	89.8%
Interest Income	515,000	28,361		23,905	-4,456	84.3%
Misc	1,641,905	10,672		29,448	18,776	275.9%
Leases	295,925	20,396		27,841	7,445	136.5%
Interfund Transfers	62,305,840	5,192,153		5,192,153	0	100.0%
Sub-total Revenues	<u>94,833,494</u>	<u>6,411,609</u>		<u>6,269,341</u>	<u>-142,267</u>	<u>97.8%</u>
Carryover	1,000,000	1,000,000		1,000,000	0	100.0%
Revenues and Carryover	<u>95,833,494</u>	<u>7,411,609</u>		<u>7,269,341</u>	<u>-142,267</u>	<u>98.1%</u>
Expenditures						
City Council	213,244	14,063		10,845	-3,218	77.1%
City Attorney's Office	1,174,235	97,538		79,474	-18,064	81.5%
City Manager's Office	1,625,634	133,016		105,773	-27,243	79.5%
Central Charges	24,087,857	2,523,965		1,557,045	-966,920	61.7%
General Services	5,892,442	375,881		294,329	-81,552	78.3%
Finance	1,984,987	132,741		98,132	-34,609	73.9%
Police	21,263,639	1,421,378		1,266,647	-154,731	89.1%
Fire Emergency Services	11,910,586	848,433		680,086	-168,347	80.2%
Community Development	4,353,877	289,128		226,052	-63,076	78.2%
Public Works & Utilities	7,650,782	193,692		152,475	-41,217	78.7%
Parks, Recreation & Libraries	15,676,211	803,494		603,538	-199,956	75.1%
Total Expenditures	<u>95,833,494</u>	<u>6,833,329</u>		<u>5,074,396</u>	<u>-1,758,933</u>	<u>74.3%</u>
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>578,280</u>		<u>2,194,945</u>	<u>1,616,666</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues and Carryover						
Sales Tax						
Sales Tax Returns	42,096,853	5,180,913		4,595,859	-585,054	88.7%
Sales Tx Audit Revenues	697,800	88,885		23,552	-65,333	26.5%
S-T Rev. STX	<u>42,794,653</u>	<u>5,269,798</u>		<u>4,619,411</u>	<u>-650,387</u>	<u>87.7%</u>
Use Tax						
Use Tax Returns	9,037,161	482,189		370,556	-111,633	76.8%
Use Tax Audit Revenues	777,018	0		94,333	94,333	N/A
S-T Rev. UTX	<u>9,814,179</u>	<u>482,189</u>		<u>464,889</u>	<u>-17,300</u>	<u>96.4%</u>
Total STX and UTX	<u><u>52,608,832</u></u>	<u><u>5,751,986</u></u>		<u><u>5,084,300</u></u>	<u><u>-667,687</u></u>	<u><u>88.4%</u></u>
Public Safety Tax						
PST Tax Returns	12,401,153	1,351,134		1,242,439	-108,695	92.0%
PST Audit Revenues	128,840	3,923		23,569	19,646	600.8%
Total Rev. PST	<u>12,529,993</u>	<u>1,355,057</u>		<u>1,266,008</u>	<u>-89,049</u>	<u>93.4%</u>
Total Interest Income	230,000	19,167		8,600	-10,567	44.9%
Carryover	0	0		0	0	N/A
Total Revenues and Carryover	<u><u>65,368,825</u></u>	<u><u>7,126,209</u></u>		<u><u>6,358,908</u></u>	<u><u>-767,303</u></u>	<u><u>89.2%</u></u>
Expenditures						
Central Charges	<u>65,368,825</u>	<u>5,447,402</u>		<u>5,447,402</u>	0	100.0%
Revenues and Carryover Over(Under) Expenditures	<u><u>0</u></u>	<u><u>1,678,807</u></u>		<u><u>911,506</u></u>	<u><u>-767,303</u></u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover						
Sales & Use Tax	5,228,386	582,305		527,368	-54,937	90.6%
Interest Income	31,000	2,583		4,100	1,517	158.7%
Miscellaneous	88,832	3,236		1,606	-1,630	49.6%
Interfund Transfers	180,000	0		0	0	N/A
Sub-total Revenues	<u>5,528,218</u>	<u>588,124</u>		<u>533,074</u>	<u>-55,050</u>	<u>90.6%</u>
Carryover	0	0		0	0	N/A
Total Revenues and Carryover	<u><u>5,528,218</u></u>	<u><u>588,124</u></u>		<u><u>533,074</u></u>	<u><u>-55,050</u></u>	<u><u>90.6%</u></u>
Expenditures						
Central Charges	5,187,989	382,554		338,844	-43,710	88.6%
Park Services	340,229	30,900		4,472	-26,428	14.5%
	<u>5,528,218</u>	<u>413,454</u>		<u>343,316</u>	<u>-70,138</u>	<u>83.0%</u>
Over(Under) Expenditures	<u><u>0</u></u>	<u><u>174,670</u></u>		<u><u>189,758</u></u>	<u><u>15,088</u></u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Fund-Combined						
Operating Revenues						
License & Permits	75,000	6,250		6,540	290	104.6%
Rates and Charges	38,674,370	2,124,405		2,066,380	(58,025)	97.3%
Miscellaneous	435,000	36,250		9,801	(26,449)	27.0%
Total Operating Revenues	<u>39,184,370</u>	<u>2,166,905</u>		<u>2,082,721</u>	<u>(84,184)</u>	<u>96.1%</u>
Operating Expenses						
Central Charges	5,830,390	485,866		476,996	(8,870)	98.2%
Finance	671,815	74,624		66,461	(8,163)	89.1%
Public Works & Utilities	20,434,951	608,715		473,693	(135,022)	77.8%
Parks, Recreation & Libraries	157,226	13,102		934	(12,168)	7.1%
Information Technology	2,808,228	210,617		169,908	(40,709)	80.7%
Total Operating Expenses	<u>29,902,610</u>	<u>1,392,924</u>		<u>1,187,992</u>	<u>(204,932)</u>	<u>85.3%</u>
Operating Income (Loss)	<u>9,281,760</u>	<u>773,981</u>		<u>894,729</u>	<u>120,748</u>	
Other Revenue and Expenses						
Tap Fees	7,020,000	572,292		400	(571,892)	0.1%
Interest Income	1,600,000	133,333		106,100	(27,233)	79.6%
Interfund Transfers	11,041,474	920,123		920,123	0	100.0%
Carryover	(145,346)	(145,346)		(145,346)	0	100.0%
Debt Service	(6,303,419)	0		0	0	N/A
Total Other Revenue (Expenses)	<u>13,212,709</u>	<u>1,480,402</u>		<u>881,277</u>	<u>(599,125)</u>	<u>59.5%</u>
Increase (Decrease) in Net Assets	<u>22,494,469</u>	<u>2,254,383</u>	(1)	<u>1,776,006</u>	<u>(478,377)</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	6,250		6,540	290	104.6%
Rates and Charges	26,956,370	1,165,689		1,151,884	(13,805)	98.8%
Miscellaneous	425,000	35,417		9,476	(25,941)	26.8%
Total Operating Revenues	<u>27,456,370</u>	<u>1,207,356</u>		<u>1,167,900</u>	<u>(39,456)</u>	<u>96.7%</u>
Operating Expenses						
Central Charges	4,092,873	341,073		335,461	(5,612)	98.4%
Finance	671,815	74,624		66,461	(8,163)	89.1%
Public Works & Utilities	13,817,464	463,154		369,672	(93,482)	79.8%
Parks, Recreation & Libraries	157,226	13,102		934	(12,168)	7.1%
Information Technology	2,808,228	210,617		169,908	(40,709)	80.7%
Total Operating Expenses	<u>21,547,606</u>	<u>1,102,570</u>		<u>942,436</u>	<u>(160,134)</u>	<u>85.5%</u>
Operating Income (Loss)	<u>5,908,764</u>	<u>104,786</u>		<u>225,464</u>	<u>120,678</u>	
Other Revenue and Expenses						
Tap Fees	5,739,000	467,821		400	(467,421)	0.1%
Interest Income	900,000	75,000		80,400	5,400	107.2%
Interfund Transfers	9,470,076	789,173		789,173	0	100.0%
Carryover	(145,346)	(145,346)		(145,346)	0	100.0%
Debt Service	(4,798,025)	0		0	0	N/A
Total Other Revenues (Expenses)	<u>11,165,705</u>	<u>1,186,648</u>		<u>724,627</u>	<u>(462,021)</u>	<u>61.1%</u>
Increase (Decrease) in Net Assets	<u>17,074,469</u>	<u>1,291,434</u>	(1)	<u>950,091</u>	<u>(341,343)</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	11,718,000	958,716		914,496	(44,220)	95.4%
Miscellaneous	10,000	833		325	(508)	39.0%
Total Operating Revenues	<u>11,728,000</u>	<u>959,549</u>		<u>914,821</u>	<u>(44,728)</u>	<u>95.3%</u>
Operating Expenses						
Central Charges	1,737,517	144,793		141,535	(3,258)	97.7%
Public Works & Utilities	6,617,487	145,561		104,021	(41,540)	71.5%
Total Operating Expenses	<u>8,355,004</u>	<u>290,354</u>		<u>245,556</u>	<u>(44,798)</u>	<u>84.6%</u>
Operating Income (Loss)	<u>3,372,996</u>	<u>669,195</u>		<u>669,265</u>	<u>70</u>	
Other Revenue and Expenses						
Tap Fees	1,281,000	104,471		0	(104,471)	N/A
Interest Income	700,000	58,333		25,700	(32,633)	44.1%
Interfund Transfers	1,571,398	130,950		130,950	0	100.0%
Debt Service	(1,505,394)	0		0	0	N/A
Total Other Revenues (Expenses)	<u>2,047,004</u>	<u>293,754</u>		<u>156,650</u>	<u>(137,104)</u>	<u>53.3%</u>
Increase (Decrease) in Net Assets	<u>5,420,000</u>	<u>962,949</u>	(1)	<u>825,915</u>	<u>(137,034)</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues and Carryover						
Charges for Services	1,900,000	158,333		166,267	7,934	105.0%
Interest Income	0	0		6,200	6,200	N/A
Miscellaneous	0	0		47	47	N/A
Sub-total Storm Drainage Revenues	<u>1,900,000</u>	<u>158,333</u>		<u>172,514</u>	<u>14,181</u>	<u>109.0%</u>
Carryover	0	0		0	0	N/A
Total Revenues and Carryover	<u>1,900,000</u>	<u>158,333</u>		<u>172,514</u>	<u>14,181</u>	<u>109.0%</u>
Expenses						
General Services	92,000	0		0	0	N/A
Community Development	140,000	8,820		4,414	(4,406)	50.0%
Park Services	200,000	16,667		3,905	(12,762)	23.4%
Public Works & Utilities	396,000	0		0	0	N/A
Total Expenses	<u>828,000</u>	<u>25,487</u>		<u>8,319</u>	<u>(17,168)</u>	<u>32.6%</u>
Increase (Decrease) in Net Assets	<u>1,072,000</u>	<u>132,846</u>	(1)	<u>164,195</u>	<u>31,349</u>	

(1) Increase in Net Assets available for Capital Projects and Reserves

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Courses Combined						
Revenues						
Carryover	0	0		0	0	N/A
Charges for Services	3,336,142	54,932		58,828	3,896	107.1%
Interest Income	0	0		2,400	2,400	N/A
Interfund Transfers	467,272	38,939		38,939	0	100.0%
Total Revenues	3,803,414	93,871		100,167	6,296	106.7%
Expenses						
Central Charges	197,920	13,062		16,185	3,123	123.9%
Recreation Facilities	3,105,929	151,444		105,552	(45,892)	69.7%
Total Expenses	3,303,849	164,506		121,737	(42,769)	74.0%
Operating Income (Loss)	499,565	(70,635)		(21,570)	49,065	
Debt Service Expense	499,565	0		0	0	N/A
Increase (Decrease) in Net Assets	0	(70,635)		(21,570)	49,065	

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Pro rated Budget	% Budget
Legacy Ridge Fund						
Revenues						
Carryover	(192,312)	(16,026)		(16,026)	0	100.0%
Charges for Services	1,782,013	28,512		28,925	413	101.4%
Interest Income	0	0		2,400	2,400	N/A
Total Revenues	<u>1,589,701</u>	<u>12,486</u>		<u>15,299</u>	<u>2,813</u>	<u>122.5%</u>
Expenses						
Central Charges	98,780	6,816		8,129	1,313	119.3%
Recreation Facilities	1,490,921	62,619		52,367	(10,252)	83.6%
Total Expenses	<u>1,589,701</u>	<u>69,435</u>		<u>60,496</u>	<u>(8,939)</u>	<u>87.1%</u>
Increase (Decrease) in Net Assets	<u>0</u>	<u>(56,949)</u>		<u>(45,197)</u>	<u>11,752</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2009**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Revenues						
Carryover	192,312	16,026		16,026	0	100.0%
Charges for Services	1,554,129	26,420		29,903	3,483	113.2%
Interfund Transfers	467,272	38,939		38,939	0	100.0%
Total Revenues	<u>2,213,713</u>	<u>81,385</u>		<u>84,868</u>	<u>3,483</u>	<u>104.3%</u>
Expenses						
Central Charges	99,140	6,246		8,056	1,810	129.0%
Recreation Facilities	1,615,008	88,825		53,185	(35,640)	59.9%
Sub-Total Expenses	<u>1,714,148</u>	<u>95,071</u>		<u>61,241</u>	<u>(33,830)</u>	<u>64.4%</u>
Operating Income	499,565	(13,686)		23,627	37,313	
Debt Service Expense	<u>499,565</u>	<u>0</u>		<u>0</u>	<u>0</u>	N/A
Increase (Decrease) in Net Assets	<u>0</u>	<u>(13,686)</u>		<u>23,627</u>	<u>37,313</u>	

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE BY JANUARY 2009

Center Location Major Tenant	Current Month General Sales	Current Month General Use	Total	Current Month General Sales	Current Month General Use	Total	%Change	%Change	%Change
WESFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	536,152	8,413	544,565	623,877	1,904	625,781	-14	342	-13
WESTMINSTER MALL 86TH & SHERIDAN 4 DEPARTMENT STORES	471,331	1,596	472,927	618,018	6,276	624,294	-24	-75	-24
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	447,293	25,624	472,917	229,742	14,306	244,048	95	79	94
SHOPS AT WALNUT CREEK 104TH & REED TARGET	302,055	4,419	306,473	314,505	2,377	316,882	-4	86	-3
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	303,976	835	304,811	268,035	746	268,781	13	12	13
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN CIRCUIT CITY	249,120	1,354	250,475	330,720	2,502	333,222	-25	-46	-25
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	238,592	223	238,815	241,527	1,583	243,110	-1	-86	-2
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	229,864	4,566	234,430	170	0	170	35146	*****	37832
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHLS	216,260	3,231	219,491	195,316	1,891	197,208	11	71	11
BROOKHILL I & II N SIDE 88TH OLLIS WADE HOME DEPOT	210,226	3,303	213,530	235,228	1,542	236,770	-11	114	-10
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	193,955	802	194,757	189,173	1,083	190,257	3	-26	2
PROXENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SIANE/AMC	158,187	16,127	174,313	177,385	114,643	292,028	-11	-86	-40
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	150,844	355	151,199	172,626	573	173,199	-13	-38	-13
STANDLEY SHORES CENTER SW CORNER 100TH & WADE KING SOOPERS	123,514	179	123,693	119,473	540	120,013	3	-67	3
COUNTRYDALE BUSINESS PARK S SIDE 108TH & WAOSWORTH BALL CORPORATION	784	80,173	80,957	579	45,152	45,732	35	78	77

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE OF JANUARY 2009

Center Location Major Tenant	Current Month			Last Year			XChange		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	72,248	461	72,710	77,651	213	77,864	-7	117	-7
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	64,561	480	65,041	64,589	219	64,807	0	119	0
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	4,268	57,703	61,971	7,914	48,904	56,818	-46	18	9
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	59,906	228	60,134	59,594	186	59,780	1	22	1
WILLOW RUN 128TH & ZUNI SAFEWAY	58,589	362	58,951	53,348	135	53,483	10	168	10
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	56,689	1,284	57,973	55,989	361	56,350	1	256	3
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	40,506	458	40,965	41,079	666	41,744	-1	-31	-2
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	35,477	981	36,459	25,192	1,133	26,325	41	-13	38
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	27,989	148	28,136	23,483	98	23,581	19	50	19
SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY	23,677	104	23,781	23,211	108	23,319	2	-3	2
	4,276,064	213,408	4,489,472	4,148,424	247,143	4,395,568	3	-14	2



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Asphalt and Crackseal Materials Contract Award

Prepared By: Ray Porter, Street Operations Manager

Recommended City Council Action

Award the bid to Asphalt Specialties Company and Brannan Sand and Gravel Company for purchase of asphalt materials, and Deery American Corporation for crackseal materials at the unit prices indicated on the bid tabulation on an as-needed basis in an amount not to exceed \$500,000 for asphalt and \$60,000 for crackseal materials.

Summary Statement

- City Council approved funds in the 2009 Street Operations budget to purchase hot mix asphalt and crackseal materials.
- Hot mix asphalt material is used for all types of street maintenance repairs including pothole patching, surface replacement, trench patching after watermain replacements and preparation of streets earmarked for 2009 and 2010 improvements.
- Rubberized cracksealing material is used to seal moisture from asphalt pavements citywide.
- City Crews will need an estimated 16,500 tons of hot mix asphalt material, and 139,500 lbs. of rubberized crackseal material to be purchased on an as-needed basis throughout 2009.
- 2009 bids were solicited through MAPO (Multiple Assembly of Procurement Officials) with Asphalt Specialties and Deery American being the low bidders for asphalt and crackseal materials respectively.
- Brannan Sand and Gravel Company submitted Westminster a quotation matching the lowest MAPO bidder's prices and requirements for the asphalt bid throughout the year.

Expenditure Required: \$560,000

Source of Funds: General Fund – 2009 Street Operations Division Operating Budget

Policy Issue

Should the City accept the 2009 MAPO bid for asphalt and crackseal materials from Asphalt Specialties Company and Deery American Corporation and the MAPO matching quotation from Brannan Sand and Gravel Company for asphalt materials?

Alternative

An alternative for 2009 asphalt and crackseal material purchasing would be to execute a bid for just the City of Westminster’s materials requirements. This alternative is not recommended because the smaller quantities would increase the costs.

Background Information

The results of the 2009 MAPO bidding and the Brannan Sand and Gravel Company quote were as follows:

2009 MAPO Hot Mix Asphalt Bids

	Asphalt Specialties Company	Premier Paving	Aggregate Industries	Colorado Asphalt Specialties	Brannan Sand & Gravel Co.
Grading “SX” ½” material per ton	\$30.00	\$36.25	\$39.86	\$47.00	Quote \$30.00

Asphalt Specialties Company is the 2009 low bidder for hot mix asphalt material and Staff has confirmed that they will guarantee 2009 pricing through the 1st quarter 2009. The MAPO bid allows for quarterly price adjustments pending substantial and agreed upon justification. The plant is fully automated and the mix design meets City specifications. Street Operations Division Staff successfully purchased hot mix asphalt material during 2008 from this plant.

Staff recommends having an additional vendor under contract and is recommending Brannan Sand and Gravel Company. Brannan did not participate in the MAPO bid but has quoted Westminster 2009 1st Quarter prices identical to the low MAPO bid. Staff feels it is in the City’s best interest to request City Council approval to purchase asphalt materials from both Asphalt Specialties Company and Brannan Sand and Gravel Company throughout the year for a combined amount not to exceed \$500,000. If asphalt oil shortages are experienced as they were in 2008, having more than one vendor is essential. Allowing Staff to determine which vendor is most appropriate to service city crews based on quarterly price, availability and plant location makes sense.

2009 MAPO Rubberized Crackseal Material Bid

	Deery American Corporation	Denver Industrial	Maxwell Products
Cost per pound – delivered	\$0.43	\$0.485	\$0.52

Deery American Corporation is the 2009 MAPO low bidder for crackseal. City street maintenance crews have utilized this crackseal material successfully over the past nine years on roadways throughout the city.

The 2009 asphalt materials bid reflects an 11.76% decrease under the 2008 prices. The 2009 crackseal materials bid reflects a 30% increase. The favorable bidding climate is the reason for lower asphalt prices and crackseal vendors simply have not increased their prices for several years and are now catching up. City Staff surveyed other metro area entities who have secured 2009 bids or negotiated costs and prices for asphalt decreased/increased from -5% to 10% while crackseal material increases are between 30% and 35%.

Purchasing these materials through the MAPO bid process and matching quotation helps achieve City Council's goals of "Financially Sound City Government" and "Vibrant Neighborhoods and Commercial Areas" by meeting the following objectives:

- Well maintained City infrastructure and facilities
- Maintained and improved neighborhood infrastructure

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Purchase of Gasoline and Diesel Fuel for City Vehicles

Prepared By: Jeffery H. Bowman, Fleet Manager
Matt Lutkus, Deputy City Manager

Recommended City Council Action

Ratify the contracted purchase for 381,540 gallons of unleaded gasoline and #2 diesel fuel from Gray Oil to be delivered to City sites for a cost of \$1,135,350 in 2009.

Summary Statement

- The 2009 prices for unleaded gasoline and diesel fuel were negotiated in September 2008 when fuel prices were beginning to decline. The City agreed to the Municipal Association of Procurement Officials (MAPO) contract with Gray Oil to lock not only price but also a guaranteed minimum of 90% and a maximum of 115% of the City's fuel supply.
- The \$1,135,350 represents the costs for 105% of Westminster's 2008 fuel consumption. The projected cost is based on the negotiated price of \$2.7987 per gallon for regular unleaded and \$3.3066 per gallon for diesel fuel.
- City Council approved \$1,305,011 in the 2009 Fleet Maintenance Fund Budget to purchase fuel and lubricants.
- With the 90% minimum purchase provision, ten percent of the anticipated fuel consumption for 2009 can be purchased on the open market. This will allow the City to take advantage of market prices that are currently below the 2009 contracted price for a portion of its fuel purchases.

Expenditure Required: Not to Exceed \$1,135,350

Source of Funds: Fleet Maintenance Fund - Fleet Maintenance Division

Policy Issue

Should the City Council ratify the purchase of fuel through the MAPO bid for 2009?

Alternative

The City could purchase “downside” protection that could benefit the City in the event that the fuel prices rise above the negotiated price and fall again. Staff does not recommend this alternative due to the 5% premium required for this protection.

Background Information

As part of the 2009 Budget, City Council approved the purchase of fuel for the City’s vehicles. For the past five years, the City has used Gray Oil for fuel services.

A bid was requested on behalf of MAPO, a cooperative of state, municipal, county, special district, school district or other local government agencies, in 2007. This was a competitive bid and offers greater volume and generally lower prices to the City than the City can obtain on its own. Five local vendors responded to MAPO’s Invitation for Bid, and the low bid for both gasoline and diesel fuel was recommended for award. MAPO included two optional, renewable years to the bid.

The MAPO bid was structured such that the bidders were quoting a price differential above/below the current weekly Oil Price Information Service (OPIS) or the New York Mercantile Exchange (NYMEX) average futures price, depending on whether the fuel would be purchased with either a “floating” or “fixed” price, respectively. The “floating” or “downside” protection would cost an additional 5% per gallon or 22 cents in the case of unleaded gasoline. The City has opted for the “fixed” price for its fuel and is required to purchase at least 90% of its supply at these prices. The City can still purchase the downside protection, however, it could only benefit if prices were to rise to 5% above the contractual rate and then fall significantly below that rate again.

Fuel pricing with estimated 2008 fuel consumption figures is as follows:

	Contractual Purchase (number of gallons)	Contracted Price per Gallon	Total
Regular Unleaded	236,737	\$2.7987	\$ 662,556
#2 Diesel	126,633	\$3.3066	\$ 418,724
TOTAL	363,370		\$1,081,280

The prices above include environmental fees of \$.0147 and delivery charges of \$.019 per gallon.

The recommended Council action will allow for an increase in 5% in usage beyond the estimated fuel usage in 2008. While the City continues to encourage departments to conserve fuel, the requested amount provides an increase for unforeseen events such as extended snow removal operations.

Locking in fuel supplies has two advantages to the City. The more important advantage is the availability to provide a guaranteed fuel supply. Locking a fuel contract assures that the City is first in line at the “rack,” when fuel supplies are being dispensed. Retail businesses and other competitors without contracts are subject to limited supply when events such as hurricanes, refinery shut-downs and other unforeseen events happen. In a fuel emergency, Westminster has placed itself in a position of security.

The second advantage to contracting fuel is the ability to budget a known dollar amount for fuel. In 2007 and 2008, volatile fuel prices exposed the weakness with spot market fuel purchases for municipalities that had not contracted for a fixed price for their fuel purchases. At the time the fuel contract was negotiated, #2 diesel fuel was being purchased by the City for \$3.765 per gallon and unleaded fuel was bought at \$3.016 per gallon. The price of fuel has dropped significantly since that time. City staff made inquiries regarding possible re-negotiation of the pricing. However, due to the commitments that the distributor had made with suppliers once a price had been negotiated, a change in pricing was not possible.

Westminster City Code 15-1-4-A1 specifically states that using a bid by another unit of government is an acceptable form of purchasing for the City.

This contract for fuel purchases meets Council's Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government by keeping the City's fleet on the street and maintaining service levels at a reasonable cost.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Median Maintenance and ROW Spraying Contract Award

Prepared By: Marty Chase, Parks Contract Maintenance Specialist
Richard Dahl, Park Services Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with Schultz Inc. in the amount of \$137,924 for the City's median maintenance and right-of-way (ROW) spraying with options for two additional one-year renewals (2010 and 2011).

Summary Statement

- With increasing park acreage and maintenance responsibilities, Staff has found it more cost effective to use contractors to maintain non-park areas rather than City Staff.
- For the past fifteen years the Parks, Recreation and Libraries Department has contracted approximately 1,149,000 sq.ft. of landscaped medians and 326,000 sq. ft. of ROW spray areas on a yearly basis.
- Formal bids were solicited in accordance with City bidding requirements for the 2009 median maintenance and ROW spraying requests for proposals were sent to ten contractors with eight responding.
- Adequate funds were budgeted and are available in the 2009 General Fund Parks, Recreation and Libraries Department operating budget, the Storm Drainage Fund, and the Capital Improvement Projects Community Enhancement Fund for the maintenance of City-owned landscaped medians.
- The low bidder, Schultz Industries, has successfully completed similar contracts in Westminster and the Denver Metro Area.
- In 2008, the City's Median Maintenance and ROW Spraying Contract was awarded to Urban Farmer, Inc. However, this company didn't perform to the standards and conditions of the contract.

Expenditure Required: \$137,924

Source of Funds: Storm Drainage Fund
General Fund - Parks, Recreation and Libraries Operating Budget
General Capital Improvement Fund - Community Enhancement Project

Policy Issue

Does the City wish to continue the use of outside contractors to perform specific park maintenance operations instead of using in-house Staff, supplies and equipment?

Alternatives

1. Do not approve the Median Maintenance and ROW Spraying Contract and rely on City Staff to take over the maintenance of the properties. Staff does not recommend this alternative because the cost of purchasing the specialized maintenance equipment along with the needed manpower would exceed the cost of the current low bidders.
2. Take no action. Due to the limited time frame involved for spring maintenance, Staff does not recommend this option if service levels are to be maintained.
3. Require Staff to re-bid the Median Maintenance and ROW Spraying Contract to ensure the lowest possible price is achieved. Staff does not recommend this alternative because all the companies capable of handling the size of Westminster’s contracts have already been given an opportunity to bid on these projects.

Background Information

Using contractors to maintain City median areas allows Staff time to properly maintain new and existing parks to standards expected by Westminster residents as expressed in the City of Westminster’s Citizen Survey. For the past fifteen years, with some exceptions, the use of private contractors to maintain these areas has been an effective use of resources and City Council has been supportive in providing funding for contract maintenance. This private contractual approach has worked very well by allowing City crews to concentrate on services they can perform more efficiently and at a greater level of detail. A multi-year contract (three years) allows the contractor to amortize equipment required to maintain the areas, to build a working relationship with Staff, and results in more favorable bidding options.

In compliance with City Charter bidding requirements and with the assistance of the City’s Purchasing Agent and the City Attorney’s Office the following bids were received:

Company	Contract Bid
Schultz, Inc.	\$137,924
Environmental Designs	\$147,479
Coloco, Inc	\$150,725
JPL, Inc.	\$166,612
Green Plan	\$198,511
Vargas Property Services, Inc.	\$235,717
Other Vendors Solicited	
Valley Crest	No bid received
Summit Services	No bid received
T2 Construction	No bid received
Brickman Group	No bid received

SUBJECT:

Median Maintenance and ROW Spraying Contract Award

Page 3

This project meets City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services," "Vibrant Neighborhoods and Commercial Areas" and of "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: 112th Avenue, Clay Street to Huron Street Project Street Light Costs

Prepared By: David W. Loseman, Senior Projects Engineer

Recommended City Council Action

Authorize the expenditure of an amount not to exceed \$100,067 for street lights attendant to the improvement of 112th Avenue, Clay Street to Huron Street.

Summary Statement:

- The construction of the 112th Avenue, Clay Street to Huron Street project will necessitate the relocation of existing street lights between Clay Street and Wyandot Street, which will be performed under the City's existing franchise agreement with Xcel Energy. However, there is a need to add street lights where none currently exist along the corridor so that this arterial street meets minimum lighting standards.
- The reconstruction of 112th Avenue is expected to be underway in the summer of 2009, following the underground relocation of overhead electric utility facilities along portions of the corridor. It is necessary to obtain advanced approval of this street light proposal from Xcel Energy so that construction crews can be scheduled early enough to avoid an impact to the schedule for the road work.
- Adequate funds are available and have been designated in the General Capital Improvement Fund for this expense.

Expenditure Required: \$ 100,067

Source of Funds: General Capital Improvement Fund - 112th Avenue Improvements Project

Policy Issue

Should the City install street lights along 112th Avenue as part of the 112th Avenue, Clay Street to Huron Street project?

Alternatives

Council could choose to have street lights installed along the 112th Avenue corridor at a later time or not at all. Staff does not recommend these alternatives because the installation of the street lights as part of the utility undergrounding effort is more cost effective than installing the street lights at a later time. Not installing the street lights at all is a safety concern.

Background Information

The widening of 112th Avenue between Federal Boulevard and Huron Street is becoming more important with the increased traffic flows along this corridor. This increased flow is largely due to the completion of the 112th Avenue “flyover” of I-25 by the City of Northglenn a few years ago as well as Westminster’s intersection improvements at 112th Avenue and Federal Boulevard. These two projects provide two through lanes in both directions, which feed into single lanes in both directions between Ranch Reserve Parkway and Huron Street. This “bottleneck” creates a capacity concern along this arterial street. 112th Avenue is the only roadway that crosses I-25 between 104th Avenue and 120th Avenue. This additional crossing of the highway allows motorists to bypass the frequently congested 104th Avenue and 120th Avenue routes.

The original plan in 2004 was to construct the full widening of 112th Avenue in partnership with the City of Northglenn. Due to budgeting difficulties, Northglenn is no longer participating in the project. A scaled back project is now proposed that includes two through lanes for west-bound traffic for the entire corridor but leaves the existing one-lane section of road for east-bound traffic between Alcott Street and Pecos Street. The first phase of construction for this scaled back project between Clay Street and Wyandot Street was originally contemplated for construction in 2008, but high asphalt and fuel costs at that time made it more economical to combine the first phase of work with the construction of the second phase of improvements to 112th Avenue between Navajo Street and Huron Street.

As part of the roadway widening project, Xcel Energy designed street lighting and determined a cost of \$100,067 for this work to be performed by its forces. Based on staff’s experience on similar past projects, this cost is reasonable, so approval of this request is recommended.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment (3 maps)



112th Avenue, Clay Street to Huron Street Project
Sheet 1 of 3





**112th Avenue, Clay Street to Huron Street Project
Sheet 2 of 3**



**112th Avenue, Clay Street to Huron Street Project
Sheet 3 of 3**



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Church Ranch Hotel Companies Business Assistance Agreement Change in Term

Prepared By: Susan F. Grafton, Economic Development Manager

Recommended City Council Action

Approve a change in the Business Assistance Agreement for the Church Ranch Hotel companies to extend the date for commencement of construction from March 1, 2009 to March 1, 2011.

Summary Statement

- There is an existing Business Assistance Agreement with Church Ranch Hotel Company, originally signed in September 1998 for a 240 to 260 full service Marriott expandable to 350 rooms plus a 10,000 square foot conference center.
- In 1999, the agreement was amended to allow for the 150 to 160 room Marriott Spring Hill Suites hotel as part of the project. That hotel was completed in 2002.
- Subsequent amendments to the agreement required construction on the full-service hotel to commence on or before March 1, 2009.
- In December 2008, Council adopted an ordinance that authorized the City Manager to sign an amended and restated business assistance agreement with the current owners to facilitate the development of a 115 room Hyatt Place Hotel on the site, which agreement changed the terms of the business assistance package but did not change the date for commencement of construction.
- Due to the poor economic climate for financing projects such as this, the owners are requesting a delay of two years in the commencement date for construction from March 1, 2009 to on or before March 1, 2011.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does Council desire to amend the previously approved Business Assistance Agreement to change the construction commencement date to allow the delay of the hotel project?

Alternative

Do Nothing: The City could decide not to extend the construction commencement date in the assistance agreement. However, such a decision would most likely result in the project not moving forward.

Shorter Extension: A one year extension could be provided for construction to commence, instead of a 2 year extension. The developers have agreed to build sooner if the funds become available, so a shorter timeline provides little advantage.

Background Information

An assistance agreement for a full service Marriott Hotel was originally approved in September 1998. Because of decline in the hotel market in 2001, the assistance agreement for the Marriott was extended until March 1, 2009. This extension was granted subject to a \$50,000 annual deposit which has been paid on time each year by the developers.

In December 2008, Council approved an amendment to the Marriott Hotel agreement to make the assistance available also for a 115 room Hyatt Place Hotel that is to be built coincidental with the full service Marriott Hotel. The developers have in the meantime received all of the planning approvals for the project and are in process of finalizing building plan approvals. In other words, the project is set to meet the March 1, 2009 deadline for commencement of construction as required in the existing Business Assistance Package.

The developers have now requested a two year postponement of the project due to the current deterioration of the financing market. This deterioration has resulted in a funding gap for the project, and, thus the need to delay the project. The developers have indicated their willingness and desire to move ahead sooner on the project should the financial markets turn around sooner than two years. It is Staff's recommendation that the two year extension of the Business Assistance Package be granted. However, the extension would be subject, as before, to a \$50,000 deposit per each year of the extension. As this change in term was not part of the December 2008 discussion of the amended and restated business assistance package, the Staff is requesting Council approval of this change.

Though the delay of the hotel project is disappointing, it is not at all unexpected in light of the current financial crisis. Working with the developer to keep the project alive seems to be a reasonable approach.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 G

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Second Reading of Councillor's Bill No. 2 re FY2008 Budget Amendment

Prepared By: Aric Otzelberger, Management Analyst

Recommended City Council Action

Pass Councillor's Bill No. 2 on second reading amending the FY2008 budgets of the General Fund, Fleet Maintenance Fund and General Capital Improvement Fund.

Summary Statement

- This action is part of the routine year-end housekeeping functions to address certain unanticipated expenses in various budget accounts that could not be absorbed within the operating budget. Each year, contingency funds are budgeted for unanticipated expenses that cannot be absorbed within the adopted operating budget such as the ones included in this agenda memorandum.
- Funds for these transfers are available in the General Fund contingency account.
- City Council action is requested to pass the attached Councillors Bill on second reading.
- This Councillor's Bill was passed on first reading on February 9, 2009.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **2**

SERIES OF 2009

INTRODUCED BY COUNCILLORS
Dittman - Lindsey

**A BILL
FOR AN ORDINANCE INCREASING THE 2008 BUDGET OF THE
FLEET MAINTENANCE AND GENERAL CAPITAL IMPROVEMENT FUNDS
AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE
2008 ESTIMATED REVENUES IN THESE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2008 appropriation for the Fleet Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$72,000. The 2008 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$10,000. This appropriation is due to an increase in the transfer from the General Fund.

Section 2. The \$72,000 increase in the Fleet Fund and the \$10,000 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 C&D, dated February 9, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Fleet Fund	<u>\$72,000</u>
General Capital Improvement Fund	<u>\$10,000</u>
Total	<u>\$82,000</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of February, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of February, 2009.

ATTEST:

Mayor

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Second Reading of Councillor's Bill No. 3 re Utility Capital Project Reserve Fund Transfer

Prepared By: Kent W. Brugler, Senior Engineer, Capital Projects and Budget Management

Recommended City Council Action

Pass Councillor's Bill No. 3 on second reading transferring \$1,389,000 from the Utility Capital Project Reserve Fund to the Reclaimed Water Treatment Facility Expansion Project account in the Utility Fund.

Summary Statement

- Councillor's Bill No. 3 was approved on first reading by City Council on February 9, 2009.
- At the February 9, 2009 City Council meeting, Council authorized the City Manager to execute a professional services agreement with Black & Veatch Corporation for providing design services for the reclaimed water influent storage tank, pump station and treatment plant expansion.
- A new covered influent storage tank and pump station are required to adequately and reliably supply current and future reclaimed water demands from the Big Dry Creek Wastewater Treatment Facility to the Reclaimed Water Treatment Facility.
- The Reclaimed Water Treatment Facility capacity must also be expanded to meet future demands.
- City Council approved \$15,575,000 in funding for the design and construction of these projects in the 2009/2010 Budget, with the costs to be funded through a debt issue in 2010. The approved 2009 budget for these engineering design services is \$1,389,000. Since it was planned to be debt financed in 2010, City Council is being requested to appropriate the funds for the 2009 engineering design services at this time.
- Due to the current favorable construction climate and the desire to start the construction of the storage tank and pump station in 2009 for use at the start of the 2010 reclaimed water season, City Staff recommends that the design costs be funded in 2009 from the Utility Capital Project Reserve Fund and be reimbursed by the debt funding later in 2009 or 2010.

Expenditure Required: \$ 1,389,000

Source of Funds: Utility Capital Project Reserve Fund

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **3**

SERIES OF 2009

INTRODUCED BY COUNCILLORS
Briggs - Dittman

A BILL

FOR AN ORDINANCE AMENDING THE 2009 BUDGETS OF THE WATER AND UTILITY RESERVE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2009 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2009 appropriation for the Water and Utility Reserve Funds initially appropriated by Ordinance No. 3432 is hereby increased by \$2,778,000. This appropriation is due to the transfer of reserve funds.

Section 2. The \$2,778,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 E&F, dated February 9, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Water Fund	\$1,389,000
Utility Reserve Fund	\$1,389,000
Total	<u>\$2,778,000</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of February, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of February, 2009

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Councillor's Bill No. 4 re 2008 4th Quarter Budget Supplemental Appropriation

Prepared By: Gary Newcomb, Accountant

Recommended City Council Action

Pass Councillor's Bill No. 4 on first reading providing for supplemental appropriation of funds to the 2008 budget of the General, Water, Fleet, and General Capital Improvement Funds.

Summary Statement

- At the end of each quarter Staff prepares an ordinance to appropriate unanticipated revenues received during the quarter. Preparing quarterly supplemental appropriation requests is done to simplify administrative procedures and reduce paper work.
- This is the 2008 4th quarter supplemental appropriation.
- General Fund amendments:
 - \$200 Scholarship
 - \$1,717 Interest Earnings
 - \$2,000 Foundation Grants
 - \$2,000 State Grants
 - \$4,125 Vending Proceeds
 - \$65,870 Program Revenues
 - \$90,276 Reimbursements
 - \$126,632 Federal Grants
 - \$800,000 Project Savings
- Water Fund amendments:
 - \$7,160 Energy Rebate
- Fleet Fund amendments
 - \$100,000 Transfer
- General Capital Improvement Fund amendments:
 - (17,163) Transfer
 - \$5,000 Cash-in-lieu Payment
 - \$12,160 Interest Earnings
 - \$29,723 State Grant

Expenditure Required: \$1,229,700

Source of Funds: The funding sources for these expenditures include a scholarship, energy rebate, cash-in-lieu payment, interest earnings, grants, vending proceeds, program revenues, reimbursements, and project savings.

Policy Issue

Does City Council support amending the appropriations for the 2008 budget of the General, Water, Fleet, and General Capital Improvement Funds?

Alternative

The alternative would be not to amend the 2008 budget appropriations for the General, Water, Fleet, and General Capital Improvement Funds and utilize these funds for other purposes. Staff does not recommend this alternative as the various departments have already incurred expenses and covered them in their current budget in anticipation of appropriation of the funds.

Background Information

This agenda memo and attached Councillor's Bill is a routine action addressing the need to appropriate additional revenues and offset expenditures that resulted from increased activity or events that were not anticipated during the normal budget process.

GENERAL FUND BUDGET AMENDMENTS

In the Adopted 2008 Budget, the City factored in \$800,000 of attrition savings in the total budgeted amount for the City's General Fund. In 2008, as a whole, the City did realize the \$800,000 in attrition savings in the General Fund. However, not every department in the General Fund experienced the employee turnover to realize attrition savings in their individual departmental budgets. Per previous agreement, Staff is seeking to transfer salary funds from departments with higher-than-budgeted attrition into departments with lower-than-budgeted attrition, but only if the lower-than-budgeted attrition experience causes a General Fund department to be over budget as a whole.

In 2008, several General Fund departments experienced less-than-budgeted attrition and therefore had shortfalls in their salary accounts; however, savings in other accounts made their total 2008 budgets balance as a whole. The City Attorney's Office (CAO) experienced less-than-budgeted attrition and due to the vast majority of their budgeted expenditures being personnel-related, expenditures were over-budget as a whole. The less-than-budgeted attrition deficit of \$33,080 in CAO personnel accounts was offset by a \$21,000 savings in other operating accounts, leaving a 2008 budget shortfall of approximately \$12,000.

This action would transfer \$15,000 of available budget from a salary account in the Patrol Services Division of the Police Department to a salary account in the City Attorney's Office, but does not change the total appropriation in the General Fund. The extra \$3,000 is proposed to be transferred as a buffer to protect against potential audit adjustments and to ensure that the City Attorney's Office 2008 budget balances. Due to the large number of Staff in its division, Patrol Services experienced higher-than-budgeted attrition in 2008 and realized additional personnel savings. This action is merely a year-end clean-up item to ensure that all 2008 departmental budgets in the General Fund balance. This action does not affect future budgets for either of these departments.

The City received interest payments throughout the second half of 2008 on Certificate of Participation (COPS) funds from the 99 Westminster Blvd. COPS, 01 Public Safety COPS, 98 Capital Facilities COPS, 07 Refunding COPS, and 05 144th Interchange COPS in the amount of \$267, \$37, \$713, \$295, and \$405 respectively. Issuance restrictions require the interest earnings to be appropriated for use on the respective projects or debt service.

The City received commission proceeds from the vending machines located in the employee lounge throughout 2008. \$4,125 of these proceeds are requested to be appropriated to cover employee appreciation events put on by the Employee Recognition Action Team (ERAT).

The Finance Department received a \$200 scholarship from the Colorado Government Finance Officers Association (GCFOA). The scholarship was used to send one of the Accountants to the CGFOA Annual Conference. An appropriation of funds is being requested into the Accounting career development account.

With the completion of the 144th Avenue Interchange there are excess funds totaling \$800,000 in the 2005 COPS project fund at the Trust. The excess funds were used to pay a portion of the debt service payment that was due on November 15, 2008 for the 2005 COPS. In order to properly record the use of funds for the debt service on the books of the City, the budget in both the General and General Capital Improvement Funds require adjustment. The change in the General Capital Improvement Fund does not change the total appropriation in the Fund; however, the change does increase the appropriation in the General Fund. This change in the General Fund will provide a budget to actual savings of \$800,000 in the lease payment to others account as the debt service payment was previously budgeted through the annual budget process. This savings will fall into fund balance and become available for appropriation with 2008 carryover.

Funding from the Department of Justice, Edward Byrne Memorial Justice Assistance Grant (JAG) was requested and received by the Police Department in November 2008 in the amount of \$14,324. This funding was used for the Police Department cash-in-kind payment to the North Metro Task Force operations budget for 2008.

The Police Department participates in the Federal Law Enforcement Assistance Fund (LEAF) grant program sponsored by the State of Colorado, Department of Transportation (CDOT). Two grants in the amounts of \$8,442 and \$4,434 were received as reimbursement for overtime incurred by enforcement officers while working on DUI enforcement.

The Police Department received three reimbursements from the Jefferson County Service Authority (E911 Authority Board). A reimbursement of \$5,328 was for conference and training expenses for the communications staff, and reimbursements of \$357 and \$274 were for communications equipment purchases for the 911 communications center.

The Police Department received two federally funded grants from the North Metro Task Force. These reimbursement awards of \$5,612 and \$4,225 were for overtime incurred by the Westminster Police Department's Task Force members while working on High Intensity Drug Trafficking Area (HIDTA) investigations.

The Police Department participates in the Federal Internet Crimes against Children (ICAC) grant program sponsored by the City of Colorado Springs. A grant in the amount of \$3,013 was received as reimbursement for overtime incurred and supplies used by detectives while investigating ICAC cases.

Police security is provided on a contract basis by the Police Department for City of Westminster businesses and events. The amount of contract work provided this year was greater than the amount budgeted. Therefore, the amount budgeted for extra duty overtime was not sufficient. In order to offset these expenses, an appropriation of excess off duty police services revenue in the amount of \$65,000 is being requested.

The Fire Department received a Community Grant from the Wal-Mart Foundation. This grant award of \$1,000 was used to purchase fire safety materials for the Public Fire Safety Education Program.

The Fire Department received reimbursement from the State of Colorado Forest Service on behalf of the Wildland Team. The reimbursement of \$49,635 was for fire personnel overtime salaries, hotel, and meal costs incurred while deployed to the Butte Lightning Complex Fire in southern Colorado.

The Fire Department received an Emergency Management Program Grant (EMPG) of federal funds from the State of Colorado in the amount of \$15,000. These funds were used to purchase a dispatch console used in large scale emergencies and disaster situations. This console will provide a better link to the Emergency Coordination Center and Field Incident Command. The funding will also be used for a business emergency preparedness survey.

The Fire Department received two reimbursements from the Colorado Urban Search and Rescue Task Force, West Metro Fire Protection District. The reimbursements of \$14,644 and \$20,038 were for fire personnel overtime incurred while working on Hurricane Ike and Gustav as part of the task force.

The Fire Department received a Assistance to Firefighter Grant (ADG) from the Homeland Security – Federal Emergency Management Agency (FEMA). The grant award of \$71,582 reimburses purchases of hose, Self Contained Breathing Apparatus (SCBA), and nozzles.

The Fire Department received \$870 in class registration fees for conducting CPR training classes. The department is requesting appropriation of these funds to the EMS supplies account used to purchase supplies utilized during the classes.

On July 14, 2008 Council approved an IGA with the State of Colorado to accept a grant award provided by the Colorado Council of The Arts. The \$2,000 award was used to provide capacity building training for the Board of Directors of the South Westminster Arts Group.

In September 2008, the Irving Street Library launched an after-school Homework Help program partnering with local high schools to provide tutors and promote the program. The Westminster Legacy Foundation granted \$1,000 to purchase a laptop computer dedicated to the Homework Help program aiding students in successfully completing their homework assignments. An appropriation of funds is being requested to the division's computer software/hardware account.

WATER FUND BUDGET AMENDMENTS

On November 26, 2007 City Council approved the purchase of new compressed air equipment for the Northwest Water Treatment Facility. The equipment approved for purchase qualified as energy efficient and the City received a \$7,160 rebate from Xcel Energy in November. An appropriation of funds is being requested into the project equipment CIP account to offset the overall project cost.

FLEET FUND BUDGET AMENDMENTS

During the first three quarters of 2008, the City experienced a significant increase in expenses for commodities, especially for all petroleum-based products and parts with metal components. Although the City was able to lock in fuel prices below market prices, the Fleet operation was impacted by cost increases for oil and other lubricants, tires and parts. The other major factor for the shortfall in Fleet centered on unexpected and higher-than-anticipated costs for contracted repairs. These repairs included the rebuild of the engine in a Cat Loader (\$11,500), the replacement of rear suspension springs and the repair of frame and body damage on four Fire Department trucks (\$54,000), the rebuild of twelve transmissions (\$38,000) and suspension repairs on eleven City vehicles (\$25,000).

In order to address these unanticipated costs and to balance the 2008 budget for the Fleet Maintenance Fund, it is necessary to transfer \$172,000 into the Fleet Maintenance Fund. On February 9, City Council approved first reading of an ordinance to transfer \$72,000 in General Fund contingency into the Fleet Maintenance Fund. City Council will consider second reading of this ordinance on February 23. This supplemental appropriation request proposes to transfer \$100,000 in savings from the General Fund budget of the General Services Department to address the remaining shortfall in the Fleet Maintenance Fund.

GENERAL CAPITAL IMPROVEMENT FUND BUDGET AMENDMENTS

This item is to adjust the General Fund transfer to the Standley Lake Capital Improvement Project. This action will adjust the final 2008 transfer to the Standley Lake CIP to reflect the difference between Standley Lake's actual 2008 revenues and Standley Lake's actual 2008 General Fund operating expenditures. Below is a breakdown of this adjustment (reflects unaudited figures):

2008 Actual Standley Lake Revenues: **\$544,219**
 2008 Actual SL GF Expenditures: **\$406,382**
Difference: **\$137,837**

Original 2008 GF SL CIP Transfer: \$155,000
 Updated 2008 GF SL CIP Transfer: **\$137,837**
Reduction to GF 2008 Transfer: **\$17,163**

After this proposed adjustment, the final 2008 appropriation for the Standley Lake Capital Improvement Project would be \$137,837.

The City received interest payments throughout the second half of 2008 on Certificate of Participation (COPS) funds from the 05 144th Interchange COPS in the amount of \$12,160. Issuance restrictions require the interest earnings to be appropriated for use on the respective projects or debt service.

The Community Development Department received a cash-in-lieu payment for Public Art in the amount of \$5,000 for the Sheridan Crossing Development. An appropriation of funds is being requested into the Department's Public Art CIP Account.

On November 25, 2008 the Westminster Legacy Foundation awarded the City a grant in the amount of \$5,605 necessary to fund the cash match requirement of the grant received from the State Historical Fund for the preparation of construction documents for the Milk and Ice House located at the Shoenberg Farm. An appropriation of funds is being requested into the Shoenberg Farm Restoration CIP to pay this cash match.

In May 2008, the State of Colorado awarded a grant in the amount of \$24,118 for use of Colorado recycled waste tires in playground safety surfacing at Windsor Park. This grant is administered through the Department of Local Affairs, Colorado Waste Tire Program. An appropriation of funds is being requested into the Park Renovation Program CIP account to offset the overall project cost.

These appropriations will amend General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Miscellaneous	1000.41460.0000	\$0	\$200	\$200
Interest 01 COPS	1000.42530.0215	448	37	485
Interest 05 COPS	1000.42530.0274	555	405	960
Interest 07 COPS	1000.42530.0277	745	295	1,040
Interest 99 COPS	1000.42530.0276	55	267	322
Interest Cap Facilities	1000.42530.0209	305	713	1,018
Other Grants	1000.40650.0057	\$0	1,000	\$1,000
General	1000.43060.0000	569,418	95,401	664,819
Off Duty Police Services	1000.41340.0000	150,000	65,000	215,000
Off Duty Fire Services	1000.41340.0013	2,765	870	3,635
State Grants	1000.40620.0000	12,028	2,000	14,028
Federal Grants	1000.40610.0000	289,253	126,632	415,885
Transfers GCIF	1000.45000.0750	0	800,000	800,000
Total Change to Revenues			<u>\$1,092,820</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
PD Salaries-Traffic	10020500.60200.0348	\$1,634,573	(\$15,000)	\$1,619,573
Contract Svcs-EM Grant	10025260.67800.0545	14,000	15,000	29,000
Career Development	10015220.61800.0000	4,130	200	4,330
Lease Pay 01 COPS	10010900.67700.0215	448	37	485
Lease Pay 05 COPS	10010900.67700.0274	1,374,805	405	1,375,210
Lease Pay 07 COPS	10010900.67700.0277	1,372,083	295	1,372,378
Lease Pay Cap Facilities	10010900.67700.0209	1,093,558	713	1,094,271
Lease Pay Westy Blvd	10010900.67700.0276	364,555	267	364,822
Spec Promo Fire Prevent	10025260.67600.0547	8,900	1,000	9,900
Computer Soft/Hard	10050620.75400.0000	43,205	1,000	44,205
Supplies ERAT	10012060.70200.0030	22,600	4,125	26,725
CAO Salaries	10003120.60200.0000	657,658	15,000	672,658
Career Dev-Comm Section	10020300.61800.0345	16,243	5,328	21,571
Career Development	10025260.61800.0000	42,859	1,375	44,234
Lease Pay Others	10010900.67700.0274	1,374,805	800,000	2,174,805
Lease Pay-Inv Section	10020300.67700.0344	69,890	14,324	84,214
Maint/Rep-Inv Section	10020300.66100.0344	10,500	655	11,155
Other Equipment	10025260.76000.0000	167,300	71,582	238,882
Professional Services	10030050.65100.0000	46,292	2,000	48,292
Salaries OT	10025260.60400.0000	322,218	66,289	388,507
Salaries OT-EMS	10025260.60400.0546	75,490	16,653	92,143
Salaries OT-Extra Duty	10020500.60400.0005	150,000	65,000	215,000
Salaries OT-Inv Section	10020300.60400.0344	256,821	11,150	267,971
Salaries OT-Traffic	10020500.60400.0348	76,480	12,876	89,356
Supplies EMS	10025260.70200.0546	7,385	870	8,255
Supplies-Inv Section	10020300.70200.0344	26,699	1,045	27,744
Telephone	10020050.66900.0000	110,302	631	110,933
Total Change to Expenses			<u>\$1,092,820</u>	

These appropriations will amend Water Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
General	2000.43060.0000	\$301,414	<u>\$7,160</u>	\$308,574
Total Change to Revenues			<u>\$7,160</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
NWTF Compress Air Repl	80720035788.80400.8888	\$0	<u>\$7,160</u>	\$7,160
Total Change to Expenses			<u>\$7,160</u>	

These appropriations will amend Fleet Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers General Fund	3000.45000.0100	\$0	<u>\$100,000</u>	\$100,000
Total Change to Revenues			<u>\$100,000</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Fuel and Lubricants	30012460.74000.0000	\$701,530	\$90,000	\$791,530
Parts	30012460.73600.0000	229,312	<u>\$10,000</u>	\$239,312
Total Change to Expenses			<u>\$100,000</u>	

These appropriations will amend General Capital Improvement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Cash-in-lieu Capital Proj	7500.40210.0751	\$200,000	\$5,000	\$205,000
Interest 05 COPS	7500.42530.0274	26,617	12,160	38,777
State Grants	7500.40620.0000	133,589	5,605	139,194
State Grants	7501.40620.0000	501,125	24,118	525,243
Transfer General Fund	7501.45000.0100	155,000	<u>(17,163)</u>	137,837
Total Change to Revenues			<u>\$29,720</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers General Fund	75010900.79800.0100	\$0	\$800,000	\$800,000
COP 144 th Interchange	80575030713.80400.8888	16,103,124	(787,840)	14,878
New Art Participation	80575030426.80400.8888	0	5,000	5,000
Park Renovation Program	80375050305.80400.8888	484,446	24,118	508,564
Shoenberg Farm	80875030834.80400.8888	501,125	<u>5,605</u>	506,730
Standley Lake CIP	80775050747.80400.8888	49,000	<u>(17,163)</u>	31,837
Total Change to Expenses			<u>\$29,720</u>	

These adjustments will bring the City's accounting records up-to-date to reflect the various detailed transactions.

Respectfully submitted,

J. Brent McFall
 City Manager
 Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 4

SERIES OF 2009

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE 2008 BUDGETS OF THE
GENERAL, WATER, FLEET, AND GENERAL CAPITAL IMPROVEMENT FUNDS
AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE
2008 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2008 appropriation for the General, Water, Fleet, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3316 are hereby increased in aggregate by \$1,229,700. This appropriation is due to the receipt of a scholarship, energy rebate, cash-in-lieu payment, interest earnings, grants, vending proceeds, program revenues, reimbursements, and project savings.

Section 2. The \$1,229,700 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10A dated February 23, 2009 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$1,092,820
Water Fund	7,160
Fleet Fund	100,000
General Capital Improvement Fund	<u>29,720</u>
Total	<u>\$1,229,700</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of February, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of March, 2009.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Councillor's Bill No. 5 re Amending Chapters 1, 2, and 5 of Title XIII of the Westminister Municipal Code Concerning Parkland and Open Space

Prepared By: Heather Cronenberg, Open Space Coordinator
Jane Greenfield, Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 5 on first reading amending Chapters 1, 2, and 5 of Title XIII of the Westminister Municipal Code concerning Parkland and Open Space.

Summary Statement

- Staff proposes revisions to Title XIII of the City Code related to regulations and use of the City's parks, open space areas, and community buildings. These chapters have not been updated in some cases since they were originally adopted. Outdated language has been updated and language has been added to make the chapters consistent with one another.
- The proposed revisions also establish the process for the policies to be adopted by Council for use of Open Space, Parklands, and other City owned properties.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council approve of the revisions to chapters 1, 2, and 5 of Title XIII of the City Code?

Alternatives

- 1) Council could choose to not support the proposed changes to the City Code.
- 2) Council could direct staff to make further changes to the Code or to not make any changes.

Staff recommends amending Chapters 1, 2, and 5 of Title XIII of the City Code as these chapters have not been updated in many years.

Background Information

Staff proposes modifications to Title XIII of the City Code related to regulations and use of the City's parks, open space areas, and community buildings. The revisions, basically, accomplish the following:

- Establishes the process for the policies to be adopted by Council for use of City parks and open space lands;
- Clarifies that park regulations also apply to open space properties;
- Expands the language in Section 13-5-4 regarding redesignation, sale or trade of open space lands and adds parallel language to the parks chapter consistent with these changes;
- Cleans up outdated or inconsistent language in Chapter 13-2 regarding use permits and clarifies their application to open space properties as well. In large part, Chapter 13-2 has not been amended since its adoption;
- Expands the language of Section 13-5-3 on the types of uses appropriate on open space properties; and,
- Cleans up outdated or inconsistent language in Chapter 13-5, which has not been amended since 1989.

While most of the proposed changes to the Code are not of a substantive nature, the above summary includes the larger proposed changes. In putting together the code revisions to Title XIII, the City Attorney's Office, Community Development, Open Space Division, and the Parks, Recreation and Libraries Department worked cooperatively through many iterations. The policies and proposed changes to Title XIII were discussed with Council at a Study Session on February 2, 2009. The changes were also discussed with the Parks, Recreation and Libraries and Open Space Boards.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **5**

SERIES OF 2009

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING CHAPTERS 1, 2 AND 5 OF
TITLE XIII OF THE WESTMINSTER MUNICIPAL CODE
CONCERNING PARKLAND AND OPEN SPACE**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The index for Chapter 1 of Title XIII, and section 13-1-1, W.M.C., are hereby AMENDED to read as follows:

CHAPTER 1

~~GENERAL~~ PARKS, OPEN SPACE, AND COMMUNITY BUILDING REGULATIONS

- 13-1-1: PURPOSE AND INTENT**
- 13-1-2: DEFINITIONS**
- 13-1-3: USE REGULATIONS**
- 13-1-4: ENFORCEMENT OF RULES**
- 13-1-5: ENFORCEMENT OF APPLICABLE LAWS AND ORDINANCES**
- 13-1-6: FISHING, HUNTING, WILDLIFE AND BOATING REGULATIONS**
- 13-1-7: POLICIES FOR NON-PARK USE OF PARKLANDS**
- 13-1-8: REDESIGNATION, SALE, OR TRADE OF PARKLANDS**

13-1-1: PURPOSE AND INTENT: The purpose of this Chapter is to regulate the use ~~to~~ OF the CITY'S parkLANDs, OPEN SPACE PROPERTIES, and community buildings ~~of the City~~ in order that all persons may enjoy and make use of such RESOURCES ~~parks and buildings~~ and to protect the rights of those in the surrounding areas.

Section 2. Section 13-1-2, W.M.C., is hereby AMENDED to read as follows:

13-1-2: DEFINITIONS: The following words, TERMS, and phrases, WHEN USED IN THIS TITLE XIII, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE ~~whenever used in this Section:~~ (796 815 1889 2910)

- (A) "City:" ~~The term "City" refers to~~ SHALL MEAN the City of Westminster, Colorado.
- (B) "Amplified Sound:" ~~The term "Amplified Sound"~~ SHALL means speech or music projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech or music and are powered by electricity, battery or combustible fuel.
- (C) "Community Buildings:" ~~The term "Buildings" includes~~ SHALL MEAN ONE OR MORE OF those STRUCTURES, buildings, or any portion thereof, under the supervision of the Westminster Department of Parks, Recreation and Libraries; and ANY ~~all~~ other publicly owned buildings OR STRUCTURE used for recreational purposes within the City.
- (D) "Director:" ~~The term "Director" refers to~~ SHALL MEAN the Director of the Department of Parks, Recreation and Libraries or ~~his~~ THAT PERSON'S designated agent or employee. ~~The Director shall make and publish such regulations, not inconsistent with the terms of this Chapter, as he deems necessary for the orderly use and management of the City's park and recreation facilities and programs.~~

(E) "OPEN SPACE COORDINATOR" SHALL MEAN THE MANAGER OF THE OPEN SPACE PROGRAM OR THAT PERSON'S DESIGNATED AGENT OR EMPLOYEE.

(F) "OPEN SPACE PROPERTIES" SHALL MEAN THE PARCELS OF LAND COMPRISING THE OPEN SPACE PROGRAM, AS DESCRIBED IN CHAPTER 13-5, W.M.C., INCLUDING ALL PROPERTIES ACQUIRED FOR OPEN SPACE, DONATED TO THE OPEN SPACE PROGRAM, OR DESIGNATED OR REDESIGNATED AS OPEN SPACE BY THE CITY COUNCIL.

(G) "PARK" OR "Parks". ~~The term "Parks" includes~~ SHALL MEAN all grounds, roadways, avenues, parkLANDS, OPEN SPACE PROPERTIES, parking lots and areas, and recreation facilities therein under the supervision of the Westminster Department of Parks, Recreation and Libraries; and all other publicly owned or operated parkS and recreation facilities within the City, including Standley Lake and the land around it (Standley Lake Recreation Area), the publicly owned areas of the Westminster Promenade, the property on which City Hall is located, and the property on which the public safety center is located. "PARKLANDS" SHALL MEAN A SUBSET OF "PARKS," TRADITIONALLY UNDERSTOOD TO BE DEVELOPED PARCELS OF LAND IMPROVED WITH RECREATIONAL FACILITIES OR COMMUNITY BUILDINGS, FORMALLY PLANTED WITH TURFGRASS AND OTHER VEGETATION, AND DESIGNED AND MAINTAINED FOR ACTIVE RECREATIONAL USES.

~~(F)~~(H) "Persons". ~~The term "Persons" shall include~~ MEAN NATURAL persons, associations, partnerships, firms, ORGANIZATIONS, or corporations.

~~(G)~~(I) "Recreation Facilities." SHALL MEAN THOSE ~~The term "Recreation Facilities" refers to~~ specialized recreation facilities such as swimMING pools, tennis courts, ball fields, PICNIC SHELTERS, and similar facilities under the supervision of the Westminster Department of Parks, Recreation and Libraries.

~~(H) Permit. The term "Permit" means a permit for exclusive use of parks, buildings and recreation facilities as provided for and defined in this Chapter.~~

~~(I) Written Consent of Director. The term "Written Consent of Director" refers to the power of the director to consent to certain otherwise prohibited uses by organized groups of people. Such consent may not be granted to individuals.~~

(J) "USE PERMIT" SHALL MEAN A PERMIT FOR THE EXCLUSIVE USE OF PARKS, OPEN SPACE PROPERTIES, BUILDINGS AND RECREATION FACILITIES, OR A PORTION THEREOF, AS PROVIDED FOR IN CHAPTER 13-2, W.M.C., AND DOES NOT INCLUDE A SPECIAL ALCOHOLIC BEVERAGE PERMIT.

Section 3. Section 13-1-3, subsections (A), (E), (K), (L), (M), (O), (P), (T), (U), (Y) and (Z), W.M.C., are hereby AMENDED to read as follows:

13-1-3: USE REGULATIONS: (796 847 1889 2811) It shall be unlawful for any person to ~~fail to comply with the following:~~

(A) ~~Compliance Required~~ TRESPASS. Enter, be or remain in any park or building of the City unless he OR SHE complies with this Chapter TITLE and regulations promulgated hereunder AND ANY RULES POSTED IN ANY PARK OR BUILDING OF THE CITY.

(E) Amplified Sound. Utilize any machine or device for the purpose of amplification of human voice, music or any other sound in parks or community buildings without the written consent of the Director, except City employees, firemen or law enforcement officers in the performance of their duty.

(K) ~~Bicycles: Operate, drive, or ride upon any motorcycle, snowmobile, auto or other motorized or non motorized vehicle in any park except when posted specifically for such use or with the written consent of the Director, provided that non motorized cycles shall be permitted to use pathways within any park unless such use is specifically prohibited and signs are posted giving notice of such prohibition.~~ VEHICLE USE: OPERATE, DRIVE, OR RIDE UPON ANY MOTORCYCLE, SNOWMOBILE, SCOOTER, SEGWAY™,

AUTO OR OTHER MOTORIZED OR NON MOTORIZED VEHICLE IN ANY PARK EXCEPT WHEN POSTED SPECIFICALLY FOR SUCH USE OR WITH THE WRITTEN CONSENT OF THE DIRECTOR, PROVIDED THAT NON MOTORIZED CYCLES SHALL BE PERMITTED TO USE PATHWAYS WITHIN ANY PARK UNLESS SUCH USE IS SPECIFICALLY PROHIBITED AND SIGNS ARE POSTED GIVING NOTICE OF SUCH PROHIBITION. THIS PROHIBITION OF MOTORIZED OR NON-MOTORIZED VEHICLES WILL NOT APPLY TO A VEHICLE DETERMINED TO BE REQUIRED BY THE AMERICANS WITH DISABILITIES ACT.

(L) Control of Dogs, Cats and Other ~~Animals~~ HOUSEHOLD PETS. Bring or maintain in or upon any park or community building any dog, cat, or other ~~animal~~ HOUSEHOLD PET, unless such dog, cat or other ~~animal~~ HOUSEHOLD PET is kept at all times on a leash, not to exceed fifteen feet (15') in length, and under full control of its owner or custodian, except with the written consent of the Director. Persons shall not leave or deposit dogs, cats, fowl, fish, or other animals, whether dead or alive, in any park, lake, or community building except with the written consent of the Director.

(M) Riding Horses and Other Animals. Ride upon any horse, or any other animal CAPABLE OF BEING RIDDEN, in any park except in areas designated and posted specifically for such use, or with the expressed written consent of the Director. No cattle, sheep, goats, horses or any animal shall graze in any park except in areas designated and posted specifically for such use or with the expressed written consent of the Director.

(O) Alcoholic Beverage. Possess, distribute, use or consume any alcoholic beverages or 3.2 beer in parks or community buildings, except by A special ALCOHOLIC BEVERAGE permit issued by and at the discretion of the Director ~~of Parks, Recreation and Libraries~~, and then only in conformance with the statutes of the State of Colorado and ordinances of the City of Westminster regarding the sale or consumption of alcoholic beverages or 3.2 beer.

(P) Interference. Use or attempt to use or interfere with the use of any table, space or facility within said park or building which at the time is reserved for any other person or group which has received a USE permit from the Director therefor. Unless the actual use of table, space, area, building, or facility referred to in any such permit is commenced within one hour after the period covered by such permit begins, such permit shall terminate.

(T) Flora, INCLUDING Turf and Soil. Dig, remove, destroy, injure, mutilate or cut any tree, plant, shrub, bloom or flower, or any portion thereof, growing in any park or area of a community building, or to remove any wood, turf, grass, soil, rock, sand or gravel from any park. Duly authorized City employees in the performance of their duties or persons participating in City sponsored activities are excepted from the foregoing provisions. METAL DETECTORS MAY NOT BE USED WITHOUT THE SPECIFIC AUTHORIZATION OF THE DIRECCTOR. ADDITIONALLY, TREASURE HUNTING OR GEO-CACHING IS PROHIBITED, UNLESS SUCH SPECIFIC ACTIVITY RECEIVES A PERMIT, YEARLY, FROM THE DEPARTMENT OF PARKS, RECREATION AND LIBRARIES.

(U) Marking, Injuring or Disturbing any Structure. Cut, break, injure, mark, write or print upon or otherwise deface or disturb any rock, building, cage, pen, monument, sign, fence, bench, structure, apparatus, equipment or property in a park; attach thereto any sign, card, display or other similar device, except ~~as authorized by permit~~ WITH THE EXPRESSED WRITTEN CONSENT OF THE DIRECTOR; or attach to any community building materials, devices, or equipment for the purpose of decorating that facility or for any other purpose. Duly authorized City employees in the performance of their duties or persons authorized by the Director shall be excepted from the foregoing provisions.

(Y) Parks Closed Eleven P.M. - Sunrise. Remain in any park or building between eleven o'clock (11:00) P.M. and sunrise, OR BETWEEN SUCH HOURS POSTED AT THE FACILITY AS CLOSED, other than a City employee in the performance of his duty or persons participating in City sponsored activities, or with the written consent of the Director.

(Z) Off-leash dog site. NOTWITHSTANDING THE PROHIBITION IN SUBSECTION (L) ABOVE, the Director of Parks, Recreation and Libraries is authorized to establish or discontinue off-leash dog park sites. At such sites, owners may allow dogs to run without a leash, subject to the following conditions:

1. The site will be open from sunrise to sunset seven (7) days a week.
2. Dogs must be leashed when entering or leaving off-leash site and owners must have a visible leash at all times.
3. Dogs are not allowed to chase or harass wildlife or other dogs.
4. Owners may not leave dogs unattended.
5. Animals must be spayed or neutered.
6. Owners must remove dog's waste.
7. The following dogs are not allowed in the off-leash site:
 - (a) aggressive dogs.
 - (b) female dogs in heat.
 - (c) dogs without current vaccination tag attached to collar, worn by the dog.
 - (d) Dogs too young to vaccinate against rabies.
 - (e) Dogs known to be ill or exhibiting signs of illness.
 - (f) Dogs not under voice command.
8. For purposes of this Section, "owner" shall be the person who brings the dog to the site or as defined in section 6-7-1 of this code.
9. All provisions of the animal control code, chapter 7 of title 6 of this code, shall be in force at the off-leash site unless specifically changed by this paragraph (z).
10. The owner assumes the legal responsibility for any damage, disease, or injury to persons, other dogs, or property caused by the dog.

Section 4. Section 13-1-4, W.M.C., is hereby AMENDED to read as follows:

13-1-4: ENFORCEMENT OF RULES:

(A) THE DIRECTOR SHALL MAKE AND PUBLISH SUCH REGULATIONS, NOT INCONSISTENT WITH THE TERMS OF THIS TITLE, AS NEEDED, FOR THE ORDERLY USE AND MANAGEMENT OF THE CITY'S PARKS, RECREATION FACILITIES, AND BUILDINGS.

(B) The Director, ~~his duly authorized agents and employees~~, and any law enforcement officers acting in the line of duty shall diligently enforce the provisions herein and shall have the authority to eject, from any park or community building, any person acting in violation of these rules and regulations. Further, the Director shall have the authority to deny use of parks or community buildings to individuals or groups who refuse to comply with the provisions of this Chapter, THE CONDITIONS OF ANY USE PERMIT, and regulations promulgated hereunder.

(C) ANY VIOLATION OF THIS CHAPTER IS A CRIMINAL OFFENSE, PUNISHABLE BY A FINE OF NO LESS THAN ONE HUNDRED DOLLARS (\$100) OR IMPRISONMENT, OR BOTH, AS PROVIDED IN SECTION 1-8-1 OF THIS CODE. VIOLATION OF ANY PROVISION SHALL BE A SEPARATE VIOLATION AND EACH DAY OF A CONTINUING VIOLATION SHALL BE A SEPARATE OFFENSE.

Section 5. Section 13-1-5, subsection (A), W.M.C., is hereby AMENDED to read as follows:

13-1-5: ENFORCEMENT OF APPLICABLE LAWS AND ORDINANCES: (796 2000 2910)

(A) All persons entering parks or community buildings shall abide by the rules and regulations of the City of Westminster, as provided herein, and the instructions and directions of duly authorized agents, employees or law enforcement officers of the City of Westminster in their line of duty.

Section 6. Section 13-1-6, subsection (D), is hereby DELETED:

13-1-6: FISHING, HUNTING, WILDLIFE AND BOATING REGULATIONS: (2670)

~~(D) **Penalties:** Any violation of this Section is a criminal offense, punishable by a fine of no less than fifty dollars (\$50) or imprisonment, or both, as provided in Section 1-8-1 of this code. Violation of any provision shall be a separate violation and each day of a continuing violation shall be a separate offense.~~

Section 7. Chapter 1 of Title XIII, W.M.C., is hereby amended BY THE ADDITION OF NEW SECTIONS 13-1-7 AND 13-1-8 to read as follows:

13-1-7: POLICIES FOR NON-PARK USE OF PARKLANDS: From time to time, the City may find it desirable and in the public interest to permit certain municipal non-Park uses, and, in limited circumstances, certain private uses on, in, or under parklands. The City Council will adopt, by resolution, such policies to address when and under what circumstances such additional uses of parklands may occur.

13-1-8: REDESIGNATION, SALE, OR TRADE OF PARKLANDS:

(A) IN CERTAIN CASES, IT MAY BE DETERMINED BY THE CITY COUNCIL THAT A PROPERTY ORIGINALLY ACQUIRED FOR PARK PURPOSES MAY BE BETTER UTILIZED FOR ANOTHER PUBLIC PURPOSE, INCLUDING BUT NOT LIMITED TO OPEN SPACE. IN SUCH CASES, THE PARKS AND RECREATION CAPITAL RESERVE FUND SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE AFFECTED PROPERTY AT THE TIME OF ITS CONVERSION OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(B) IN CERTAIN CASES, IT MAY BE NECESSARY TO ACQUIRE A TOTAL PROPERTY IN ORDER TO PRESERVE A PORTION OF THE PROPERTY AS PARKLANDS. IN SUCH CASES, THE CITY COUNCIL MAY DISPOSE OF THE REMAINDER, AND THE PARKS AND RECREATION CAPITAL RESERVE FUND SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE DISPOSED LAND AT THE TIME OF ITS SALE OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(C) THE CITY COUNCIL MAY APPROVE LAND TRADES OF PARKLANDS FOR OTHER LANDS. IN SUCH CASES, FOR THE PURPOSE OF REIMBURSING THE PARKS AND RECREATION CAPITAL RESERVE FUND, THE RELATIVE CURRENT MARKET VALUES OF THE LANDS TRADED SHALL BE AS DETERMINED BY THE CITY COUNCIL AS PART OF THE APPROVAL OF THE TRADE, BUT IN NO EVENT SHALL A VALUE BE PLACED ON THE PARKLANDS THAT IS LOWER THAN ITS COST AT THE TIME OF ITS ORIGINAL ACQUISITION.

(D) ONCE A PROPERTY IS DESIGNATED AS PARKLAND, IT SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS CHAPTER AND CHAPTER 13-2, W.M.C.. PROPERTY THAT IS SUBJECT TO RESTRICTIONS LIMITING ITS USE TO PARKLAND PURPOSES MAY NOT BE REDESIGNATED WITHOUT APPROVAL OF THE RESTRICTING GRANTOR.

(E) FOR THE PURPOSES OF DETERMINING THE "CURRENT MARKET VALUE" UNDER SUBSECTIONS (A), (B), AND (C) ABOVE, THE CITY MANAGER MAY RELY ON AN MAI OR AIA APPRAISAL OF THE PROPERTY OR, FOR PARCELS LESS THAN FIVE ACRES IN SIZE, MAY RELY ON PUBLICLY VERIFIABLE INFORMATION CONCERNING RECENT SALES OF SUBSTANTIALLY SIMILAR PROPERTIES.

(F) NOTWITHSTANDING THE FOREGOING, THE REDESIGNATION BY THE CITY COUNCIL OF PARKLANDS, OPEN SPACE PROPERTY, OR OTHER CITY-OWNED LANDS THAT WERE ACQUIRED THROUGH THE PUBLIC LAND DEDICATION REQUIREMENTS OF §11-6-8, W.M.C., WILL NOT REQUIRE REIMBURSEMENT FROM ONE CITY FUND TO ANOTHER.

Section 8. Section 13-2-1, W.M.C., is hereby AMENDED to read as follows:

13-2-1: PURPOSE AND INTENT: The City's parks, community buildings and recreation facilities shall be made available for the exclusive use of persons and groups subject to the issuance of a USE permit by the Director and subject to payment of fees therefore as provided. No use of any park, building or recreational facilities for pre-advertised assemblies or groups consisting of twenty five (25) or more persons may be made without the issuance of permit therefor. All applications for exclusive use of any park, building or recreation facility must be signed or co-signed by some person at least twenty one (21) years of age who shall agree to be responsible for payment for any damage occurring during said exclusive use. No exclusive use permit will be granted, if prior to the time the application was filed, the City has scheduled a City sponsored event at the same time and place as the activity proposed in the application.

No exclusive use permit shall be granted for use of a park or other facility for any activity involving more than one hundred (100) participants during any of the time between one hour before sunset and one hour after sunrise, unless the park or facility has the appropriate program lighting, and the desired park is large enough to accommodate the anticipated number of participants. Special requests, such as for Easter Sunrise Services, will be considered on an individual basis by the Director.

Section 9. Section 13-2-4, subsection (B), W.M.C., is hereby AMENDED to read as follows:

13-2-4: CONTENTS OF USE PERMIT APPLICATION: The application shall contain, but not be limited to the following:

(B) The business and residence address and telephone numbers of each person and entity named in ~~subdivision~~ SUBSECTION 13-2-4(A), ABOVE;

Section 10. Section 13-2-5, W.M.C., is hereby AMENDED to read as follows:

13-2-5: ACTION ON USE PERMIT APPLICATION:

(A) The Director ~~shall~~ WILL grant or deny such application on or before seven (7) days after the filing of the application unless the time for such granting or denial of the permit has been waived by the applicant in writing. The decision granting or denying said application ~~shall~~ WILL EITHER be delivered in person or mailed to the applicant by ~~certified~~ FIRST CLASS mail.

(B) The Director ~~shall~~ MAY grant the application if the proposed use complies with all applicable ordinances and regulations, and upon granting any permit may impose reasonable requirements and conditions concerning the use of the park, building or recreation facility by applicant.

(C) The Director, upon the advice in writing of the Chief of Police or his designee that the size and activity of the expected crowd will draw from other areas of the City so much police personnel for crowd control that other areas of the City will be left unprotected, shall impose a requirement of one crowd control monitor per one hundred (100) persons expected to attend the proposed activity. The Director shall require a one hour training program to be conducted by the Chief of Police or his designee for the crowd control monitors at a reasonable time and place prior to the proposed activity, which time and place shall be set by the Chief of Police or his designee. The applicant shall, within two (2) days of the receipt of the Director's decision, supply to the Director a list of the proposed crowd control monitors, including their names, addresses and telephone numbers. The applicant may, at his option, provide police reserve personnel or duly licensed private patrolmen instead of crowd control monitors in the numbers approved by the Director and Chief of Police. In the event the applicant provides police reserve personnel or duly authorized patrolmen, no training session will be required.

(D) The Director may grant the application for a park, building or recreation facility ~~or use other than that~~ THE LOCATION applied for, with the consent of the applicant, in the event that a permit has already been issued for ~~said park, building or recreation~~ THE SAME facility FOR THE DATE AND TIME REQUESTED, OR THE REQUESTED FACILITY does not meet the needs of applicant, or THE REQUESTED FACILITY is otherwise unsuitable for the use ~~applied~~ REQUESTED. In the event that more than one application is received for one park, building or recreation facility for use on the same day, the

Director shall ~~first act upon the application first received. Provided however that in considering two (2) or more applications for exclusive use of a park, building or recreation facility on the same date,~~ CONSIDER the following priorities IN DETERMINING WHICH APPLICATION TO GRANT shall be followed:

First - Uses sponsored or cosponsored by the City of Westminster.

Second - Uses sponsored by the School Districts within the boundaries of the City of Westminster.

Third - Groups composed primarily of Westminster residents.

Fourth - Groups composed primarily of nonresidents.

(E) NOTWITHSTANDING THE FOREGOING, THE DIRECTOR MAY ~~Any previously issued permit may be revoked on seven (7) days notice~~ ANY PREVIOUSLY ISSUED PERMIT if the City requires the facility for a City function, UPON GIVING THE PERMIT HOLDER SEVEN (7) DAYS NOTICE.

~~(E)~~ (F) The Director shall deny the application or revoke a permit if he finds that any of the following conditions exist:

- ~~1.~~ (1) The City has no park, building or recreation facility which will accommodate the activity of applicant;
- ~~2.~~ (2) The proposed activity is of a size or nature that requires the diversion of so great a number of police officers of the City to properly police the areas, that police protection to the City will be impaired.
- ~~3.~~ (3) The applicant has failed or refused to provide a reasonable means of informing all of the persons participating in the proposed activity of the terms and conditions of such permit.
- ~~4.~~ (4) That the applicant refuses to agree in writing to comply with all conditions in the permit.
- ~~5.~~ (5) That the applicant fails to file a timely application, unless waived by Director and applicant waives all right of appeal.
- ~~6.~~ (6) That the application therefore contains false information.

Such denial shall specify the grounds therefor.

Section 11. Section 13-2-6, W.M.C., is hereby AMENDED to read as follows:

13-2-6: RIGHT OF APPEAL: With respect to use permits, an applicant may appeal the decision of the Director to the City Manager. Applicant must file said appeal with the City Manager within five (5) days of the Director's mailing of such decision. The City Manager shall hold a hearing following the filing of said appeal at the office of the City Manager. Said hearing must be held within two (2) weeks of the date of the filing of said appeal, at which time applicant may present any and all evidence, testimony and information relevant to the application. The City Manager shall within twenty four (24) hours of said appeal hearing issue ~~his~~ A decision either affirming the denial of the application or directing the Director ~~of Parks, Recreation and Libraries~~ to issue a permit as applied for subject to ~~the~~ ANY reasonable terms and conditions as outlined in ~~Section 13-2-5 herein.~~ (A1889)

Section 12. Section 13-2-7, subsection (A), W.M.C., is hereby AMENDED to read as follows:

13-2-7: FEES AND DEPOSITS: (A2431)

(A) Upon the granting of a permit under this Chapter, any fees or deposits required for the use of City personnel, parks, COMMUNITY building, equipment, ~~and~~ OR RECREATIONAL facilities FACILITY shall be contained in said permit and said fees or deposits shall be paid by applicant prior to issuance of the permit. Fees and deposits required shall be set by the Director subject to the approval of the City Council. Fees for special equipment and/or personnel unknown at time of application will be billed after the activity when computation thereof is accomplished.

Section 13. Section 13-2-10, W.M.C., is hereby AMENDED to read as follows:

13-2-10: ENFORCEMENT OF RULES: The Director ~~and his duly authorized employees~~ and any law enforcement officer acting in the line of duty shall diligently enforce the provisions herein and shall have the authority to eject, from any park, COMMUNITY building or recreation facility any person acting in violation of ~~these~~ THE PROVISIONS OF THIS TITLE OR ANY POSTED rules ~~and~~ OR regulations PROMULGATED HEREUNDER. Further, the Director shall have the authority to deny use of parks, COMMUNITY buildings or recreational facilities to individuals or groups who refuse to comply with the provisions of this ~~Chapter~~ TITLE and regulations promulgated hereunder.

Section 14. Section 13-2-11, W.M.C., is hereby AMENDED to read as follows:

13-2-11: ENFORCEMENT OF APPLICABLE LAWS AND ORDINANCES: All persons entering parks, COMMUNITY buildings or recreational facilities shall abide by the rules and regulations of the City of ~~Westminster~~, as provided ~~herein and in Chapter 4~~ of Title XIII of the ~~Westminster~~ City Code, and the instructions and directions of duly authorized agents, employees or law enforcement officers of the City of ~~Westminster~~ in their line of duty. (796)

Section 15. The index for Chapter 5, Title XIII, and Chapter 5, Title XIII, W.M.C., are hereby AMENDED to read as follows:

CHAPTER 5

OPEN SPACE PROGRAM

- 13-5-1: ~~OPEN SPACE PROGRAM POLICY STATEMENT~~
- 13-5-2: ~~CRITERIA FOR ACQUISITION~~
- 13-5-3: ~~PRESERVATION OF LAND AND OTHER OPEN SPACE USES~~
- 13-5-4: ~~REDESIGNATION, SALE, OR TRADE OF OPEN SPACE PROPERTY~~
- 13-5-5: ~~USAGE OF OPEN SPACE FUNDS~~
- 13-5-6: ~~RESTRICTIONS ON MANAGEMENT OF OPEN SPACE PROPERTY~~
- 13-5-7: ~~MAINTENANCE OF OPEN SPACE PROPERTIES~~
- 13-5-8: ~~DONATIONS TO OPEN SPACE PROGRAM~~
- 13-5-9: ~~UTILITIES AND RIGHT OF WAYS~~
- 13-5-10: ~~STATEMENT ON DEED~~
- 13-5-11: ~~ENFORCEMENT OF APPLICABLE RULES AND ORDINANCES~~
- 13-5-12: ~~POLICIES FOR NON-OPEN SPACE USE OF OPEN SPACE PROPERTY~~

13-5-1: ~~OPEN SPACE PROGRAM POLICY STATEMENT:~~ ~~In the broadest sense the~~ THE objective of the Open Space Program is to promote quality of life for citizens of Westminster through the preservation and protection of the quality of the natural environment which has given Westminster much of its character. This natural environment includes many spectacular views to the foothills and mountains, ~~that~~ WHICH can be enjoyed from the hills and sloping sites ~~which~~ THAT make up the City's predominant land form. The ~~occasional~~ natural streams and man-made canals and ponds ~~with their water~~ and related plant and animal COMMUNITIES ~~life-compliment~~ COMPLEMENT the scenic vistas and remind us of the area's early history. These natural areas, water bodies, tremendous vistas and panoramas, characteristic terrains and native flora and fauna are intended to be preserved and protected for the enjoyment of this and future generations by the judicious use of ~~Open Space Funds~~ THOSE SALES TAX DOLLARS DESIGNATED FOR THE OPEN SPACE PROGRAM.

As Westminster continues to grow, open spaces should be provided and woven into the fabric of the City. These open spaces may define developed areas within the community, and in certain areas may define the boundary of the City. They are intended to obtain a balance and harmony between physical development and open space for the benefit of Westminster citizens. Preservation of open space in all parts of the City will foster appreciation of the natural environment, provide increased opportunities for passive recreation, and improve the quality of life. ~~The objective of open space is an important part of being "Proud of our past, prepared for our future."~~ (1855)

13-5-2: CRITERIA FOR ACQUISITION: The following six major criteria shall guide the selection of specific sites for possible acquisition and preservation. Prospective open spaces PROPERTY shall satisfy at ~~least~~ LEAST one of these criteria: (1855)

(A)- AESTHETICS: Unique or dramatic visual impact; protectIOns OF scenic view corridorS; visually enhanceMENTs OF primary transportation corridorS; unique view from site; natural features that enhance quality of life (e.g., rock formation, body of water, trees).

(B)- PROTECTION AND PRESERVATION: Protection of environmentally sensitive features (e.g., wetlands, trees, NATIVE grasses, wildlife AND WILDLIFE HABITAT, floodplain ~~encroachment~~).

(C)- LOCATION: Spatial definition of urban area; protection of sole remaining undeveloped land within large developed area of City; geographical distribution throughout City; ~~provides~~ key link or extension/addition to existing park/open space area; proximity to existing or proposed urban shaping and open space buffers; access; large number of potential beneficiaries.

(D)- USE POTENTIAL: Ability of the land to be used for passive recreational purposes including trail linkages; potential secondary benefit to community (e.g., watershed protection, drainage, or regional detention areas, water wells, erosion control, PUBLIC safety, ~~prevent~~ floodplain ~~encroachment~~); PRESERVATION, ~~allowing~~ solitude, noise buffers, ANCILLARY HISTORIC PRESERVATION); continued agricultural production.

(E)- NEED FOR IMMEDIATE ACTION: Development pressure; development status; potential to remain as open space; attitude of property owner.

(F)- ACQUISITION CONSIDERATION: Availability of land; ease of acquisition; price of land; significance of economic loss to City; potential for increase in price in the near future; potential for acquiring other sources of funds.

13-5-3: PRESERVATION OF LAND AND OTHER OPEN SPACE USES:

(A) Generally, lands acquired with open space funds shall be preserved and managed in a natural condition. Such lands might include scenic vistas, floodplains, trail corridors, farm lands, highly visible natural areas along arterial streets and open space buffers at the City's perimeter. Open spaces will generally be open for passive public use and enjoyment, and trails will be developed where possible to provide access. Examples of compatible passive recreation include hiking, nature study and photography.

(B) ADDITIONAL ACTIVITIES THAT MAY BE ALLOWED ON CERTAIN OPEN SPACE PROPERTY, OR PORTIONS THEREOF, AFTER THE CITY MANAGER DETERMINES SUCH ACTIVITIES WILL NOT HAVE A DETRIMENTAL EFFECT ON THE NATURAL QUALITIES FOR WHICH THE OPEN SPACE WAS ORIGINALLY ACQUIRED INCLUDE FISHING, BIKING, HORSEBACK RIDING, BOATING, AND THE DEVELOPMENT OF OFF-LEASH DOG EXERCISE AREAS, RESTROOMS, TRAILHEAD PARKING LOTS, AND LIMITED STRUCTURES THAT ENHANCE THE PASSIVE RECREATIONAL EXPERIENCE. "LIMITED STRUCTURES" MAY INCLUDE PONDS OR OTHER WATER BODIES DESIGNED TO ENHANCE WILDLIFE HABITAT, BENCHES, FISHING PIERS, SIGNS, AND EDUCATIONAL DISPLAYS.

(C) Development of traditional, active recreational facilities such as athletic fields, swimming pools, tennis courts and formal picnic areas are precluded. THE USE OF MOTORIZED VEHICLES BY THE PUBLIC FOR ANY RECREATIONAL PURPOSE IS PROHIBITED, EXCEPT AS MAY BE REQUIRED BY THE AMERICANS WITH DISABILITIES ACT.

(D) Certain "Open Space" properties may be leased for continued agricultural uses, such as farming or grazing, OR FOR SHORT OR LONG TERM RESIDENTIAL USES OF STRUCTURES THAT WERE LOCATED ON THE PROPERTIES AT THE TIME OF ACQUISITION. This approach can provide a glimpse of Westminster's past, protect the land from development, and/OR ~~eat~~ shift some maintenance costs to the lessee. Generally, the leased properties will continue to afford public access for passive enjoyment, TO THE EXTENT SUCH ACCESS IS CONSISTENT WITH THE LEASE.

(E) PROPERTIES ACQUIRED WITH FUNDS DERIVED FROM THE OPEN SPACE PORTION OF THE PARKS, OPEN SPACE AND TRAILS SALES TAX AND PROPERTIES DONATED TO THE OPEN SPACE PROGRAM, PURSUANT TO SECTION 13-5-8, SHALL NOT BE USED FOR TRANSPORTATION CORRIDORS OR THE INSTALLATION OF UNDERGROUND OR ABOVE GROUND UTILITIES EXCEPT IN ACCORDANCE WITH THE POLICIES PROMULGATED UNDER SECTION 13-5-12.

~~In certain cases, it may be necessary to acquire a total property in order to preserve a portion of the property as open space. In such cases, the City may determine to dispose of the remainder, and the open space fund shall be reimbursed the current market value of the disposed land at the time of its sale, or the cost of that land at the time of its original acquisition, whichever is higher. (1855)~~

13-5-4: REDESIGNATION, SALE, OR TRADE OF OPEN SPACE PROPERTY:

(A) In certain cases, it may be determined BY THE CITY COUNCIL that a property originally acquired for open space PURPOSES may be better utilized for another public purpose, INCLUDING BUT NOT LIMITED TO such as an active park. In such cases, the Open Space LAND ACQUISITION ACCOUNT Program shall be reimbursed the current market value of the affected property at the time of its conversion, or the cost of that land at the time of its original acquisition, whichever is higher. (1855)

(B) IN CERTAIN CASES, IT MAY BE NECESSARY TO ACQUIRE A TOTAL PROPERTY IN ORDER TO PRESERVE A PORTION OF THE PROPERTY AS OPEN SPACE. IN SUCH CASES, THE CITY COUNCIL MAY DISPOSE OF THE REMAINDER, AND THE OPEN SPACE LAND ACQUISITION ACCOUNT SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE DISPOSED LAND AT THE TIME OF ITS SALE, OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(C) IN CERTAIN CASES, IT MAY BE DETERMINED BY THE CITY COUNCIL THAT A PROPERTY ORIGINALLY ACQUIRED FOR PARK PURPOSES MAY BE BETTER UTILIZED FOR OPEN SPACE. IN SUCH CASES, THE PARKS AND RECREATION CAPITAL RESERVE FUND SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE AFFECTED PROPERTY AT THE TIME OF ITS CONVERSION OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(D) THE CITY COUNCIL MAY APPROVE LAND TRADES OF OPEN SPACE PROPERTY FOR OTHER LANDS. IN SUCH CASES, FOR THE PURPOSE OF REIMBURSING THE OPEN SPACE LAND ACQUISITION ACCOUNT, THE RELATIVE CURRENT MARKET VALUES OF THE LANDS TRADED SHALL BE DETERMINED BY THE CITY COUNCIL AS PART OF THE APPROVAL OF THE TRADE, BUT IN NO EVENT SHALL A VALUE BE PLACED ON THE OPEN SPACE PROPERTY THAT IS LOWER THAN ITS COST AT THE TIME OF ITS ORIGINAL ACQUISITION.

(E) IN CERTAIN CASES, IT MAY BE DETERMINED BY THE CITY COUNCIL THAT A PROPERTY ORIGINALLY ACQUIRED FOR UTILITY PURPOSES MAY BE BETTER UTILIZED FOR OPEN SPACE. IN SUCH CASES, THE CURRENT MARKET VALUE OF THE AFFECTED PROPERTY AT THE TIME OF ITS CONVERSION WILL BE DETERMINED AND THE UTILITY ENTERPRISE FUND WILL RECEIVE A CREDIT IN THAT AMOUNT AGAINST FUTURE UTILITY RELATED USES OF OPEN SPACE PURSUANT TO SUBSECTION (A), ABOVE. PAYMENT IN CASH OR A LAND TRADE PURSUANT TO SUBSECTION (D), ABOVE, MAY ALSO OCCUR.

(F) ONCE A PROPERTY IS DESIGNATED AS OPEN SPACE, IT SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS CHAPTER. PROPERTY THAT IS SUBJECT TO RESTRICTIONS LIMITING ITS USE TO OPEN SPACE PURPOSES MAY NOT BE REDESIGNATED WITHOUT APPROVAL OF THE RESTRICTING GRANTOR.

(G) FOR THE PURPOSES OF DETERMINING THE "CURRENT MARKET VALUE" UNDER SUBSECTIONS (A), (B), AND (C) ABOVE, THE CITY MANAGER MAY RELY ON AN MAI OR AIA APPRAISAL OF THE PROPERTY OR, FOR PARCELS LESS THAN FIVE ACRES IN SIZE, MAY RELY ON PUBLICLY VERIFIABLE INFORMATION CONCERNING RECENT SALES OF SUBSTANTIALLY SIMILAR PROPERTIES.

(H) NOTWITHSTANDING THE FOREGOING, THE REDESIGNATION BY THE CITY COUNCIL OF PARKLANDS, OPEN SPACE PROPERTY, OR OTHER CITY-OWNED LANDS THAT WERE ACQUIRED THROUGH THE PUBLIC LAND DEDICATION REQUIREMENTS OF §11-6-8, W.M.C., WILL NOT REQUIRE REIMBURSEMENT FROM ONE CITY FUND TO ANOTHER.

13-5-5: USAGE OF OPEN SPACE FUNDS: Generally, funds derived from THE OPEN SPACE PORTION OF the PARKS, Open Space AND TRAILS SALES TAX ~~Program~~ shall be expended only for acquisition of lands or interests in lands, FOR IMPROVEMENTS ~~and initial efforts~~ to restore OR ENHANCE the LAND'S natural OR HISTORIC resources, TO afford public access and safety, and/or TO remove improvements ~~which~~ THAT are incompatible or hazardous. Fencing ~~and/or signage~~ may be installed to delineate and protect certain properties. EXAMPLES OF IMPROVEMENTS TO OPEN SPACE PROPERTIES INCLUDE NATURAL OR NATIVE ~~"Natural" improvements such as~~ plantings, wetland enhancements, ~~and~~ natural surfaced AND, WHERE APPROPRIATE, PAVED trails, SIGNAGE FOR DIRECTIONAL AND EDUCATIONAL PURPOSES, AND CONSTRUCTION OF ITEMS APPROVED UNDER SUBSECTION 13-5-3(B) HEREIN ~~may be paid for with Open Space Funds.~~ (1855)

13-5-6: MANAGEMENT OF ~~RESTRICTIONS ON~~ OPEN SPACE PROPERTY:

(A) ALL PROVISIONS OF CHAPTER 13-1 AND 13-2, W.M.C. ARE APPLICABLE TO OPEN SPACE PROPERTY, EXCEPT THAT CERTAIN USES, PERMITTED UNDER SECTION 13-1-3, W.M.C., ARE PROHIBITED ON OPEN SPACE PROPERTY AS PROVIDED BELOW:

(A) HUNTING OR TRAPPING IS PROHIBITED.

(B) OFF-LEASH DOG OR CAT USAGE IS PROHIBITED UNLESS THE LAND IS SPECIFICALLY SIGNED TO ALLOW SUCH USAGE.

(C) THE USE OF MOTORIZED VEHICLES BY THE PUBLIC FOR ANY PURPOSE IS PROHIBITED, EXCEPT AS MAY BE REQUIRED BY THE AMERICANS WITH DISABILITIES ACT.

(D) THE SALE, VENDING, OR DISTRIBUTION OF ANY MERCHANDISE, SERVICES, OR TICKETS IS PROHIBITED UNLESS WRITTEN PERMISSION IS GRANTED BY THE OPEN SPACE COORDINATOR.

(E) THE SOLICITATION OF CONTRIBUTIONS IS PROHIBITED.

(F) THE DISTRIBUTION, POSTING, OR DEPOSITION OF ANY HANDBILLS, CIRCULARS, PAMPHLETS, ADVERTISEMENTS, OR EVENT NOTICES IS PROHIBITED.

(G) AMPLIFIED SOUND IS PROHIBITED UNLESS WRITTEN PERMISSION IS GRANTED BY THE OPEN SPACE COORDINATOR.

(H) THE DRIVING, PUTTING, OR PRACTICE OF GOLF OR USE OF GOLF CLUBS IS PROHIBITED.

(I) THE WASHING, WAXING, REPAIRING OR SERVICING OF AUTOMOBILES OR OTHER VEHICLES IS PROHIBITED.

(J) THE DISCHARGE, FIRING, OR USE OF ANY FIREARM, AIR GUN, SLINGSHOT, BOW AND ARROW, OR OTHER PROJECTILE OR PROJECTILE LAUNCHING DEVICE IS PROHIBITED.

(K) NO FAUNA OR FLORA MAY BE TAKEN, MOLESTED, OR REMOVED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OPEN SPACE COORDINATOR, WHICH CONSENT MUST BE IN THE POSSESSION OF THE PERSON OR PERSONS SO PERMITTED DURING THE TIME ANY FAUNA OR FLORA IS TAKEN.

(L) LIGHTING OR MAINTAINING A FIRE OR POSSESSING OR IGNITING ANY FIREWORKS ARE PROHIBITED.

(B) THE PARKS, OPEN SPACE AND TRAILS (POST) COMMITTEE, APPOINTED BY THE CITY MANAGER, WILL NORMALLY REVIEW ALL GRANT APPLICATIONS, MAJOR CONSTRUCTION IMPROVEMENTS, MASTER PLAN DEVELOPMENT, PROPOSED TRAIL PROJECTS AFFECTING OPEN SPACE PROPERTIES AND MAKE RECOMMENDATIONS THEREON TO THE CITY MANAGER OR CITY COUNCIL, AS APPROPRIATE. ALTHOUGH PRIMARY RESPONSIBILITY FOR RECOMMENDATIONS ON PROPOSED ACQUISITIONS LIES WITH THE OPEN SPACE ADVISORY BOARD, THE POST COMMITTEE MAY ALSO REVIEW PROPOSED ACQUISITIONS.

(C) It may be necessary to close an Open Space property temporarily, in order to protect a natural resource, FOR RESTORATION PURPOSES, or to make the property safe for public enjoyment. (1855)

13-5-7: MAINTENANCE OF OPEN SPACE PROPERTIES: The Department of Parks, Recreation and Libraries shall be responsible for the regular maintenance and operation of the Open Space properties, with funds made available in the CITY'S general operating budget AND FUNDS DERIVED FROM THE OPEN SPACE PORTION OF THE PARKS, OPEN SPACE AND TRAILS SALES TAX. (1855 1889)

13-5-8: DONATIONS TO OPEN SPACE PROGRAM: The City of Westminster encourages residents of this community and other concerned persons or parties to donate certain lands or monies for use in the Open Space Program. City Council may by resolution accept SUCH DONATED properties ~~not acquired with Open Space Funds~~ into the Open Space Program. (1855)

13-5-9: UTILITIES AND RIGHT OF WAYS: The City expresses its awareness that extension of major roadways and water and sewer service are frequently the forerunners of new urban development, and intends that every effort should be made to coordinate proposals for extension of these utilities ~~with~~ SO AS NOT TO DEFEAT the objectives of the Open Space Program. (1855)

13-5-10: STATEMENT ON DEED: Any deed conveying to the City Open Space property that was purchased using Open Space Sales Tax Funds shall contain the notation "This land was purchased with Open Space Sales Tax Funds". (1855)

13-5-11: ENFORCEMENT OF APPLICABLE RULES AND ORDINANCES:

(A) THE DIRECTOR, OR THE DIRECTOR'S DULY AUTHORIZED AGENTS AND EMPLOYEES, AND ANY LAW ENFORCEMENT OFFICERS ACTING IN THE LINE OF DUTY SHALL DILIGENTLY ENFORCE THE PROVISIONS HEREIN AND SHALL HAVE THE AUTHORITY TO EJECT, FROM ANY OPEN SPACE PROPERTY, ANY PERSON ACTING IN VIOLATION OF THESE RULES AND REGULATIONS. FURTHER, THE DIRECTOR SHALL HAVE THE AUTHORITY TO DENY USE OF OPEN SPACE PROPERTY TO INDIVIDUALS OR GROUPS WHO REFUSE TO COMPLY WITH THE PROVISIONS OF THIS CHAPTER AND REGULATIONS PROMULGATED HEREUNDER.

(B) ALL PERSONS ENTERING OPEN SPACE PROPERTY SHALL ABIDE BY THE RULES AND REGULATIONS OF THE CITY OF WESTMINSTER, AS PROVIDED HEREIN, AND THE INSTRUCTIONS AND DIRECTIONS OF DULY AUTHORIZED AGENTS, EMPLOYEES OR LAW ENFORCEMENT OFFICERS OF THE CITY OF WESTMINSTER IN THEIR LINE OF DUTY.

(C) IT SHALL BE UNLAWFUL TO VIOLATE ANY PROVISION OF THIS CHAPTER OR ANY REGULATION PROMULGATED BY THE CITY MANAGER, PURSUANT TO SUBSECTION 13-5-6(A), ABOVE. A PERSON CONVICTED OF A VIOLATION OF A PROVISION OF THIS CHAPTER OR OF A REGULATION PROMULGATED BY THE DIRECTOR SHALL BE FINED AS PROVIDED IN SECTION 1-8-1 OF THIS CODE.

(D) IN ADDITION TO ANY OTHER FINES OR PENALTIES PROVIDED FOR BY THIS CODE, ANY PERSON CAUSING DAMAGE TO OPEN SPACE PROPERTIES OR IMPROVEMENTS THEREON SHALL BE REQUIRED TO, AT THE OPTION OF THE CITY, EITHER RESTORE THE PROPERTY OR PAY ALL COSTS THAT THE CITY INCURS IN RESTORING THE PROPERTY TO ITS PRE-DAMAGED CONDITION.

13-5-12: POLICIES FOR NON-OPEN SPACE USE OF OPEN SPACE PROPERTY: FROM TIME TO TIME, THE CITY MAY FIND IT DESIRABLE AND IN THE PUBLIC INTEREST TO PERMIT CERTAIN NON-OPEN SPACE MUNICIPAL USES, AND, IN LIMITED CIRCUMSTANCES, CERTAIN PRIVATE USES ON, IN, OR UNDER OPEN SPACE PROPERTIES. THE CITY COUNCIL WILL ADOPT, BY RESOLUTION, SUCH POLICIES TO ADDRESS WHEN AND UNDER WHAT CIRCUMSTANCES SUCH ADDITIONAL USES OF OPEN SPACE PROPERTIES MAY OCCUR.

Section 16. This ordinance shall take effect upon its passage after second reading.

Section 17. 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 23rd day of February, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of March, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Resolution No. 8 re Adopting Policies for the Use of Open Space Properties, Parklands, and Other City Owned Properties

Prepared By: Heather Cronenberg, Open Space Coordinator
Jane Greenfield, Assistant City Attorney

Recommended City Council Action

Adopt Resolution No. 8 authorizing the adoption of policies for the use of Open Space properties, Parklands, and other City owned properties.

Summary Statement

- After receiving many requests by private interests to cross the City's open space and park properties, a temporary policy was put in place to assist Staff in evaluating requests for use of publicly-owned land. This policy was drafted in order to have a consistent and coordinated approach for determining when lands that are dedicated to a particular public use may be put to another use, without adversely affecting the public interest.
- Attached is a Resolution for Council's approval to formally adopt these policies for the use of City lands. The Resolution authorizes the City Manager to administer the policies, create administrative processes to carry out the policies' intent, make minor modifications in the policy language, and authorizes the City Manager to set such fees as may be necessary to reimburse the City for its costs in evaluating private use requests.
- These policies were discussed at a City Council study session on February 2, 2009. As requested by members of Council, the policies have been modified to require Council notification for projects that are approved under these policies. No further changes were requested by Council.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does City Council approve of the new policies for the use of Open Space, Park, and other City owned lands when private developers or internal City departments request use of these properties?

Alternatives

- 1) Council could choose to not support formalizing the proposed policies related to use of open space, park, or other City property.
- 2) Council could direct staff to craft a different set of policies related to use of these properties by other City departments and/or outside private development.

Staff recommends formalizing these policies through a Resolution as input was received from Staff, the Open Space and Parks, Recreation and Libraries Boards, and Council in a study session and the modification requested by Council to be notified of approved projects has been made to the policies.

Background Information

Over the years, private developers and City departments have requested use of open space, parklands, and other City property for uses other than the intended use. Examples of these requests include constructing water and sewer line connections by private developers or the City's Department of Public Works & Utilities, constructing private storm sewer facilities through City property to Big or Little Dry Creeks to serve residential and commercial development, or requests from Xcel or Quest to run power or telecommunication lines through City properties. After many of these requests were received, an interim policy was put in place to assist Staff in evaluating these requests. This policy was drafted in order to have a consistent and coordinated approach for analyzing the most appropriate uses of publicly-owned land.

The policies attached to the Resolution are divided into Exhibit A, addressing requests for interdepartmental use of open space, parklands, and other City lands, and Exhibit B, addressing requests for private use of open space, parklands and other City lands. The differences in the review criteria between these two policies recognizes that other municipal uses of parks and/or open space lands still constitute a "public" use, while private requests to use such lands may have a more tenuous public benefit and must meet a higher threshold in order to be considered. The policies addressing use of City land by other departments include in the approval criteria that *no reasonably available alternative exists*. The policies related to use of the City's lands for private development include in the approval criteria that *no feasible physical alternative exists*. Convenience or increased costs to the private applicant to use City properties will not be considered in determining feasibility, since the City, as property owner, should not be viewed by the private sector as the "least cost" alternative.

There are a total of six separate policies, and although similar in many respects, they recognize the unique differences between open space properties and developed park lands and other municipally owned properties, such as lands upon which fire stations, treatment plants, and City Hall are located. In putting together the proposed policies, the City Attorney's Office, Community Development, Open Space Division, and the Parks, Recreation and Libraries Department worked cooperatively through many iterations of the policies. Additionally, the entire policies document, and specifically, the sections dealing with the use of "other" municipally-owned lands has been reviewed and commented on by the Department of Public Works & Utilities, which is most typically involved in obtaining easements on City property.

These polices were discussed with Council at a Study Session on February 2, 2009. Staff received positive feedback and requests for one modification to the policies. The policies have been modified to include a requirement that Council be notified of projects approved per these policies.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Resolution
- Policy Documents

RESOLUTION

RESOLUTION NO. **8**

INTRODUCED BY COUNCILLORS

SERIES OF 2009

**A RESOLUTION
ADOPTING POLICIES FOR THE USE OF OPEN SPACE PROPERTIES,
PARKLANDS, AND OTHER CITY-OWNED PROPERTIES**

WHEREAS, City-owned properties generally have been acquired for a specific municipal use, such as open space preservation, park and recreation use, utility installations, and location of public buildings; and

WHEREAS, from time to time, City-owned properties acquired for a particular municipal use may need to be utilized for another municipal use for which the property was not originally acquired; and

WHEREAS, the City also receives requests from private entities that are developing adjacent lands to use or cross City-owned property with utility lines or other encroachments serving the private development; and

WHEREAS, it is desirable to formalize a process for evaluating both requests for private use of City land and requests by one City department to utilize property managed by another City department.

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster:

1. That the Policies, attached as Exhibit A and B hereto, for evaluating requests for the use of City-owned property, both internally and by the private sector, are hereby adopted.
2. That the City Manager is hereby authorized to administer such policy and may create such administrative processes as may be necessary to carry out the intent of these policies, including making minor modifications in the language of the policies attached.
3. That the City Manager is specifically authorized to set such fees as may be reasonably necessary to adequately reimburse the City for its administrative costs in evaluating and processing requests for the use of City property by the private sector.
4. This Resolution and the attached Policies will become effective on March 10, 2009.

PASSED AND ADOPTED this 23rd day of February, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

Exhibit A

A. I. POLICY REGARDING REQUESTS BY CITY DEPARTMENTS FOR USE OF CITY OF WESTMINSTER OPEN SPACE PROPERTIES

A. PURPOSE. This Policy is adopted pursuant to Chapter 13-5, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests by other City Departments for other municipal use of the City's Open Space properties.

B. APPLICABILITY. This Policy applies only to requests for temporary or permanent use of, access over, under, or across City Open Space property from other City of Westminster Departments.

C. GENERAL OPEN SPACE POLICY. The Westminster Code provides that lands acquired with open space funds shall be preserved and managed in a natural condition, and will generally be open for passive public use and enjoyment. It anticipates the development of trails and use for compatible passive recreation, including hiking, nature study and photography. Development of traditional active recreational facilities is precluded.

Section 13-5-12, W.M.C., recognizes that certain non-Open Space municipal uses of Open Space properties may be permitted in limited circumstances where public benefit is established and no other reasonable alternative exists.

D. PROCESS. In order to consistently and fairly evaluate requests to use open space property for non-open space purposes, the following process has been established:

1. Application

- a. The Department Director shall submit a request to the Open Space Coordinator for use of or access across open space property.
- b. The request shall identify the exact location, including a map, of the proposed area being affected, the specific details of the proposed project, and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Open Space Coordinator to evaluate the request.
- c. If additional studies, surveys, or technical information are required in order to evaluate the impact of the non-open space municipal use on the affected open space property, the costs of the same shall be borne by the requesting Department.

2. Criteria

Such requests will only be approved when:

- a. An examination of the manner of acquisition of the particular open space property shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. No reasonably available alternative exists, and
- c. Such use provides a public benefit, and
- d. The request will not result in any long term negative impact to the open space values of the affected property and any short term damage will be adequately mitigated to City standards, and
- e. The use does not substantially interfere with the existing or potential future use by the public for Open Space purposes.

3. Evaluation Factors

The City will consider the following factors in evaluating requests for use of or access across open space property: [The information is **not** listed in any priority order.]

a. Natural area considerations:

- Impacts on wildlife and/or plant communities (including but not limited to temporary impacts and fragmentation of ecosystems)
- Introduction of invasive species
- Current condition of the property
- Ability to revegetate/restore property to original condition or enhanced condition
- Ability to provide temporary irrigation for reclamation or restoration

b. Property interest considerations/conflicts:

- Whether any alternate routes or options are available
- Whether requested use utilizes existing trail routes or easement routes of others
- Impact on other easements, if applicable
- Concerns of adjacent owners or others possessing an ownership interest
- Any restrictive covenants that may encumber the open space property

c. Physical considerations:

- Length and width of proposed use area
- Current condition of property or vegetation along proposed route or on proposed site
- Visual impact of proposed use
- Impact of construction on the slope, grade, or drainage characteristics of the open space property
- Suitability of proposed temporary or permanent mitigation measures, including screening, silt fencing, erosion control measures, etc.

d. Open space management concerns:

- Estimated average number of vehicle trips per day or year to maintain and repair the facilities on the open space property
- Effect on public use and enjoyment of the open space property i.e. trail corridors, proximity to picnic areas
- Noise impacts
- Impact on agricultural operations: lessee, livestock, ditch easements, irrigation systems, financial impact on lease revenues due to loss of crop revenue or permanent loss of land from the lease
- Seasonal appropriateness

e. Purpose of easement

- Public benefit from granting the requested use
- Cost to the City to place the facility and/or utilities in another location

f. Other considerations:

- Conflicts with City Comprehensive Plan and/or City Land Use Code
- Conflicts with pending City plans
- Conflicts with existing City agreements or IGAs

4. Staff Review

Requests for access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Open Space Coordinator, who will prepare an initial recommendation and refer the request to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation and, if different, the Open Space Coordinator's recommendation will be referred to the City Manager. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the

request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council. In any event, the City Council will be advised of requests approved by the City Manager.

E. Departmental Obligations

1. The Department requesting the use of or access over open space property will be responsible for all reclamation work on the site and all costs associated with reclamation, including without limitation the costs of hiring contractors to reclaim the area, supplemental irrigation for the site, reseeding in multiple growing seasons until vegetation is re-established, and repairing any damage to the open space property resulting from the non-open space use, including damage to trails, signage or fencing. It may take up to three years before a determination can be made that the reclamation project is successful.
2. The requesting Department is responsible for all costs associated with surveying, construction, reclamation and maintenance of the property for which the non-Open Space use is granted. These costs are in addition to the value of the land described in paragraph F., below.
3. In the event the non-Open Space use involves improvements not visible on the surface of the land, the requesting Department shall provide the Open Space Coordinator with two (2) sets of as-built plans showing the exact final location(s) of any utility or other installations.

F. Reimbursement to Open Space Fund

The reimbursement amount, when required, shall be determined on a case-by-case basis, depending on the type of use and the extent to which it restricts or affects the use of the open space land. Generally, the reimbursement for a permanent underground use shall be 50% of the current market value of the property. Temporary uses shall generally be valued at approximately 10% of the current market value of the property, provided their term is less than one year. Permanent surface use shall generally require 100% market value reimbursement. Factors that may increase or decrease the amount of the reimbursement may include anticipated damage to the property and difficulty of restoration of the property. In some circumstances the City Open Space division may accept consideration other than cash, such as an exchange or conveyance of land or water rights. In the case of the exchange of open space property, the exchange will be permitted if the land provided to the City Open Space division is equivalent in value to the value of the open space property exchanged and the exchange property is designated as open space property subject to the open space ordinance.

A. II. POLICY REGARDING REQUESTS BY CITY DEPARTMENTS FOR USE OF CITY OF WESTMINSTER PARKLANDS

- A. PURPOSE.** This Policy is adopted pursuant to Section 13-1-7, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests by other City Departments for other municipal use of the City's parklands.
- B. APPLICABILITY.** This Policy applies only to requests for temporary or permanent use of, access over, under, or across City parklands from other City of Westminster Departments.
- C. GENERAL POLICY FOR USE OF PARKLANDS.** Lands used for the development of parks and recreational facilities have been acquired with POST sales tax funds, with Park Development Fees, with GOCO and other funding grants, through public land dedications, and through private property donations. Development of these parklands for traditional active recreational uses involved a major investment of public monies for recreation centers, athletic fields, swimming pools, playgrounds, landscaping, and other recreational use structures. As such, the primary use of parklands should remain open and unobstructed for the public use and enjoyment of active and passive recreational activities.

Section 13-1-7, W.M.C., recognizes that certain non-park related municipal uses of parklands may be permitted in limited circumstances where public benefit is established and no other reasonable alternative exists.

D. PROCESS. In order to consistently and fairly evaluate requests to use parklands for non-park purposes, the following process has been established:

1. Application

- a. The Department director shall submit a request to the Director of Parks, Recreation and Libraries for use of or access across parklands.
- b. The request shall identify the exact location, including a map, of the proposed area being affected, the specific details of the proposed project, and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Director of Parks, Recreation and Libraries to evaluate the request.
- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the non-park municipal use on the affected parklands, the costs of the same shall be borne by the requesting Department.

2. Criteria

Such requests will only be approved when:

- a. An examination of the manner of acquisition of the particular parkland shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. No reasonably available alternative exists, and
- c. Such use provides a public benefit, and
- d. The request will not result in any long term negative impact to the parklands and any short term damage will be adequately mitigated so as to meet any City standards for parklands, and
- e. The use does not substantially interfere with the existing or potential future use by the public for park purposes.

3. Evaluation Factors

The City will consider the following factors in evaluating requests for use of or access across parklands: [The information is **not** listed in any priority order.]

a. Parklands considerations:

- Impacts on developed area of the park
- Impacts on permanent improvements, such as play lots, shelters, hard-surfaced trails, and restrooms
- Ability to build future improvements
- Impacts on the ability to maintain the park for active recreational uses
- Ability to revegetate/restore property to original condition or enhanced condition
- Impact on irrigation systems
- Terms and notification requirements when access to the area is needed for maintenance and/or repairs

b. Property interest consideration/conflicts:

- Alternate routes or options are available
- Whether requested use utilizes existing trail routes or easement routes of others
- Impact on other easements, if applicable
- Concerns of adjacent or other ownership interests
- Any restrictive covenants that may encumber the parklands

c. Physical considerations:

- Length and width of proposed use area
- Current condition of property or vegetation along proposed route or on proposed site
- Visual impact of proposed use
- Impact of construction on the slope, grade, or drainage characteristics of the parklands
- Suitability of proposed temporary or permanent mitigation measures, including screening, silt fencing, erosion control measures, etc.

d. Parklands management concerns:

- Estimated average number of vehicle trips per day or year to maintain and repair the facilities in the parklands
- Disruption of parking lots or public access ways to recreational facilities
- Effect on public use and enjoyment of the parklands, i.e., trail corridors, proximity to picnic areas
- Noise impacts
- Seasonal appropriateness

e. Purpose of easement

- Public benefit from granting the use
- Cost to the City to place the facility and/or utilities in another location

f. Other considerations:

- Conflicts with City Comprehensive Plan and/or City Land Use Code
- Conflicts with pending City plans
- Conflicts with existing City agreements or IGAs

4. Staff Review

Requests for access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Director of Parks, Recreation and Libraries, who will prepare an initial recommendation and refer the request to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation and if different the Director of Parks, Recreation and Libraries recommendation will be referred to the City Manager for final decision. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council. In any event, the City Council will be advised of requests approved by the City Manager.

E. Departmental Obligations

1. The Department requesting the use of or access over parklands will be responsible for all reclamation work on the site and all costs associated with reclamation, including without limitation the costs of hiring contractors to reclaim the area, supplemental irrigation for the site, reseeding in multiple growing seasons until vegetation is re-established, and repairing any damage to the parklands resulting from the non-parklands use. It may take up to three years before a determination can be made that the reclamation project is successful.

2. The requesting Department is responsible for all costs associated with surveying, construction, reclamation and maintenance of the property for which the non-parklands use is granted. These costs are in addition to the value of the land described in paragraph F., below.

3. In the event the non-parklands use involves improvements not visible on the surface of the land, the requesting Department shall provide the Director of Parks, Recreation and Libraries with two (2) sets on as-built plans showing the exact final location(s) of any utility or other installations.

F. Reimbursement to the Park and Recreation Capital Reserve Fund

The reimbursement amount, when required, shall be determined on a case-by-case basis, depending on the type of use and the extent to which it restricts or affects the use of the parklands. Generally, the reimbursement for a permanent underground use shall be 50% of the current market value of the property. Temporary uses shall generally be valued at approximately 10% of the current market value of the property, provided the term is less than one year. Permanent surface use shall generally require 100% market value reimbursement. Factors that may increase or decrease the amount of the reimbursement may include anticipated damage to the property and difficulty of restoration of the property. In some circumstances the City Parks Department may accept consideration other than cash, such as an exchange or conveyance of land or water rights. In the case of the exchange of parklands, the exchange will be permitted if the land provided to the City Parks Department is equivalent in value to the value of the parklands exchanged and the exchange property is designated as parklands.

**A. III. POLICY REGARDING
OTHER MUNICIPAL USES OF CITY-OWNED LANDS**

A. PURPOSE. This Policy is adopted to establish the process for review of, and criteria to be applied to, requests by City Departments to use City property normally managed by another City Department for a municipal purpose different from the primary use of the property. [For example, the Fire Department wants to utilize a portion of the Big Dry Creek Treatment Plant land to conduct grass fire training exercises.]

B. APPLICABILITY. This Policy applies only to internal requests by City Departments for temporary or permanent use of City lands, excluding Open Space Properties or Parklands.

C. GENERAL POLICY FOR USE OF CITY-OWNED LANDS. Lands acquired for a particular municipal use, such as sites for fire stations, treatment plants, and utility or maintenance operations may have the capacity to be used for additional municipal purposes. However, unless the City Council determines that lands acquired for a particular municipal use should be put to a different use, the primary use of such lands should not be affected in a material way by any subsidiary public uses.

D. PROCESS. In order to evaluate requests to use City-owned lands for another municipal purpose other than the primary purpose for which the lands were originally acquired, the following process has been established:

1. Application

- a. The Department director shall submit a request to the City Manager for use of or access to City-owned lands managed by another Department or Division.
- b. The request shall identify the exact location, including a map, of the proposed area being affected, the specific details of the proposed project, and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the City Manager to evaluate the request.
- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the additional municipal use on the affected lands, the costs of the same shall be borne by the requesting Department.

2. Criteria and Evaluation

Such requests may be approved when:

- a. An examination of the manner of acquisition of the particular land shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. Such use provides a public benefit, and
- c. The use does not substantially interfere with the existing or potential future primary municipal use, and
- d. The request will not result in any long term negative impact to the land or its primary municipal use and any short term damage will be adequately mitigated or repaired to meet City standards, and
- e. The effects of any noise, disruption of parking lots or public access ways, or increased construction or other traffic will be minimal or will be mitigated.

3. City Manager Review

Approval of the request, with or without conditions, is solely at the discretion of the City Manager.

D. Interdepartmental Obligations

1. The Department requesting the use of or access over other City-owned lands will be responsible for all reclamation work on the site and all costs associated with reclamation, including without limitation the costs of hiring contractors to reclaim the area, supplemental irrigation for the site, reseeding in

multiple growing seasons until vegetation is re-established, and/or repairing any damage to pavement, fencing, or other site improvements.

2. The requesting Department is responsible for all costs associated with surveying, construction, reclamation, repair and maintenance required for the secondary use of the land.

E. Reimbursement

Unless otherwise required by the City Charter or City Code, the City Manager will determine the appropriate amount of reimbursement, if any, to be made from one departmental budget to another.

Exhibit B

B. I. POLICY REGARDING PRIVATE REQUESTS FOR USE OF CITY OF WESTMINSTER OPEN SPACE PROPERTIES

A. PURPOSE. This Policy is adopted pursuant to Chapter 13-5, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests for use of, or access over, under, across or on, City Open Space Properties by private parties.

B. APPLICABILITY. This Policy applies to requests for temporary or permanent use of, or access to, City Open Space Property to serve private property or private development, including but not limited to the installation of public or quasi-public utilities to serve private development.

C. GENERAL OPEN SPACE POLICY. The Westminster Code provides that lands acquired with open space funds shall be preserved and managed in a natural condition and, generally, will be open for passive public use and enjoyment. It anticipates the development of trails and use for compatible passive recreation, including hiking, nature study and photography. Development of traditional active recreational facilities is precluded.

Use of public lands for private gain is not permitted and, generally, private use of Open Space Properties should be discouraged. However, Section 13-5-12, W.M.C., recognizes that requests may be submitted to the City Open Space Coordinator for permanent or temporary use of or access rights across City Open Space Property, and that, in limited cases, it may be appropriate for the City to grant licenses for private use when there is little or no impact to the property or the public's use of the property. This policy is adopted to provide guidelines for granting such licenses

***LIMITATIONS:** This policy in no way implies or assures that an application will be approved. Such approval does not replace any review and approval that is required under the Westminster Municipal Code or other applicable regulation; the City reserves all rights of review and approval as would normally be exercised by the City in its regulatory capacity. An application, if approved or denied, establishes no precedent for any other application. Conveyance of any interest in real property requires approval of the City Manager or the Council, pursuant to W.M.C., and is solely at the discretion of the City Manager or the Council and is subject to the requirements of all provisions of the Westminster Municipal Code related to real property transfers or conveyances.*

D. PROCESS. In order to consistently and fairly evaluate requests to use public open space consistently and fairly, the following process has been established.

1. Application

- a. The applicant shall submit a request to the Open Space Coordinator for use of or access across open space.
- b. The request shall identify the exact location, including a map, of the proposed area being affected, the specific details of the proposed project, and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Open Space Coordinator to evaluate the request.

- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the non-open space use on the affected open space property, the costs of the same shall be borne by the applicant.

2. Criteria

The City may only approve access requests when:

- a. An examination of the manner of acquisition and the source of funds used to acquire the particular open space property shows no restrictions prohibiting the type of access proposed, and
- b. No feasible physical alternative exists (Inconvenience or increased costs to applicant will not be considered in determining feasibility), and
- c. Such use provides a public benefit or does not impair the open space purpose of the property in any material way, and
- d. The request will not result in any long term negative impact to the open space values of the affected property and any short term damage will be adequately mitigated, which determination is solely at the discretion of the City, and
- e. The use does not substantially interfere with the existing or potential future use of the property by the public, and
- f. The nature of the use is such that a license for such use is sufficient, and the applicant agrees to sign a license agreement with the City governing the term and conditions for its use of the property.

3. Evaluation Factors

The City will consider the following factors in evaluating requests for use of or access across open space property. The information is **not** listed in any priority order.

- a. Natural area considerations:
 - Impacts on wildlife and/or plant communities (including but not limited to temporary impacts and fragmentation of ecosystems)
 - Introduction of invasive species
 - Current condition of the property
 - Ability to revegetate or restore property to original condition or enhanced condition
 - Ability to provide temporary irrigation for reclamation or restoration
- b. Property interest considerations/conflicts:
 - Whether alternate routes or options are available
 - Whether requested use utilizes existing trail routes or easement routes of others
 - Impact on other easements, if applicable
 - Concerns of adjacent property owners or other ownership interests
 - Any restrictive covenants that may encumber the open space property
- c. Physical considerations:
 - Length and width of proposed license area
 - Current condition of property or vegetation along proposed route or on proposed site
 - Visual impact of proposed use
 - Impact of construction on the slope, grade, or drainage characteristics of the open space property
 - Suitability of proposed temporary or permanent mitigation measures, including screening, silt fencing, erosion control measures, etc.
- d. Open space management concerns:
 - Estimated average number of vehicle trips per day or year to maintain and repair the facilities on the open space property
 - Effect on public use and enjoyment of the open space property i.e. trail corridors, proximity to picnic areas
 - Noise impacts

- Impact on agricultural operations: lessee, livestock, ditch easements, irrigation systems, financial impact on lease revenues due to loss of crop revenue or permanent loss of land from the lease.
- Seasonal appropriateness
- e. Purpose of proposed use
 - Public benefit from granting the license
- f. Other considerations:
 - Conflicts with City Comprehensive Land Use Plan and/or City Code
 - Conflicts with pending City plans
 - Conflicts with existing City agreements or IGAs

Note: Cost to the applicant to locate the facilities on private lands or in a City right-of-way is not a factor that will be considered by the City in evaluating feasibility of other sites.

4. Staff Review

Requests for private access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Open Space Coordinator, who will prepare an initial recommendation and refer the request to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation and, if different, the Open Space Coordinator recommendation will be referred to the City Manager. Approval of the application, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C. or, if not, at the discretion of the City Council. In any event, the City Council will be advised of requests approved by the City Manager.

E. Applicant Obligations

1. A reclamation plan will be required for the applicant to proceed with the project. If a license is approved, the City will estimate the costs for the City's monitoring of the applicant's use of the license, compensation to the City for any anticipated damages, and costs for reclamation. The City shall require the applicant to place funds equal to those costs into an escrow account with the City pursuant to an escrow agreement that specifies requirements for dispersal of the funds. After the applicant has demonstrated to the City that it has compensated the City for any actual damages, successfully reclaimed the site, and repaired any other damages caused by the use of the open space property, the City shall return all escrowed funds minus costs for monitoring the construction and reclamation of the property. It may be necessary to hold such funds for up to three years before a determination can be made that the reclamation project is successful.
2. The applicant is solely responsible for all costs associated with surveying, construction, reclamation and maintenance of the improvements installed under the access license, as well as any costs associated with maintaining the escrowed funds described above. These costs are in addition to the value of the license described in paragraph F., below.
3. In the event the use involves improvements not visible on the surface of the land, the applicant shall provide the Open Space Coordinator with two (2) sets of as-built plans showing the exact final location(s) of any utility or other installations.

F. Value of the License; Reimbursement to the Open Space Fund

The value of, or consideration for, an approved license shall be determined on a case-by-case basis, depending on the type of license and the extent that it restricts or affects the use of the open space land. Generally, the cost of a permanent license shall be 50% of the current market value of the property, and generally such access shall be restricted to underground facilities. Temporary construction access rights shall generally be valued at approximately 10% of the current market value of the property, provided the term is less than one year. Permanent surface use shall generally be valued at 100% market value. These values may be increased at the discretion of the City. Factors that may increase the cost of the license may include anticipated damage to the property and difficulty of restoration of the property. Payment for all licenses granted by the City shall be required prior to any grading or excavation work commencing on

the property. In some circumstances the City may accept consideration other than cash, such as an exchange or conveyance of land or water rights. Acceptance of non-cash consideration is at the sole discretion of the City. In the case of the exchange of open space property, the exchange will be permitted if the land provided to the City Open Space division is equivalent in value to the value of the open space property exchanged and the exchange property is designated as open space property subject to the open space ordinance.

B. II. POLICY REGARDING PRIVATE REQUESTS FOR USE OF CITY OF WESTMINSTER PARKLANDS

A. PURPOSE. This Policy is adopted pursuant to Section 13-1-7, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests for use of, or access over, under, across or on, City Parklands by private parties.

B. APPLICABILITY. This Policy applies only to requests for temporary or permanent use of, access over, under, or across City parklands to serve private property or private development, including but not limited to the installation of public or quasi-public utilities to serve private development.

C. GENERAL POLICY FOR USE OF PARKLANDS. Lands used for the development of parks and recreational facilities have been acquired with POST sales tax funds, with Park Development Fees, with GOCO and other funding grants, through public land dedications, and through private property donations. Development of these parklands for traditional active recreational uses involved a major investment of public monies for recreation centers, athletic fields, swimming pools, playgrounds, landscaping, and other recreational use structures. As such, the primary use of parklands should remain open and unobstructed for the public use and enjoyment of active and passive recreational activities.

Use of public lands for private gain is not permitted and, generally, private use of Parklands should be discouraged. However, Section 13-1-7, W.M.C., recognizes that requests may be submitted to the Director of Parks, Recreation and Libraries for permanent or temporary use of or access rights across Parklands, and that, in limited cases, it may be appropriate for the City to grant licenses for private use when there is little or no impact to the Parklands or the public's use of the property. This policy is adopted to provide guidelines for granting such licenses.

***LIMITATIONS:** This policy in no way implies or assures that an application will be approved. Such approval does not replace any review and approval that is required under the Westminster Municipal Code or other applicable regulation; the City reserves all rights of review and approval as would normally be exercised by the City in its regulatory capacity. An application, if approved or denied, establishes no precedent for any other application. Conveyance of any interest in real property requires approval of the City Manager or the Council, pursuant to W.M.C., and is solely at the discretion of the City Manager or the Council and is subject to the requirements of all provisions of the Westminster Municipal Code related to real property transfers or conveyances.*

D. PROCESS. In order to consistently and fairly evaluate requests to use parklands for private purposes, the following process has been established:

1. Application

- a. The applicant shall submit a request to the Director of Parks, Recreation and Libraries for use of or access across parklands.
- b. The request shall identify the exact location, including a map, of the proposed area being affected, the specific details of the proposed project, and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Director of Parks, Recreation and Libraries to evaluate the request.
- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the non-park municipal use on the affected parklands, the costs of the same shall be borne by the applicant.

2. Criteria

The City may only approve such requests when:

- a. An examination of the manner of acquisition of the particular parklands shows no restrictions prohibiting the particular use proposed, and
- b. No feasible physical alternative exists (Inconvenience or increased costs to applicant will not be considered in determining feasibility), and
- c. Such use provides a public benefit or does not impair the park purpose in any material way, and
- d. The request will not result in any long term impact to the parklands and any short term damage will be adequately mitigated, which determination is solely at the discretion of the City, and
- e. The use does not substantially interfere with the existing or potential future use by the public for park purposes.
- f. The nature of the use is such that a license for such use is sufficient, and the applicant agrees to sign a license agreement with the City governing the term and conditions for its use of the property.

3. Evaluation Factors

The City will consider the following factors in evaluating requests for use of or access across parklands: [The information is **not** listed in any priority order.]

a. Parklands considerations:

- Impacts on developed area of the park
- Impacts on permanent improvements, such as play lots, shelters, hard-surfaced trails, and restrooms
- Ability to build future improvements
- Impacts on the ability to maintain the park for active recreational uses
- Ability to revegetate/restore property to original condition or enhanced condition
- Impact on irrigation systems
- Terms and notification requirements when access to the areas is needed for maintenance and/or repairs

b. Property interest consideration/conflicts:

- Whether alternate routes or options available
- Whether requested use utilizes existing easement routes or trail routes
- Impact on other easements, if applicable
- Concerns of adjacent property owners or other ownership interests
- Any restrictive covenants that may encumber the parklands

c. Physical considerations:

- Length and width of proposed license area
- Current condition of parkland or vegetation along proposed route or on proposed site
- Visual impact of proposed use
- Impact of construction on the slope, grade, or drainage characteristics of the parklands
- Suitability of proposed temporary or permanent mitigation measures, including screening, silt fencing, erosion control measures, etc.

d. Parklands management concerns:

- Estimated average number of vehicle trips per day or year to maintain and repair the facilities in the parklands
- Disruption of parking lots or public access ways to recreational facilities
- Effect on public use and enjoyment of the parklands, i.e., trail corridors, proximity to picnic areas
- Noise impacts
- Seasonal appropriateness

- e. Purpose of proposed use
 - Public benefit from granting the license
- f. Other considerations:
 - Conflicts with City Comprehensive Land Use Plan and/or City Land Use Code
 - Conflicts with pending City plans
 - Conflicts with existing City agreements or IGAs

Note: Cost to the applicant to locate the facilities on private lands or in a City right-of-way is not a factor that will be considered by the City in evaluating feasibility of other sites.

4. Staff Review

Requests for private access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Director of Parks, Recreation and Libraries, who will prepare an initial recommendation and refer the request to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation, and if different the Director of Parks, Recreation and Libraries recommendation, will be referred to the City Manager for final decision. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council. In any event, the City Council will be advised of requests approved by the city Manager.

E. APPLICANT OBLIGATIONS

1. A reclamation plan will be required for the applicant to proceed with the project. If a license is approved, the City will estimate the costs for the City's monitoring of the applicant's use of the license, compensation to the City for any anticipated damages, and costs for reclamation. The City shall require the applicant to place funds equal to those costs into an escrow account with the City pursuant to an escrow agreement that specifies requirements for dispersal of the funds. After the applicant has demonstrated to the City that it has compensated the City for any actual damages, successfully reclaimed the site, and repaired any other damages caused by the use of the Parklands, the City shall return all escrowed funds minus costs for monitoring the construction and reclamation of the Parklands. It may be necessary to hold such funds for up to three years before a determination can be made that the reclamation project is successful.

2. The applicant is solely responsible for all costs associated with surveying, construction, reclamation and maintenance of the improvements installed under the access license, as well as any costs associated with maintaining the escrowed funds described above. These costs are in addition to the value of the license described in paragraph F., below.

3. In the event the use involves permanent improvements not visible on the surface of the land, the applicant shall provide the Director of Parks, Recreation and Libraries with two (2) sets of as-built plans showing the exact final location(s) of any utility or other installations.

F. VALUE OF THE LICENSE; REIMBURSEMENT TO THE PARK AND RECREATION CAPITAL RESERVE FUND

The value of, or consideration for, an approved license shall be determined on a case-by-case basis, depending on the type of license and the extent that it restricts or affects the use of the Parklands. Generally, the cost of a permanent license shall be 50% of the current market value of the property, and generally such access shall be restricted to underground facilities. Temporary construction access rights shall generally be valued at approximately 10% of the current market value of the property, provided the term is less than one year. Permanent surface use shall generally be valued at 100% market value. These values may be increased at the discretion of the City. Factors that may increase the cost of the license may include anticipated damage to the property and difficulty of restoration of the property. Payment for all licenses granted by the City shall be required prior to any grading or excavation work commencing on the property. In some circumstances the City may accept consideration other than cash, such as an exchange or conveyance of land or water rights. Acceptance of non-cash consideration is at the sole discretion of the City. In the case of the exchange of parklands, the exchange will be permitted if the land

provided to the City Parks Department is equivalent in value to the value of the parklands exchanged and the exchange property is designated as parklands.

B. III. POLICY REGARDING OTHER USES OF CITY-OWNED LANDS

A. PURPOSE. This Policy is adopted to establish the process for review of, and criteria to be applied to, requests by private parties.

B. APPLICABILITY. This Policy applies to requests for temporary or permanent use of, or access to, City lands, excluding Open Space Properties or Parklands, to serve private property or private development, including but not limited to the installation of public or quasi-public utilities to serve private development.

C. GENERAL POLICY FOR USE OF CITY-OWNED LANDS. Lands acquired for a particular municipal use, such as sites for fire stations, treatment plants, utility or maintenance operations may have the capacity to be used for other purposes not inconsistent with their primary municipal use. Use of public lands for private gain is not permitted and, generally, private use of City-owned lands should be discouraged. However, in limited cases, it may be appropriate for the City to grant licenses for private use when there is little or no impact to the public's use of the property. This policy is adopted to provide guidelines for granting such licenses.

D. PROCESS. In order to evaluate requests to use City-owned lands for private purposes, the following process has been established:

1. Application

- a. The applicant shall submit a request to the City Manager for use of, or access to, City-owned lands.
- b. The request shall identify the exact location, including a map, of the proposed area being affected, the specific details of the proposed project, and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the City Manager to evaluate the request.
- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the additional municipal use on the affected lands, the costs of the same shall be borne by the applicant.

2. Criteria and Evaluation

Such requests may be approved where:

- a. An examination of the manner of acquisition of the particular land shows no restrictions prohibiting the particular use proposed, and
- b. No feasible physical alternative exists (Convenience or increased costs to applicant will not be considered in determining feasibility), and
- c. The use does not substantially interfere with the existing or potential future primary municipal use, and
- d. Such use provides a public benefit or does not impair the public purpose in any material way, and
- e. The request will not result in any long term impact to the affected property and any short term damage will be adequately mitigated, which determination is solely at the discretion of the City, and
- f. The effects of any noise, disruption of parking lots or public access ways, or increased construction or other traffic will be minimal or will be mitigated.
- g. The nature of the use is such that a license for such use is sufficient, and the applicant agrees to sign a license agreement with the City governing the term and conditions for its use of the property.

3. Staff Review

Requests for private access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Department Director whose department or division normally oversees and manages the City-owned land and who will prepare an initial recommendation to the City Manager. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council. In any event, the City Council will be advised of requests approved by the city Manager.

E. APPLICANT OBLIGATIONS

1. A reclamation plan will be required for the applicant to proceed with the project. If a license is approved, the City will estimate the costs for the City's monitoring of the applicant's use of the license, compensation to the City for any anticipated damages, and costs for reclamation. The City shall require the applicant to place funds equal to those costs into an escrow account with the City pursuant to an escrow agreement that specifies requirements for dispersal of the funds. After the applicant has demonstrated to the City that it has compensated the City for any actual damages, successfully reclaimed the site, and repaired any other damages caused by the use of the land, the City shall return all escrowed funds minus costs for monitoring the construction and reclamation of the land. It may be necessary to hold such funds for up to three years before a determination can be made that the reclamation project is successful.

2. The applicant is solely responsible for all costs associated with surveying, construction, reclamation and maintenance of the improvements installed under the access license, as well as any costs associated with maintaining the escrowed funds described above. These costs are in addition to the value of the license described in paragraph F., below.

3. In the event the use involves permanent improvements not visible on the surface of the land, the applicant shall provide the Department Director with two (2) sets of as-built plans showing the exact final location(s) of any utility or other installations.

F. VALUE OF THE LICENSE; REIMBURSEMENT TO THE APPROPRIATE FUND

The value of, or consideration for, an approved license shall be determined on a case-by-case basis, depending on the type of license and the extent that it restricts or affects the use of the City-owned lands. Generally, the cost of a permanent license shall be 50% of the current market value of the property, and generally such access shall be restricted to underground facilities. Temporary construction access rights shall generally be valued at approximately 10% of the current market value of the property, provided they extend for less than one year. Permanent surface use shall require 100% market value reimbursement to the City. These values may be increased at the discretion of the City. Factors that may increase the cost of the license may include anticipated damage to the property and difficulty of restoration of the property. Payment for all licenses granted by the City shall be required prior to any grading or excavation work commencing on the property. In some circumstances the City may accept consideration other than cash, such as an exchange or conveyance of land or water rights. Acceptance of non-cash consideration is at the sole discretion of the City. In the case of the exchange of parklands, the exchange will be permitted if the land provided to the City Parks Department is equivalent in value to the value of the parklands exchanged and the exchange property is designated as parklands.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 23, 2009



SUBJECT: Resolution No. 9 re Right-of-Way Acquisition for 112th Avenue, Clay Street to Huron Street Improvements

Prepared By: David W. Loseman, Senior Projects Engineer

Recommended City Council Action

Adopt Resolution No.9 authorizing City Staff to proceed with the acquisition of rights-of-way and easements necessary for the construction of improvements to 112th Avenue between Clay Street and Huron Street, including the use of eminent domain, if necessary; and authorize an expenditure not to exceed \$250,000 to acquire the necessary property interests.

Summary

- The final design of the proposed improvements to 112th Avenue between Clay Street and Huron Street will be completed in March 2009. The reconstruction of the street is expected to be underway in the summer of 2009, following the underground relocation of overhead electric utility facilities along portions of the corridor.
- There are two properties from which fee simple rights-of-way or easement interests must be purchased in order to build the project. These parcels are shown on exhibit "A" attached to the resolution.
- The attached Resolution will allow City Staff to pursue the activities needed to acquire the necessary rights-of-way and easements for the 112th Avenue improvements. Staff expects that the acquisitions can be accomplished through negotiation, but is requesting authority to use the City's power of eminent domain if negotiations with the property owners do not result in the timely possession of the parcels.
- Adequate funds are available and have been designated in the General Capital Improvement Fund for this expense.

Expenditure Required: \$250,000

Source of Funds: General Capital Improvement Fund - 112th Avenue Improvements Project

Policy Issue

Should the City proceed with right-of-way acquisitions for the 112th Avenue, Clay Street to Huron Street project?

Alternative

City Council could decide to not proceed with these acquisitions at this time. Staff does not recommend this action as this would create significant delays to the construction of the 112th Avenue project, which has been determined to be a high priority for the City.

Background Information

The widening of 112th Avenue between Federal Boulevard and Huron Street is becoming more important with the increased traffic flow along this corridor. This increased flow is largely due to the completion of Northglenn's "flyover" project of 112th Avenue over I-25 as well as the City's completed intersection improvements at 112th Avenue and Federal Boulevard. These two projects provide two through lanes in both directions which feed into single lanes in both directions between Ranch Reserve Parkway and Huron Street. This "bottleneck" creates a capacity concern along this increasingly important arterial street. 112th Avenue is the only roadway that crosses I-25 between 104th Avenue and 120th Avenue. This additional crossing of the highway allows motorists to bypass the frequently congested 104th Avenue and 120th Avenue routes.

Staff's original plan in 2004 was to construct the full widening of 112th Avenue in partnership with the City of Northglenn. Due to budgeting difficulties, Northglenn is no longer participating which required the packaging of a scaled back project that includes two through lanes for west-bound traffic for the entire corridor but leaves a one-lane section of road for east-bound traffic between Alcott Street and Pecos Street. The first phase of construction for this scaled back project between Clay Street and Wyandot Street was scheduled to begin in 2008, but high asphalt and fuel costs at that time made it more economical to combine this first phase work with the construction of the improvements on 112th Avenue between Santa Fe Drive and Huron Street. The combination of these two projects has been designed and is scheduled for construction in the summer of 2009, once right-of-way acquisitions are concluded.

The proposed improvements necessitate the acquisition of additional rights-of-way and/or temporary easements from private properties located adjacent to 112th Avenue. Staff expects that the acquisitions can be accomplished through negotiations. However, if negotiations are not successful, the City should be prepared to pursue condemnation proceedings under the City's eminent domain authority.

Approval is sought for the expenditure of up to \$250,000 to secure the rights-of-way for the project. This amount should cover the cost of the property rights purchased, the preparation of title commitments, insurance, appraisal services, and land acquisition agent services, if necessary. The attached resolution authorizes Staff to proceed with these activities.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. 9

INTRODUCED BY COUNCILLORS

SERIES OF 2009

**A RESOLUTION FOR
RIGHT-OF-WAY ACQUISITION FOR 112TH AVENUE, CLAY STREET TO
HURON STREET IMPROVEMENTS**

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 112th Avenue, Clay Street to Huron Street Improvements in the project area shown on the attached Exhibit A; and

WHEREAS, the City will 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 the parcels could result in a delay of the 112th Avenue, Clay Street to Huron Street Improvements, thus creating a hardship on the general population of the City of Westminster wishing to utilize the proposed improvements; and

WHEREAS, legal counsel for the City of Westminster has advised that the City may exercise its 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 112th Avenue, Clay Street to Huron Street Improvements 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 112th Avenue, Clay Street to Huron Street Improvements in the project area shown in Exhibit A.

2. City Staff is authorized to proceed with negotiations to acquire the necessary property interests for the project, including remainders pursuant to W.M.C section 15-1-11, 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, contractual services, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filings fees and charges and all other related or incidental costs or expenses customarily associated with the acquisition or condemnation of property. The cost shall be charged to the 112th Avenue Improvements Account in the General Capital Improvement 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 23rd day of February, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit “A”
(6 pages)

PARCEL 2



J·R ENGINEERING
A Western Company

PROPERTY DESCRIPTION

A PARCEL OF LAND OVER AND ACROSS GOODWIN TRACT, AS RECORDED UNDER RECEPTION NUMBER 892548 IN THE OFFICE OF THE CLERK AND RECORDER OF ADAMS COUNTY, COLORADO; SITUATED IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; MONUMENTED AS SHOWN HEREON, AND HAVING AN ASSUMED BEARING OF N 89°20'32" E.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 4;

THENCE N 89°20'32" E, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 194.00 FEET;

THENCE N 00°16'32" W A DISTANCE OF 40.00 FEET TO SOUTHWEST CORNER OF SAID GOODWIN TRACT, BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY OF WEST 112TH AVENUE, AND BEING THE POINT OF BEGINNING;

THENCE N 00°16'32" W, ALONG THE WESTERLY BOUNDARY LINE OF SAID GOODWIN TRACT, A DISTANCE OF 10.00 FEET;

THENCE N 89°20'32" E A DISTANCE OF 194.00 FEET TO A POINT ON THE EASTERLY BOUNDARY LINE OF SAID GOODWIN TRACT;

THENCE S 00°16'32" E, ALONG SAID EASTERLY BOUNDARY LINE OF GOODWIN TRACT, A DISTANCE OF 10.00 FEET;

THENCE S 89°20'32" W, ALONG SAID NORTHERLY RIGHT-OF-WAY OF WEST 112TH AVENUE, A DISTANCE OF 194.00 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,940 SQUARE FEET, MORE OR LESS.



JR ENGINEERING
A Westrian Company

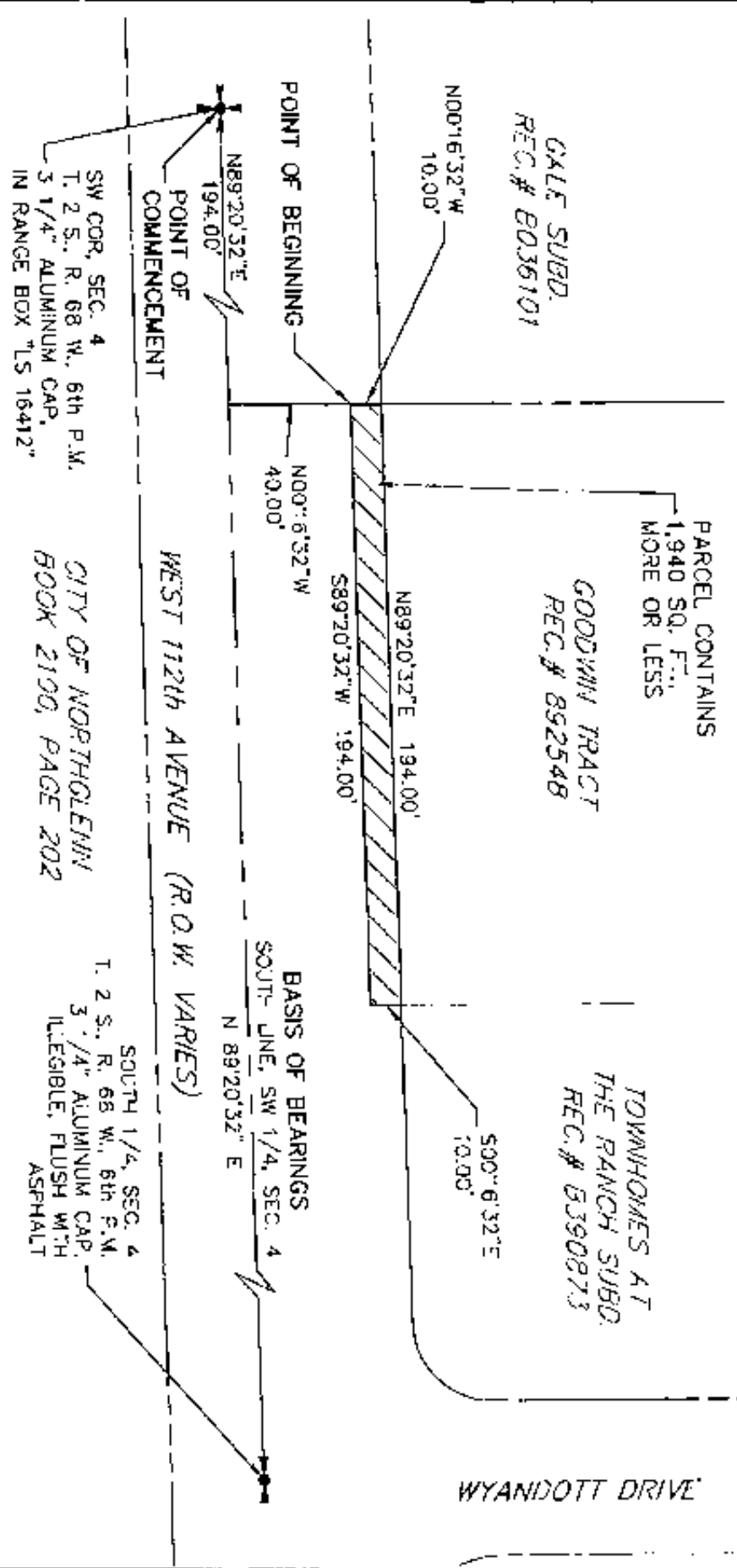
SURVEYOR'S STATEMENT

I, JAMES E. LYNCH, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

JAMES E. LYNCH, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 37933
FOR AND ON BEHALF OF JR ENGINEERING, LLC
12195 MARIPOSA ST., SUITE 100
WESTMINSTER, CO. 80234



EXHIBIT
 SW 1/4, SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6th P.M.

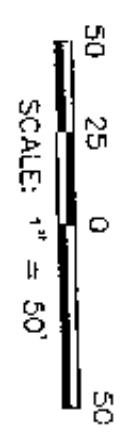


SW COR, SEC. 4
 T. 2 S., R. 68 W., 6th P.M.
 3 1/4" ALUMINUM CAP,
 IN RANGE BOX "LS 16412"

CITY OF NORTHGLENN
 BOOK 2190, PAGE 202

SOUTH 1/4, SEC. 4
 T. 2 S., R. 68 W., 6th P.M.
 3 1/4" ALUMINUM CAP,
 ILLIGIBLE, FLUSH WITH
 ASPHALT

NOTE:
 THIS EXHIBIT DOES NOT REPRESENT
 A MONUMENTED SURVEY AND IS
 INTENDED ONLY TO DEPICT THE
 ATTACHED PROPERTY DESCRIPTION.



PARCEL EXHIBIT
 112th AVENUE WIDENING
 JOB NO. 15079.00
 FEBRUARY 16, 2006
 SHEET 3 OF 3

J.A. ENGINEERING
 A Division of Century

2665 Varco Steel Dr. • Northglenn, CO 80231
 724-472-9800 • Fax: 724-472-9887 • www.ja-engineering.com

PARCEL 5



J-R ENGINEERING
A Wastria Company

PROPERTY DESCRIPTION

A PARCEL OF LAND OVER AND ACROSS THAT PROPERTY DESCRIBED IN BOOK 4005 AT PAGE 701 IN THE OFFICE OF THE CLERK AND RECORDER OF ADAMS COUNTY, COLORADO; SITUATED IN THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6th PRINCIPAL MERIDIAN; MONUMENTED AS SHOWN HEREON, AND HAVING AN ASSUMED BEARING OF N 89°22'02" E.

BEGINNING AT THE SOUTHEAST CORNER OF SAID PROPERTY DESCRIBED IN BOOK 4005 AT PAGE 701 IN THE OFFICE OF THE CLERK AND RECORDER OF ADAMS COUNTY, COLORADO, BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY OF WEST 112th AVENUE;

THENCE S 89°22'02" W, ALONG SAID NORTHERLY RIGHT-OF-WAY OF WEST 112th AVENUE, A DISTANCE OF 673.30 FEET TO THE SOUTHWEST CORNER OF SAID PROPERTY DESCRIBED IN BOOK 4005 AT PAGE 701;

THENCE N 00°24'28" W, ALONG THE WESTERLY BOUNDARY OF SAID PROPERTY DESCRIBED IN BOOK 4005 AT PAGE 701, A DISTANCE OF 26.52 FEET;

THENCE THE FOLLOWING SEVEN (7) COURSES:

1. N 85°45'30" E, A DISTANCE OF 112.86 FEET;
2. N 81°22'02" E, A DISTANCE OF 142.87 FEET;
3. N 86°11'13" E, A DISTANCE OF 244.49 FEET;
4. N 89°21'32" E, A DISTANCE OF 134.54 FEET;
5. N 44°31'14" E, A DISTANCE OF 20.81 FEET;
6. N 00°24'28" W, A DISTANCE OF 52.00 FEET;
7. N 89°35'32" E, A DISTANCE OF 26.00 FEET TO A POINT ON THE EASTERLY BOUNDARY LINE OF SAID PROPERTY DESCRIBED IN BOOK 4005 AT PAGE 701, BEING A POINT ON THE WESTERLY RIGHT-OF-WAY OF HURON STREET;

THENCE S 00°24'28" E, ALONG SAID WESTERLY RIGHT-OF-WAY OF HURON STREET, A DISTANCE OF 133.66 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 37,855 SQUARE FEET OR 0.86 ACRES, MORE OR LESS.



J-R ENGINEERING

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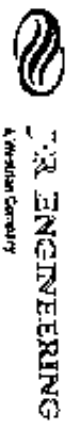
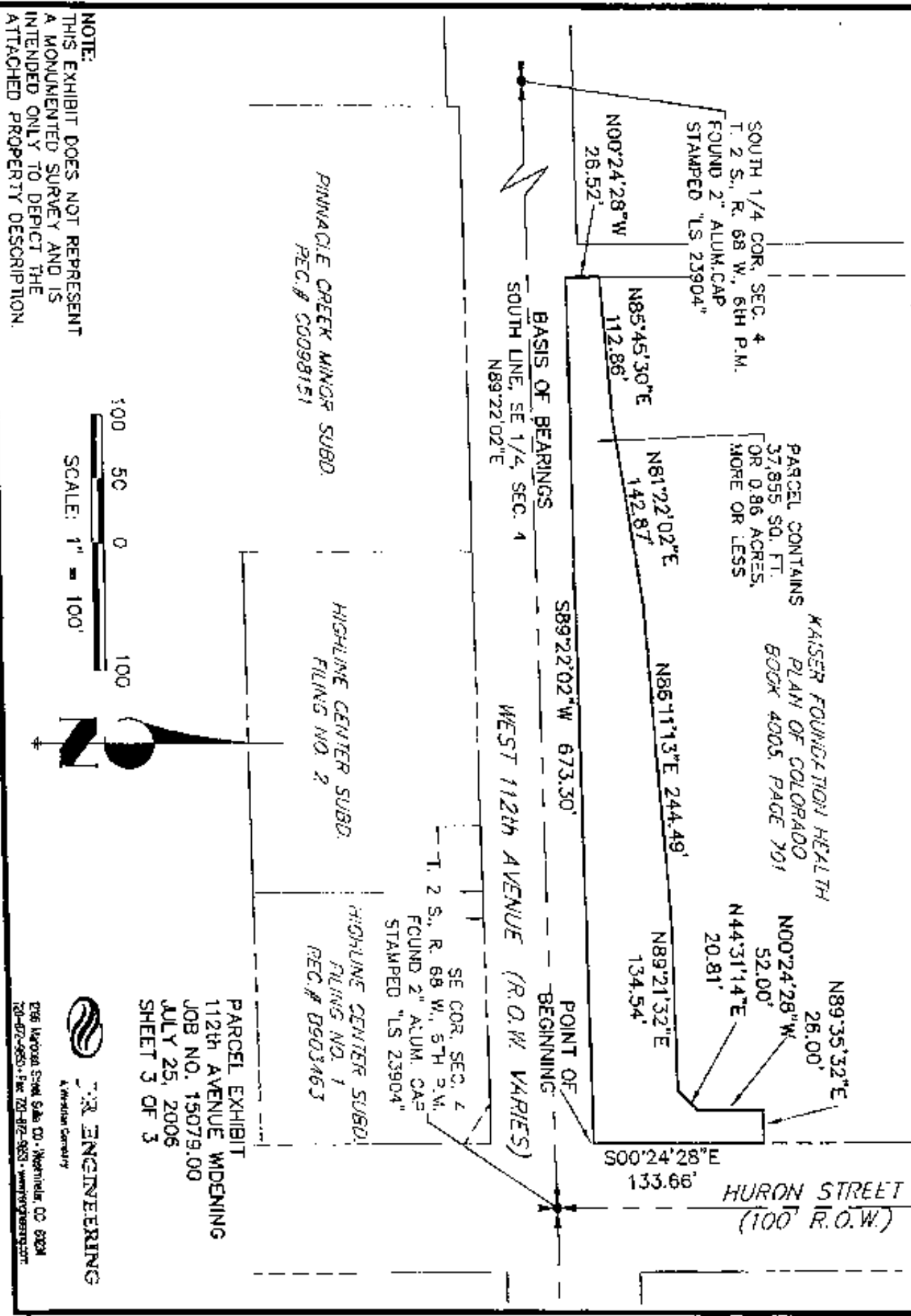
SURVEYOR'S STATEMENT

I, JAMES E. LYNCH, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

JAMES E. LYNCH, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 37933
FOR AND ON BEHALF OF JR ENGINEERING, LLC
12195 MARIPOSA ST., SUITE 100
WESTMINSTER, CO. 80234



EXHIBIT
SE 1/4, SECTION 4, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6th P.M.



T.R. ENGINEERING
A Wisconsin Company
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763-472-9650 • Fax 763-472-9653 • www.tr-engineering.com

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, February 23, 2009
7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (December 22, 2008)
- 3. New Business**
 - A. Public Hearing on the 4th Quarter 2008 WEDA Budget Amendment
 - B. Resolution No. 105 re 2008 WEDA Budget Supplemental Appropriation
 - C. Property Deed Transfer in the Mandalay Gardens URA to the City of Westminster
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, DECEMBER 22, 2008 AT 7:28 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Dittman, and Board Members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Linda Yeager, Secretary.

CONSIDERATION OF MINUTES

Board Member Briggs moved, seconded by Kaiser, to approve the minutes of the meeting of October 13, 2008 with no additions or corrections. The motion carried unanimously.

144TH AVENUE, ZUNI STREET TO JASON DRIVE, CONSTRUCTION DOCUMENTS

Vice Chair Dittman moved, seconded by Major, to authorize the Executive Director to execute a contract with the low bidder, Premier Paving, Inc., in the amount of \$3,200,115 for the construction of 144th Avenue; authorize a construction contingency in the amount of \$320,000; authorize the payment of an amount not to exceed \$250,000 to Xcel Energy for the design and installation of street lights for the project; authorize the Executive Director to execute an agreement with PBS&J for construction engineering services in the amount of \$276,586; and authorize a construction engineering contingency in the amount of \$25,000. The motion carried unanimously.

INTERGOVERNMENTAL COOPERATION AGREEMENT RE CITY CENTER PARK

It was moved by Briggs, seconded by Dittman, to authorize the Chairperson, Vice Chairperson, the Secretary and the Executive Director to execute an Intergovernmental Cooperation Agreement (ICA) between the City of Westminster (City) and the Westminster Economic Development Authority (WEDA) providing payment to the City from WEDA for reimbursement of City incurred costs related to the planning, design, and construction of City Center Park as well as future operating and capital costs incurred after the park is in commission, as long as WEDA has fulfilled all, if any, superior obligations including but not limited to: debt service and covenant requirements as detailed in the respective Indenture of Trust, Bank Agreement and any other obligation that is deemed to be superior over the City's reimbursement request. The motion carried unanimously.

ADJOURNMENT

There being no other business to come before the Authority, the meeting adjourned at 7:31 p.m.

ATTEST:

Secretary

Chairperson

WEDA Agenda Item 3 A-C

Agenda Memorandum

Westminster Economic Development Authority
February 23, 2009



SUBJECT: Public Hearing and Resolution No. 105 re 4th Quarter 2008 Housekeeping Supplemental Appropriation for the Westminster Economic Development Authority

Prepared By: Karen Creager, Special Districts Accountant

Recommended Board Action:

1. Hold a Public Hearing on the 4th quarter budget amendment for Westminster Economic Development Authority (WEDA).
2. Adopt Resolution No.105 authorizing a supplemental appropriation to the 2008 budget of WEDA.
3. Ratify the transfer of the deed to property in the Mandalay Gardens Urban Renewal Area (URA) to the City of Westminster.

Summary Statement

- When necessary, Staff prepares a resolution to appropriate unanticipated revenues received during the year and adjust the budget side of transactions that occur during the year. Preparing a supplemental appropriation on a quarterly basis for WEDA simplifies administrative procedures and reduces paper work.
- This is the 4th quarter 2008 housekeeping supplemental appropriation for WEDA.
- The 4th quarter supplemental appropriation is also the time when Staff makes necessary adjustments discovered through year end audit work to previously recorded transactions.
- Amendments:
 - \$200,762 bond interest earnings for North Huron URA
 - \$4,630 net reduction of bond interest earnings for South Sheridan URA
 - Revenue account number correction
- A public hearing is required pursuant to Section 29-1-108 of the Colorado Revised Statutes.

Expenditure Required: \$196,132

Source of Funds: Bond interest earnings

Policy Issues

1. Should the Board appropriate funds as set forth in the attached Resolution?
2. Should the Board approve the appropriation reduction of funds as set forth in the attached Resolution?

Alternatives

1. The Board could decide not to appropriate the funds at this time. This is not recommended because the appropriation of the interest earnings on the unspent bond proceeds is necessary to track the earnings for arbitrage purposes. Additionally, the bond covenants are very restrictive as to how the bond interest earnings can be spent.
2. The Board could decide to not approve the un-appropriation of bond interest earnings at this time. This is not recommended as the reduction of the bond interest earnings is necessary to establish funding for the anticipated arbitrage liability.

Background Information

Interest Earnings – bond interest and pooled interest

North Huron URA - WEDA 2005 bond issue

- WEDA issued debt in 2005 to fund the improvements to the North I-25 corridor from 136th Ave to 150th Avenue. While a significant portion of the improvements have been completed, there are still improvements under construction and the bond proceeds continue to earn interest and will do so until the proceeds are completely spent. A portion of the interest earnings has been appropriated through previous quarterly supplemental appropriations. The amount of interest earnings not previously appropriated is \$200,762 for the period July 1, 2008 through December 31, 2008.

South Sheridan URA - WEDA 2007 bond issue

- On June 22, 2007 WEDA issued bonds in the amount of \$8,320,000. Proceeds from the sale of the bonds are being used for the construction of public improvements in the South Sheridan URA. While a significant portion of the improvements have been completed, there are still improvements under construction and the bond proceeds continue to earn interest and will do so until the proceeds are completely spent. A portion of the interest earnings has been appropriated through previous quarterly supplemental appropriations. The amount of interest earnings not previously appropriated is \$11,666 for the period July 1, 2008 through December 31, 2008.
- In 2008, Staff received an arbitrage rebate report for the date ending 12/01/07 for the South Sheridan URA 2007 bond issue. The report shows a potential arbitrage liability of \$16,296 for interest earned over the allowed yield. As with past potential arbitrage liabilities, interest earnings from the related bond proceeds are used to fund this potential liability. Therefore, \$16,296 of previously appropriated interest earnings on the WEDA 2007 bond issue are being un-appropriated to establish a payable on the balance sheet of the URA.
- The net change for interest earnings for the South Sheridan URA the fourth quarter is a reduction of \$4,630.

Change in account number

Mandalay Gardens URA

- On November 24, 2008 City Council authorized reimbursement to WEDA from the POST fund for land totaling 5.367 acres that was included as part of the Mandalay Gardens redevelopment project with RED Development Company and was eventually conveyed as Open Space. Because WEDA fronted the monies for the purchase of these Open Space parcels, the POST fund is obligated to reimburse WEDA. The initial recording of the transaction was to record a sale of asset, however; in accordance with generally accepted accounting principals (GAAP), the transaction should be recorded as a transfer between funds. While the 2008 budget must be amended to reflect this change in recording the transaction, this amendment does not change the total appropriations in the fund and is shown for information purposes only.

Ratify land transaction

Mandalay Gardens URA

- The Shops at Walnut Creek Project included 3.047 acres of land that was set aside for the relocation of the Regional Transportation District (RTD) park-n-ride currently located at US 36 and Church Ranch Parkway, and a 2.62 acre parcel for a future commuter rail station and parking lot. This site was also identified in the US 36 EIS draft documents as a potential site for both a commuter rail and a Bus Rapid Transit station. As part of the negotiations for the Shops at Walnut Creek development, land was set aside for these transit enhancements. In addition, negotiations were ongoing with RTD for the more immediate move of the then current park-n-ride from its location across Church Ranch Boulevard to an area immediately adjacent to US 36 and the Burlington Northern/Santa Fe (BSF) railroad tracks. On February 27, 2006 the City and WEDA agreed to an advance of funds by the City to WEDA to assist WEDA in the construction of the park-n-ride site improvements. The funds advanced by the City were subsequently repaid by WEDA. On August 14, 2006, Council approved an IGA with RTD that set forth the details of the obligations of the City and RTD for the exchange of the land, construction of the new parking lot, the construction of bus slip ramps off US 36 and other terms and conditions to allow for the move of the current park-n-ride. In order to meet the terms of the IGA, it was necessary for WEDA to convey title to the City so that the land exchange could occur. Staff is requesting that the Board ratify the transfer of the deed of land in Mandalay Gardens URA from WEDA to the City.

The adjustments will amend Revenue and Expenditure accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Sale of Asset	6800.43040.0182	\$184,466	\$(184,466)	\$0
Transfers POST	6800.45000.0540	0	184,466	184,466
Interest Earnings	6800.42520.0190	53,960	(4,630)	49,330
Interest Earnings	6800.42520.0183	342,625	<u>200,762</u>	543,387
Total Change to Revenues			<u>\$196,132</u>	

EXPENDITURES

Description	Account Number	Current Budget	Amendment	Revised Budget
144 th Huron Interchange	80568030709.80400.8888	\$872,010	\$11,771	\$883,781
Forest City Improvements	80568030711.80400.8888	6,223,580	47,656	6,271,236
Reimb Expense	80568030723.80400.8888	1,344,995	10,299	1,355,294
Huron 140 th – 150th	80568030710.80400.8888	4,515,979	39,160	4,555,139
144 th Zuni to Huron	80768030816.80400.8888	2,258,000	9,411	2,267,411
Interest Expense	68010900.78400.0183	2,841,978	82,465	2,924,443
72 nd Sound Wall	80768030795.80400.8888	1,844,210	663	1,844,873
72 nd Sheridan Improvements	80768030794.80400.8888	5,222,972	3,224	5,226,196
Finance Costs/So Sheridan	80768030796.80400.8888	478,273	(8,517)	469,756
Total Change to Expenses			<u>\$196,132</u>	

The above adjustments will bring WEDA’s accounting records up-to-date to reflect the various detailed transactions.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **105**

INTRODUCED BY COMMISSIONERS

SERIES OF 2009

2008 WEDA BUDGET SUPPLEMENTAL APPROPRIATION

WHEREAS, the Westminster Economic Development Authority (WEDA) established the amended 2008 budget on October 8, 2007; and

WHEREAS, proper notice for this amendment was published on February 12, 2009, pursuant to the requirements of Section 29-1-106 Colorado Revised Statutes; and

WHEREAS, a public hearing for this amendment was held on February 23, 2009, pursuant to the requirements of Section 29-1-108 Colorado Revised Statutes; and

WHEREAS, as necessary Staff prepares a resolution to make necessary adjustments to the budget; and

WHEREAS, there are adjustments to be made to the 2008 budget for the 4th quarter of 2008; and

WHEREAS, the revenue adjustments consist of: a net increase of \$196,132 trust interest earnings on unspent bond proceeds; and

WHEREAS, the expense adjustments consist of: \$73,948 interest expense and \$122,184 project expenses.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Economic Development Authority: The \$196,132 increase shall be allocated to WEDA Revenue and Expenditure accounts as described in the WEDA Agenda Item 3 A-C, February 23, 2009 (a copy of which may be obtained from the City Clerk) .

PASSED AND ADOPTED the 23rd day of February, 2009.

ATTEST:

Chairperson

Secretary

**WESTMINSTER HOUSING AUTHORITY
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, February 23, 2009
7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (December 22, 2008)
- 3. New Business**
 - A. Resolution No. 33 re 2008 Final Supplemental
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY
MONDAY, DECEMBER 22, 2008 AT 7:31 P.M.

ROLL CALL:

Present at roll call were Housing Authority Chairperson McNally, Vice Chairperson Dittman and Authority members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Linda Yeager, Secretary.

MINUTES OF PRECEEDING MEETING:

Member Briggs moved, seconded by Kaiser, to accept the minutes of the meeting of June 9, 2008 as written and distributed. The motion carried unanimously.

RESOLUTION NO. 32 RE 2009 WHA AND WESTMINSTER COMMONS BUDGETS

It was moved by Member Major, seconded by Dittman, to adopt Resolution No. 32 approving the 2009 Westminster Housing Authority Budget and the 2009 Westminster Commons Senior Housing Project budget. At roll call, the motion passed unanimously.

ADJOURNMENT:

There being no further business to conduct, the meeting was adjourned at 7:33 p.m.

Chairperson

ATTEST:

Secretary

WHA Agenda Item 3 A

Agenda Memorandum

Westminster Housing Authority Meeting
February 23, 2009



SUBJECT: Resolution No. 33 re 2008 Final Supplemental

Prepared By: Tony Chacon, Senior Project Coordinator
Karen Creager, Special Districts Accountant

Recommended Board Action

Adopt Resolution No. 33 authorizing a supplemental appropriation of \$8,000 to the 2008 Westminster Housing Authority (WHA) budget.

Summary Statement

- When necessary, at the end of each quarter Staff prepares a resolution to appropriate unanticipated revenues received during the year and adjust the budget side of transactions that occurred during the year. Preparing quarterly supplemental appropriations for WHA simplifies administrative procedures and reduces paper work.
- In 2008, the WHA incurred an unanticipated, but necessary, expense to hire consultants to assess the structural and financial conditions of the Authority-owned Westminster Commons Senior Apartments.
- The original 2008 operating budget for WHA was able to absorb only a portion of the cost of the consultant leaving \$8,000 of the cost to be covered with unbudgeted additional revenues.
- The WHA received approximately \$23,000 of additional unbudgeted revenue in 2008.
- A supplemental appropriation of \$8,000 is requested to appropriate a portion of the additional revenue to cover the additional 2008 expenses.

Expenditure Required: \$8,000

Source of Funds: Interest earnings

Policy Issue

Should WHA appropriate funds as set forth in the attached Resolution?

Alternative

The Board could decide not to appropriate the funds at this time. This is not recommended because the appropriation is necessary to cover the cost of hiring the consultants and balance the 2008 budget.

Background Information

At the time the 2008 WHA budget was prepared and approved by the WHA Board, the need to hire consultants for any substantial purpose was not anticipated. Therefore, the budget did not provide funding for such consulting services. However, unanticipated circumstances that arose during 2008 required the hiring of consultants to evaluate the long-term structural and financial viability of the WHA owned Westminster Commons Senior Apartments.

A change in the ownership of the management firm hired by the WHA to manage the Westminster Commons Senior Apartments occurred in 2008. Based upon a physical assessment of the property, the new management requested the WHA give consideration to the funding of significant improvements such as repaving of the parking lot and replacement of kitchen cabinets. While staff did not dispute the need for improvements, there was concern that other improvements of higher priority may be needed given the age of the facility, and that a more thorough analysis should be done prior to making substantial financial commitments. In 2008, the Commons also experienced an increased level of repair needs. Some of these repairs brought to light the facility’s aging infrastructure. The required repair of the elevators, for example, found that replacement components were no longer available, leading to an understanding that the entire system would eventually need to be replaced at significant cost.

Based upon these conditions, Staff determined that a more comprehensive study of the facility’s existing condition, capital needs and cost, and financial ability to take on any improvements was needed prior to committing to any substantial capital investment. Given the limited technical capacity of Staff, the WHA retained the services of consultants to proceed with the required analyses. The majority of the contract work was performed in 2008. The additional work will be completed in 2009. A portion of the 2008 cost to hire the consultants was absorbed within the approved 2008 WHA budget based upon savings in the cost of operations and maintenance of the WHA owned Rodeo Market building, the Vehicle Service Center building, and vacant land at 72nd Avenue and Meade Street. The WHA received approximately \$23,000 in unanticipated revenue in 2008 from rental income and interest earnings. The amount overspent in the 2008 WHA budget as a result of the consultant expense was \$8,000. A supplemental appropriation is required to bring the 2008 budget into balance. The remaining 2008 excess revenues will not be appropriated at this time, instead this excess revenue will increase available fund balance. Approximately \$8,000 will be needed in 2009 to cover the balance of the consulting contract performed in 2009. Staff will present a carryover appropriation request later in 2009 to appropriate the funds needed to pay the final amount due under the contract.

The adjustments will amend the budget accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Interest Earnings	2600.42510.0000	\$0	<u>\$8,000</u>	\$8,000
Total Change to Revenues			<u>\$8,000</u>	

EXPENDITURES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contractual Services	26010900.67800.0000	\$74,136	<u>\$8,000</u>	\$82,136
Total Change to Expenses			<u>\$8,000</u>	

Staff will share the results of the study with the Authority members once it is completed.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachment

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **33**

INTRODUCED BY COMMISSIONERS

SERIES OF 2009

2008 FINAL SUPPLEMENTAL

WHEREAS, the Westminster Housing Authority (the "Authority") is a political subdivision of the State of Colorado, duly organized, existing, and acting pursuant to C.R.S. section 29-4-201 et seq. (the "Act"), and

WHEREAS, the Authority was created to carry out the purposes of a public housing authority pursuant to the Act; and

WHEREAS, the Authority has adopted an operating budget for the fiscal year (FY) 2008; and

WHEREAS, the (FY) 2008 budget did not contemplate paying for consulting services relative to assessing the physical and financial viability of the Westminster Commons Senior Apartments, owned by the Authority; and

WHEREAS, there are additional unanticipated revenues to cover these costs; and

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Housing Authority: The \$8,000 budget increase shall be allocated to WHA Revenue and Expenditure accounts as described in the WHA Agenda Item 3A, dated February 23, 2009 (a copy of which may be obtained from the City Clerk) .

PASSED AND ADOPTED this 23rd day of February, 2009.

Nancy McNally, Chairperson

ATTEST:

APPROVED AS TO LEGAL FORM:

Secretary

Attorney