



**WESTMINSTER
COLORADO**

**February 25, 2002
7:00 P.M.
AGENDA**

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 7) and Citizen Presentations (item 14) are reserved for comments on items not contained on the printed agenda.

- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Consideration of Minutes of Preceding Meetings**
- 4. Presentations**
 - A. Police Department Meritorious Service; Distinguished Service and Purple Heart Awards
 - B. Recognition of Michele Haney as a Member of the Police Department's Complaint Review Team
- 5. Citizen Communication (5 minutes or less)**
- 6. Report of City Officials**
 - A. City Manager's Report
- 7. City Council Comments**

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

- 8. Consent Agenda**
 - A. Financial Report for January 2002
 - B. Quarterly Insurance Report October – December 2001
 - C. Bond and Disclosure Counsel Agreements for \$20 Million W&WW Utility Enterprise Bonds, Series 2002
 - D. Table Mountain Animal Shelter 2002 Assessment
- 9. Appointments and Resignations**
- 10. Public Hearings and Other New Business**
 - A. Public Hearing re Panorama Pointe 2nd Amended Preliminary Development Plan
 - B. Second Amended Preliminary Development Plan on Panorama Pointe
 - C. Public Hearing re Former Hawn Property located West of US 36 South of Church Ranch
 - D. Resolution No. 9 re making certain findings on Former Hawn Property
 - E. CB No. 3 re Former Hawn Property Annexation
 - F. CB No. 4 re Former Hawn Property Zoning
 - G. Public Hearing re Former Lang Property located SW corner of Wadsworth and 99th Avenue
 - H. Resolution No. 10 re making certain findings on Former Lang Property
 - I. CB No. 5 re Former Lang Property Annexation
 - J. CB No. 6 re Former Lang Property Zoning
 - K. CB No. 7 re Costco Wholesale Corporation Business Assistance Package
 - L. Resolution No. 11 re Village at Harmony Park Service Commitment Award Extension
 - M. Resolution No. 12 re Harmony Park Enclave Annexation Petition
 - N. Resolution No. 13 re Contract with VALIC for Administration of City's Deferred Comp (457) Plan
- 11. Old Business and Passage of Ordinances on Second Reading**
- 12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business**
 - A. City Council
 - B. Executive Session
 1. Board and Commission Vacancy
 2. Criteria for Determining Business Assistance Packages for Non-Retail/Non-Residential Prospects
- 13. Adjournment**

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

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

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, FEBRUARY 25, 2002 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor Moss and 3rd grade students from Sunset Ridge Elementary School led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL

Mayor Moss, Mayor Pro Tem Atchison, Councillors Dittman, Dixon, Hicks, and McNally were present at roll call. Brent McFall, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk, were also present. Absent Kauffman.

CONSIDERATION OF MINUTES:

Councillor Atchison moved, seconded by McNally to accept the minutes of the meeting of February 11, 2002 with no additions or corrections. The motion carried unanimously.

PRESENTATIONS:

Mayor Moss and Dan Montgomery, Police Chief, presented Police Department Service Awards for Purple Heart to Stephanie Topkoff, Meritorious Service to Tim Carlson, Guy Coshall, Chris Hempelmann, Charles Rowe, Jeff Sill, and Dan Spinder, and Distinguished Service to Steve Bare, Krista Bunten, Dan McIntosh, Scott Takahashi, Stephanie Topkoff and Matt Trenka.

Mayor Moss presented an appreciation plaque to Michele Haney for her service on the Police Department Complaint Review team.

CITIZEN COMMUNICATION:

Flora Cardenas, Virginia Roth, and Lucille Fletcher of Flowers by Flora, 4975 W 80th Avenue, addressed Council requesting their store sign to be the same size as Flowerama's sign at 80th Avenue and Sheridan Boulevard.

CITY MANAGER COMMENTS:

J. Brent McFall, City Manager, thanked the Police Department for the work they do each day.

CITY COUNCIL COMMENTS:

Councillor Dixon thanked the Police Department for their work. She also commented that February is Black History month and read an essay about Mohammad Ali.

Councillor Dittman welcomed the students from Sunset Ridge Elementary School.

CONSENT AGENDA:

The following items were considered as part of the Consent Agenda: Financial Report for January 2002; Quarterly Insurance Report for October through December 2001; Bond and Disclosure Counsel Agreements with Sherman & Howard for bond counsel services at a fee of \$35,000 and with Kutak Rock for disclosure counsel services at a fee of \$22,500 for \$20 Million W&WW Bonds; \$35,644 for Westminster's annual assessment for usage of the Table Mountain Animal Shelter.

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

Councillor Dittman moved, seconded by Hicks to adopt the Consent Agenda items as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 7 RE COSTCO WHOLESALE CORP. BUSINESS ASSISTANCE

Mayor Pro-Tem Atchison moved, seconded by Hicks to pass Councillor's Bill No. 7 on first reading authorizing the City Manager to execute and implement the business assistance agreement with Costco Wholesale Corporation. Bob Smith, Assistant General Manager of the Westminster store and Kate Hyatt, 10230 Zenobia Circle representing WATCH spoke in favor of this business assistance package. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING ON 2ND AMENDED PDP AT PANORAMA POINTE

At 7:40 P.M. the public hearing was opened for the 2ND amended Preliminary Development Plan at Panorama Pointe, located at south of Alcott Way and west of 83rd Way. Dave Shinneman, Planning Manager, entered a copy of the Agenda Memorandum, Planning Commission recommendation, and other related items into the record. Cindy Harvey, Kephart Architects and Steve Elken, developer, were present and addressed Council. There was no opposition. The public hearing was declared closed at 8:05 P.M.

2nd AMENDED PDP AT PANORAMA POINTE

Councillor Dixon moved, seconded by Hicks to approve the 2nd Amended Panorama Pointe Preliminary Development Plan within the Panorama Pointe Subdivision, Planned Unit Development. This recommendation is based on the findings set forth in Section 11-5-14 of the Westminster Municipal Code; and conditional upon the Official Development Plan meeting all of the Design Guidelines and development criteria of the City. This amended PDP refers to Parcel C only. The motion carried unanimously.

PUBLIC HEARING ON FORMER HAWN PROPERTY

At 8:10 P.M. the public hearing was opened for the former Hawn Property located west of US 36, south of Church Ranch Boulevard. Dave Shinneman, Planning Manager, and Dave Falconieri, Planner III, entered a copy of the Agenda Memorandum, Planning Commission recommendation, and other related items into the record and spoke in favor of this application. There was no opposition. The public hearing was declared closed at 8:15 P.M.

RESOLUTION NO. 9 RE FORMER HAWN PROPERTY

Councillor Hicks moved, seconded by Dixon to adopt Resolution No. 9 making certain findings as required under Section 31-12-110 C.R.S. regarding the annexation of unincorporated lands re Former Hawn Property located west of US 36, south of Church Ranch. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 3 RE FORMER HAWN PROPERTY ANNEXATION

Councillor Hicks moved, seconded by Dixon to pass Councillors Bill No. 3 on first reading annexing the former Hawn Property located west of US 36, south of Church Ranch Blvd., to the City of Westminster. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 4 RE FORMER HAWN PROPERTY ZONING

Councillor Hicks moved, seconded by Dixon to pass Councillor's Bill No. 4 on first reading zoning the former Hawn Property, located west of US 36, south of Church Ranch Blvd., from A-2 in Jefferson County to O-1 in the City of Westminster. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE FORMER LANG PROPERTY

At 8:16 P.M. the public hearing was opened on the former Lang Property located on the southwest corner of Wadsworth Blvd and 99th Avenue. Dave Shinneman, Planning Director, Dave Falconeri, Planner III, and Dave Downing, City Engineer, entered a copy of the Agenda Memorandum and other related items into the record. There was no opposition. The public hearing was declared closed at 8:20 P.M.

RESOLUTION NO. 10 RE FORMER LANG PROPERTY

Councillor Dittman moved, seconded by McNally to adopt Resolution No. 10 making certain findings as required under Section 31-12-110 C.R.S. concerning the annexation of unincorporated lands re Former Lang Property located on the southwest corner of Wadsworth Blvd and 99th Avenue. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 5 RE FORMER LANG PROPERTY ANNEXATION

Councillor Dittman moved, seconded McNally by to pass Councillor's Bill No. 5 on first reading annexing the former Lang Property, located on the southwest corner of Wadsworth Blvd and 99th Avenue. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 6 RE FORMER LANG PROPERTY ZONING

Councillor Dittman moved, seconded by McNally to pass Councillor's Bill No. 6 on first reading zoning the former Lang property located on the southwest corner of Wadsworth Blvd and 99th Avenue from Jefferson County A-2 to City of Westminster O-1. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 11 VILLAGE AT HARMONY PARK SERVICE COMMITMENT EXTENSION

Mayor Pro-Tem Atchison moved, seconded by Hicks to adopt Resolution No. 11 extending the existing Category B-1 Service Commitment award to the Village at Harmony Park single-family detached residential project based on the finding that the Village at Harmony Park project meets Westminster Municipal Code Section 11-3-2(A)2 criteria of the City's Growth Management Program. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 12 RE HARMONY PARK ENCLAVE ANNEXATION PETITION

Councillor McNally moved, seconded by Atchison to adopt Resolution No. 12 accepting the annexation petition submitted by Kenneth P. Neumann and make the findings required by State Statute on the sufficiency of the petition. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 13 RE CONTRACT WITH VALIC FOR CITY'S DEFERRED COMP PLAN

Councillor Dixon moved, seconded by Atchison to adopt Resolution No. 13 approving selection of Variable Annuity Life Insurance Company as the City's exclusive provider for the City's 457 Deferred Compensation Program, for a term of five years, at a cost of .05% fees to each employee per annum (with an additional .03% for amortization of Market Value Adjustment for the Nationwide Fixed Fund) and authorizing the City Manager to sign the necessary documents on behalf of the City. Upon roll call vote, the motion carried unanimously.

CITIZEN COMMUNICATION

Ben Beaty, 4500 W 110th Circle commended Council and Staff on continuing to acquire open space.

EXECUTIVE SESSION

The Mayor announced there would be two items discussed as part of the executive session: Board and Commission Vacancy and Criteria for determining Business Assistance Packages for non-retail/non-residential prospects.

ADJOURNMENT:

The meeting was adjourned at 8:25 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Police Department Meritorious Service; Distinguished Service and Purple Heart Awards

Prepared By Lee Birk, Captain
Dan Montgomery, Chief of Police

Summary Statement:

Nominations for the Police Department Meritorious Service, Distinguished Service, and Purple Heart Awards were submitted to the Police Department's Award Review Board for review and recommendation. The Board concluded that all these officers are deserving of the awards. Police Chief Dan Montgomery requests the assistance of Mayor Ed Moss and City Manager Brent McFall in presenting the following awards to police personnel:

- Police Department Meritorious Service Awards: Tim Carlson, Guy Coshall, Chris Hempelmann, Charles Rowe, Jeff Sill, and Dan Spinder.
- Police Department Distinguished Service Awards: Steve Bare, Krista Bunten, Dan McIntosh, Scott Takahashi, Stephanie Topkoff and Matt Trenka.
- Purple Heart Award: Stephanie Topkoff

The actions of all of these officers reflect courage, professionalism and in many cases resulted in the saving of lives. Their actions reflect the highest standards of police excellence and professionalism

Expenditure Required: none

Source of Funds: N/A

Recommended City Council Action:

Present the Meritorious Service, Distinguished Service and Purple Heart Awards to the Officers nominated for each Award.

Policy Issue(s):

Police Department Directive 94-8, adopted on December 22, 1994, provides for the awarding of service medals for Meritorious, Distinguished, Purple Heart, and Valorous police actions. This particular City Council action is in sync with the basic tenets of the awards policy, and in Staff's opinion, no issues exist with regard to the policy or the recommended action.

Alternatives:

No alternatives have been identified for this item.

Background Information:

The Awards Board recently reviewed the following nominations and recommended unanimously that all be granted as explained below. The supervisory chain of command has also reviewed the nominations and recommended that all individuals nominated receive the Awards per Department Directive 94-8.

Meritorious Service Award: Jeff Sill

Sergeant Jeff Sill has been a member of the Westminster Police Department Tactical Team (SWAT) since September of 1986 and recently retired from the team. The Tactical Team is a voluntary unit, with rigorous selection criteria that requires a great deal of personal commitment, dedication and sacrifice. Officers in this unit are selected because of their: judgment, physical fitness, weapons, self-defense and officer survival skills. The officers are expected to be available at all hours to respond to emergencies. The Tactical Team routinely responds to situations involving active shooters, hostage incidents and barricaded gunmen. They handle high risk warrant service where suspects are known to be armed and dangerous. The nature of the work can be extremely hazardous and decisions made and actions taken can have life threatening consequences for citizens, victims, officers and suspects. In the fifteen plus years that Sergeant Sill was on the Tactical Team, he responded to forty-four incidents. Four of these involved hostage situations, twenty-three were barricaded gunmen incidents, and seventeen involved the execution of high-risk warrants. During his last three years, he has served as the Hostage Negotiations Unit Leader. Jeff's long term commitment and dedication to the Tactical Team is deserving of the Meritorious Service Award.

Meritorious Service Awards: Tim Carlson, Chris Hempelmann, Charles Rowe, and Dan Spinder

On June 21, 2001, a citizen advised officers that a friend of his was suicidal and intended to kill himself with a handgun he had in his possession. Officers responded to the suicidal subjects residence but found no one at home. They continued to pursue leads on the subject's whereabouts, but they were unsuccessful in locating him. Officer Dan Spinder was able to make contact with the subject via cell phone and the subject did confirm he was suicidal and in possession of a handgun; however, he would not tell the officers where he was. After several hours of attempting to locate him, Officer Charles Rowe found the suspect sitting in his vehicle in the vicinity of 72nd Avenue and Sheridan Boulevard. Sergeant Tim Carlson, Officers Spinder and Chris Hempelmann responded to the scene to assist Officer Rowe. Sergeant Carlson immediately began a dialogue with the suspect who initially ignored him. Eventually the suspect responded, exited his vehicle and took several steps toward Sergeant Carlson. The suspect left his drivers door open and he was observed putting something on the front seat, which Sergeant Carlson believed to be the gun. After fifteen minutes of negotiation, Sergeant Carlson was able to convince the suspect to walk further away from his vehicle toward the officers. Sergeant Carlson, by himself, stepped away from the cover of his patrol car and from behind blinding headlights, and began approaching the suspect. At this point, the suspect was approximately ten feet from his vehicle and Sergeant Carlson was approximately thirty-five feet from the suspect. The suspect made statements indicating that he intended to either kill himself, or was going to force the officers to kill him by threatening the officers with his gun. The subject turned and headed toward his vehicle. Sergeant Carlson sprinted to the suspect and reached him just as he was at his open car door inches from reaching the handgun that was lying on the drivers seat. Sergeant Carlson struggled to restrain the suspect and pull him away from the vehicle and gun. The other three officers immediately came to Sergeant Carlson's aid and assisted in subduing the suspect. The officers' actions, at risk to themselves, undoubtedly saved this individual from death or serious injury.

Distinguished Service Awards: Krista Bunten, Dan McIntosh, Scott Takahashi, Stephanie Topkoff, and Matt Trenka.

On July 23, 2001, the Broomfield Police Department notified the Westminster Police Department that they were attempting to locate a stolen vehicle and driver who had been involved in a shoplifting incident in Broomfield. They also advised Westminster that the suspect had attempted to run over a Broomfield Police Officer while escaping. Officer Matt Trenka observed the stolen vehicle traveling eastbound on the Boulder Turnpike and attempted to stop the vehicle, but the driver refused and fled from the officer. A pursuit of the stolen vehicle ensued, leading Officers into Adams County and subsequently ending in Denver at 36th Avenue and Wynkoop. Officers Dan McIntosh, Stephanie Topkoff, Scott Takahashi and Krista Bunten assisted in the pursuit. Several different officers assumed the primary pursuit vehicle responsibilities as the dynamics changed. The officers maintained excellent communication with each other and with the Communications Center. Eventually, Officer Takahashi was able to execute a Precision Immobilization Technique (PIT), causing the suspect vehicle to spin 180 degrees and come to a stop. After this maneuver, Officer Takahashi's vehicle was directly beside the suspect's vehicle, and Officer Krista Bunten, who was in the passenger seat of the patrol car, was face-to-face with the suspect. This prevented her from opening her vehicle door due to the close proximity of the suspect vehicle. Officer Takahashi immediately recognized this danger and moved his vehicle away from the suspect's vehicle. The officers approached the vehicle and repeatedly gave commands to the suspect to surrender and exit his vehicle, which he refused. The suspect then began to rock his vehicle back and forth and subsequently hit a patrol car. The suspect then revved his engine and started moving his vehicle forward toward Officers Bunten and Topkoff, who were in his direct path of travel. Officers Bunten and Topkoff, fearing for their lives, fired at the suspect. Officers McIntosh and Trenka, who also immediately recognized the threat to their fellow officers, also fired at the suspect. The suspect was wounded, taken into custody, and transported to the hospital. The suspect, who at the time of the incident was out on Bond for Second Degree Aggravated Motor Vehicle Theft, was charged with two counts of First degree Assault to a Police Officer, First Degree Aggravated Motor Vehicle Theft, and Vehicular Eluding. These officers were subject to significant risk of death or serious bodily injury, and they acted courageously and decisively in doing their duty while protecting their fellow officers and apprehending a dangerous criminal.

Meritorious Service Award: Guy Coshall**Distinguished Service Award: Steven Bare**

On July 16, 2001, Westminster officers responded to the report of a domestic violence incident and found that a suspect had assaulted his girlfriend, armed himself with a gun, was suicidal, and had fled in a vehicle. The vehicle was later spotted and stopped near 100th Avenue and Wadsworth Boulevard. The suspect refused to leave his vehicle and remained inside the vehicle with the windows rolled up. Officers attempted to communicate with the suspect via the patrol car PA system and through his cell phone, with limited results. After nearly an hour attempting to persuade the suspect to leave his weapon in the car and surrender peacefully, he made an attempt to drive away by leaving the roadway and driving across a grassy shoulder into a private parking lot. Officer Steve Bare, who had been ordered to prevent the suspect from going mobile or escaping, executed a PIT, which caused the suspect's vehicle to spin 180 degrees and come to a stop. Because the vehicle speeds were low, the PIT maneuver was slow and stalled for a few seconds. During this time, the suspect who had his weapon in his hand, was looking directly at Officer Bare and yelling at him from a distance of only 10-12 feet. Officer Bare, who was without cover and at extreme risk, could have stopped, backed up, or jumped from his patrol car. Instead, he completed the PIT maneuver in the face of danger. After the vehicle came to rest, officers took positions of cover and again attempted communication and negotiation. The suspect continued to act irrationally, hysterically and was waving and pointing his handgun in all directions, including placing the gun in his mouth. Officer Guy Coshall, who was also at the scene, had been ordered to take an elevated position to the side of the suspect on the balcony of a nearby business to cover the other officers. Officer Coshall, while not directly threatened himself, recognized that he had a better view of the situation than the officers who were much closer, seeking cover behind patrol cars, and blinded by headlights.

When Officer Coshall saw the suspect level and point his gun in the direction of the officers, who were within 8-12 feet of the suspect, he unhesitatingly fired at the suspect and wounded him. The suspect then dropped his weapon. The suspect was taken into custody and transported to the hospital. The suspect in this case was in violation of a Restraining Order, and was also charged with six counts of Felony Menacing, two counts of Possession of a Weapon by a Previous Offender, Third Degree Assault, and Habitual Domestic Violence. Officer Coshall's actions may have saved his fellow officers from death or serious injury.

Purple Heart Award: Stephanie Topkoff

On October 19, 2000, Officer Stephanie Topkoff responded to a domestic violence call. During her investigation, she discovered that the suspect, a 21-year old male, had threatened to kill the victim and had done substantial damage to the victim's apartment and property. Officer Topkoff encountered the suspect, and placed him under arrest. Officer Topkoff handcuffed him, he became combative and attempted to flee. During the struggle, Officer Topkoff was injured, sustaining a serious injury to her wrist. This injury required surgery and she missed several weeks of work during the recovery and rehabilitation process. Officer Topkoff was eventually placed on light duty status, prior to her return to full duty. The suspect was charged with Second Degree Assault, Criminal Mischief, Harassment, Domestic Violence, and Resisting Arrest.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Recognition of Michele Haney as a Member of the Complaint Review Team

Prepared By Dan Montgomery, Chief of Police

Summary Statement:

- On March 2, 1998, City Council passed Resolution Number 14, creating the Police Department Complaint Review Team, consisting of two citizens from the community and two police supervisors.
- Michele Haney was one of the two citizens appointed to this team, and for the past three years, she has worked very hard and very conscientiously to help make this program the success it is today. Ms. Haney has completed her three year term and has resigned from the team.
- Ms. Haney will be present at this City Council meeting to accept an appreciation plaque from Mayor Moss, acknowledging her three years of community service commitment.

Expenditure Required: \$50.00 (purchase of plaque)

Source of Funds: Police Department 2002 General Fund Budget

Recommended City Council Action:

Have Mayor Moss present the appreciation plaque to Ms. Haney on behalf of the City of Westminster.

Policy Issue(s):

There are no policy issues related to this action.

Alternatives:

While there may be other ways for Council to recognize Ms. Haney's contributions, it is Staff's perspective that the awarding of a plaque is the appropriate thank you for three years of hard work and commitment.

Background Information:

Police Chief Dan Montgomery and former City Manager Bill Christopher approached City Council on December 24, 1997 requesting the creation of a Police Department Complaint Review Team. The purpose of this strategy was to incorporate an element of citizen review into the investigation of police misconduct allegations. On March 2, 1998, City Council adopted Resolution Number 14 supporting the creation of the Police Department Complaint Review Team. Bill Christopher appointed Michele Haney to the team, and Personnel Board Chair, Betty Whorton, appointed Margaret Rivera to the team. Both of these individuals were appointed for three-year terms and Ms. Haney's term has expired. Myron Treber was recently appointed to the team to replace Michele Haney, and Margaret Rivera's position on the team will be replaced later this year.

The Police Department Complaint Review Team has functioned exceptionally well since inception, and has been recognized as only the second such system of citizen review in the State of Colorado. Additionally, this program received a DRCOG Innovation Award on April 14, 2000.

Michele Haney has worked tirelessly to help make this program a success. In the three years she has served, she has reviewed approximately 50 cases of alleged police misconduct. Her performance and her commitment has been exceptional. Ms. Haney is currently the CEO of the Boulder Valley Campus of Front Range Community College, and has been with the State Community College System since 1992. She also served the City of Westminster by being a member of the Recreation Board; the Vice-Chair of the Building Authority; and she serves as a member of the Westminster Artist Series Executive Board. Ms. Haney was also selected in 1996 as the "Westminster Woman of the Year."

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



WESTMINSTER
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Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Financial Report for January 2002

Prepared By: Mary Ann Parrot, Finance Director

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The December Shopping Center Report is also attached to this monthly financial report.

Key features of the monthly financial report for January are as follows:

- At the end of January, 1 of 12 months or 8.3% of the year has passed. In many cases actual revenues do not flow evenly at 8.3% per month. Pro-rated revenues will reflect expected revenue flows based on history. Expenditures are pro-rated at 8.3%, reflecting even flows.
- The General Fund currently is at 100% of revenues pro-rated for one month.
- The Water/Wastewater Enterprise currently is over pro-rated budget by \$1.9 million due to the sale of water to Commerce City. This transaction of \$1.692 million will be journalized back to FY 2001, and will not appear in the February financial statement; this revenue was due in 2001.
- The Sales and Use Tax Fund is currently \$411,626 under the pro-rated budget for the year. The January figures reflect the returns for December, received in January. Returns are down for January 2002 compared to January 2001 by approximately 7.2%, due to the pressures of the recession in the metropolitan area. Staff expects the Sales and Use Tax Fund to struggle this year as the City navigates through a year of recession for the Denver area in general. Staff is watching this closely and is preparing a report to City Council in more detail when year-end figures from 2001 are available. In addition, Staff has set aside additional funds in the General Fund to head off any potential year-end shortfall.
- With regard to the Golf Course Enterprise, revenues for Legacy are 14% of pro-rated budget; revenues for Heritage are 12% of pro-rated budget. Seasonal fluctuations are the primary reason for the revenues being reported at these levels.
- All funds currently stand at less than 100% of their respective expenditures when using pro-rated expenditures for this time of year.

Expenditure Required: None required.

Source of Funds: None required.

Recommended City Council Action:

Accept the Financial Report for January as presented.

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 is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%. The term "pro-rated," when used with revenues and expenditures, in this report, refers to the expected revenues collected or expenditures incurred by a certain date in time based on historical trends.

General Fund

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

At the end of January, the General Fund is the following position regarding both revenues and expenditures, although it is still very early in the fiscal year:

- Under pro-rated budget in revenues by \$1,641 (100% of pro-rated budget).
- Under pro-rated budget in expenditures by \$3.4 million (44% of pro-rated budget).

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 expenses. At the end of January, the Enterprise is in a positive position.

- Over pro-rated budgeted revenues by a combined \$1.909 million:
 - Water revenues over pro-rated budget by \$1.796 million (211% of pro-rated budget), mostly due to the sale of water to Commerce City for \$1.692 million. This transaction will be journalized back to FY 2001, and will not appear in the February financial statement; this revenue was due in 2001. The build up of reserves in this fund will finance capital replacement and necessary expansion over the long term, as planned.
 - Wastewater revenues over pro-rated budget by \$113,680 (113% of pro-rated budget), mostly due to increases in revenues for rates and tap fees. Again, these reserves will finance capital replacement and expansion over the long term.
 - Storm Drainage will be included in the 2nd quarter, as it is a new fund and lacks the long-term viability for a meaningful report, especially this early in the year.
- Under pro-rated budget in expenditures by a combined \$1.453 million:
 - Water under pro-rated expenditures budget by \$1.087 million (42% of pro-rated budget).
 - Wastewater under pro-rated budget by \$366,308 (46% of pro-rated budget).

Sales and Use Tax Funds (Sales Tax Fund and Open Space Fund)

These funds are the repositories for the 3.25% City Sales & Use Tax for the City. The Sales Tax Fund provides monies for the General Fund, the Capital Projects Fund and the Debt Service Fund. The Open Space Funds are pledged to meet debt service on the POST bonds and to buy open space and make park improvements on a pay-as-you-go basis. At the end of January, the position of these funds is as follows:

- Sales Tax Fund - Under pro-rated budget in revenues by \$411,626 million (93% of pro-rated budget).

- Sales Tax Fund – Even with expenditures because of the transfers to various other funds.
- Staff has been reviewing the Sales Tax Fund to evaluate the impact of the recession on receipts (returns) and distinguish the difference between monthly revenues and one-time use tax receipts received in annual audit revenues. Staff will report to City Council separately on this item after the year-end figures are finalized.
- Open Space Tax Fund – Under pro-rated budget in revenues by \$31,370 (94% of pro-rated budget).
- Open Space Tax Fund – Under pro-rated budget in expenditures by \$196,595 (61% of pro-rated budget).

Golf Course Funds (Legacy and Heritage- the Golf Course Enterprise)

These funds reflect the operations of the City's two municipal golf courses.

- Legacy - Under pro-rated budget in revenues by \$122,804 (14% of pro-rated budget)
- Legacy - Under pro-rated budget in expenses by \$54,152 (52% of pro-rated budget). This variance is operations only and excludes the impact of the debt service payments that will be due in June and in December.
- Heritage - Under pro-rated budget in revenues by \$131,014 (12% of pro-rated budget).
- Heritage – Under pro-rated budget in expenditures by \$63,355 (47% of pro-rated budget). Again, this excludes the impact of the debt service payments due in June and December.

Staff will attend at the February 25th City Council Meeting to address any questions.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Quarterly Insurance Report: October - December, 2001

Prepared By: Martee Erichson, Risk Management Officer

Summary Statement

- The information provided on each claim includes the claim number, date of loss, claimant’s name and address and a brief summary of the claim and the claim’s status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney’s Office to make sure that the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer acting as the City Manager's designee has the authority to settle claims of less than \$15,000. However, under the City’s contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjustor and settlements of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.
- For the year to date, Staff has noted the following from the report attached:
 - Seven of the 21 claims reported in the fourth quarter of 2001 have been paid or denied.
 - Total claims for the quarter breakdown by department as follows:

	4th Qtr		
Department	Total Claims	Open	Closed
Fire	2	2	0
Police	5	3	2
PR&L	1	1	0
PWU - Streets	5	3	2
PWU - Utilities	8	5	3
	21	14	7

- Claim type summary for last four years:

TYPE	1998			1999			2000			2001		
	OPEN	CLOSED	TOTAL	OPEN	CLOSED	TOTAL	OPEN	CLOSED	TOTAL	OPEN	CLOSED	TOTAL
Liability	0	18	18	0	65	65	4	46	50	17	31	48
Auto Collision	0	1	1	0	1	1	0	4	4	11	5	16
Auto Liability	0	22	22	0	14	14	0	19	19	4	25	29
Errors & Omissions	0	0	0	0	0	0	0	1	1	0	0	0
Buildings	0	1	1	0	1	1	0	0	0	3	2	5
Police Liab.	5	6	11	4	6	10	9	19	28	3	5	8
TOTALS	5	48	53	4	87	91	13	89	102	38	68	106

Expenditure Required: None

Source of Funds: NA

Recommended City Council Action

Per City Code, City Council is required to review this report.

SUBJECT: Quarterly Insurance Report: October - December, 2001

Page 2

Background Information

Information on the status of each claim received during the past quarter is provided on the attached spreadsheet.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

CITY OF WESTMINSTER
LIABILITY CLAIMS FILED
4TH QUARTER 2001

CASE NO.	DATE OF LOSS	CLAIMANT	ADDRESS	DESCRIPTION OF INCIDENT	RESERVED	PAID	STATUS	NOTES
2001-64	10/1/01	Randall W Miller		Westminster police officer driving Unit #8547-36 was in pursuit of a DUI suspect. When the officer stopped he failed to put the patrol car in park and it rolled into Mr. Miller's fence.	\$0.00	\$740.00	C	
2001-67	10/3/01	Anna Hardell	1065 Pennsylvania St/110	Ms. Hardell claims that she ran over construction debris left in the road in the parking lot at City Park Rec Center and it scratched car.	\$0.00	\$0.00	C	Denied, City had no knowledge and did not own
2001-69	10/3/01	Patrick E Halliday	174 S 5th Ave, Brighton, CO 80601	City Public Works and Utilities employee driving City truck, changed lanes on I25 and the City truck's wheel hub hit and damaged another vehicle	\$0.00	\$4,723.18	C	
2001-71	10/3/01	Beverly Beaumont	8436 Everett Way; Arvada CO	Ms. Beaumont stopped her car suddenly at a yellow arrow and a City police officer driving a police car rear ended her car	\$500.00	\$0.00	O	
2001-66	10/6/01	Dennis Jones	5423 W 76th Ave #512, Westminster, CO 80030	Mr. Jones' car suffered a flat tire when he ran over a City police "stop stick" that had been deployed to stop a fleeing suspect	\$0.00	\$217.12	C	
2001-70	10/13/01	Richard VanOrdt	8026 Decatur St, Westminster	Shadow Ridge lift station went down and no alarm went off, customers called when sewer started coming up in their basements. Five homes were involved; three had to be cleaned	\$0.00	\$3,818.09	C	
2001-70	10/13/01	Tull Nguyen	8032 Decatur	same as above	\$2,122.87	\$377.13	O	
2001-70	10/13/01	Ron/Catherine Burdine	8034 Decatur	same as above	\$1,000.00	\$0.00	O	
2001-70	10/13/01	Oscar/Kim Nevarez	8029 Decatur	same as above	\$650.38	\$349.62	O	
2001-78	10/13/01	Christine Barela	68 Garden Center #106, Broomfield 80020	Ms. Barela claims she was forced to drive over a construction tarp while driving on Federal over I36, which caused damage to the undercarriage of her car	\$0.00	\$0.00	C	Not City construction
2001-80	10/15/01	Catherine Black-Koch	John Matthey, Atty 19751 E Main, Parker	Ms. Black-Koch was exiting the highway in her car when she claims a piece of a construction zone sign flew into her car and damaged it. She also claims that she was injured in the incident	\$200.00	\$0.00	O	
2001-94	10/23/01	ACF Property Mgmt, Inc	1860 Blake St Denver CO 80202	Property management company at Standley Shores Shopping Center claim an eight inch fire line broke causing damage to newly lain asphalt	\$2,162.00	\$0.00	O	
2001-83	10/30/01	Matthew Dearborn	9460 Harlan Ct Westminster 80031	Mr. Dearborn's car was being driven by a friend, W. Weitzel, when he claims the car hit an open manhole damaging the car	\$0.00	\$0.00	P	
2001-84	11/1/01	Nancy & Ken Davidson	4355 W. 94th Ave.	While excavating for a new water main, a City employee cut into a 4" iron pipe that was only 2' below the asphalt. It was later discovered to be an active sewer line when Mr. & Mrs. Davidson experienced a sewer backup into their house.	\$0.00	\$1,088.00	C	
2001-96	11/8/01	Eric Dow	9173 Perry St Westminster	Mr. Dow claims his car was damaged when he drove it onto his lawn and ran over a water meter lid he claims was unfastened	\$100.00	\$0.00	O	
2001-91	11/13/01	Nina Richardson		Ms. Richardson claims she stepped in a large hole that was next to the recycle dumpster outside Fire Station #1 and incurred injuries	\$0.00	\$0.00	O	claim not submitted until 12/3
2001-93	11/29/01	Kit Almagure	9647 W. 70th Pl., Arvada	City police officer ran a red light at 80th and Sheridan by accident. City police car being driven by the officer was hit by Ms. Almagure's car.	\$623.71	\$3,876.29	O	
2001-97	12/10/01	Chris Pardo	9031 Tennyson Westminster	Clogged sewer main backed up into Mr. Pardo's basement	\$4,500.00	\$0.00	O	
2002-05	12/18/01	Robert Grimaldo	9595 Pecos, Lot 512 Thornton 80261	Mr. Grimaldo claims he was injured by a Westminster police officer or an Adams County Sheriff's Deputy when he was arrested for suspicion of involvement in a burglary.			O	Reserve not set as of Dec 31
2002-03	12/20/01	Jeanette Joos	5550 W. 80th Apt. 4	Ms. Joos, a City employee, was involved in an auto accident while driving her personal car for City business (According to Administrative Memo 84-5 "An employee using a personal vehicle in the performance of his/her duties shall be liable for any damages resulting from this use.")			O	Reserve not set as of Dec 31

CITY OF WESTMINSTER
 LIABILITY CLAIMS FILED
 4TH QUARTER 2001

CASE NO.	DATE OF LOSS	CLAIMANT	ADDRESS	DESCRIPTION OF INCIDENT	RESERVED	PAID	STATUS	NOTES
2002-04	12/26/01	William Collier	9850 Federal Sp 34 Denver	Mr. Collier alleges the placement of some construction barriers confused him and he drove into a large construction hole. He claims the City is responsible for damages to his car because the construction barriers were not properly placed.	\$183.92	\$0.00	O	
					\$12,042.88	\$15,189.43		
							O = Open	
							C = Closed	
							P = Pending	



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Bond and Disclosure Counsel Agreements for Proposed \$20 Million Water and Wastewater Utility Enterprise Bonds, Series 2002

Prepared By: Martin McCullough, City Attorney

Summary Statement:

- City Council is requested to authorize fee agreements for bond counsel and disclosure counsel in connection with the proposed issuance by the City of \$20 Million Water and Wastewater Utility Enterprise Bonds as follows:
 - the lesser of \$35,000,
 - or the actual hours spent in completing the transaction,
 - plus expenses not to exceed \$1,000, for Sherman & Howard for bond counsel services to the City; and
 - \$22,500, plus expenses not to exceed \$500, for Kutak Rock for disclosure counsel services to the City.

Expenditure Required: **\$57,500, plus expenses not to exceed \$1,500**

Source of Funds: Proceeds of \$20 Million Water and Wastewater Utility Enterprise Bonds, Series 2002

Recommended City Council Action:

Authorize the City Manager to execute fee agreements with Sherman & Howard for bond counsel services at a fee of \$35,000 or the actual hours spent, whichever is less, and with Kutak Rock for disclosure counsel services at a fee of \$22,500, with said fees and costs to be paid for out of the proceeds of the proposed financing.

Policy Issue:

Whether to retain Sherman & Howard and Kutak Rock for bond and disclosure counsel services on behalf of the City in connection with the upcoming issuance of the City's \$20 Million Water and Wastewater Utility Enterprise Revenue Bonds.

Alternative:

Do not retain bond and disclosure counsel for this financing, or retain other bond and disclosure counsel for this financing.

Background Information:

All special counsel agreements are subject to approval by the City Council, in accordance with City Charter requirements. Sherman & Howard has acted on several past financings as Bond and Special Counsel for the City, including the last COP issue for the City's capital facilities financing. Kutak Rock has also acted on several past financings as Disclosure Counsel for the City. The proposed fees are considered within the range of fees experienced for similar City financings in the past, and will be included as part of the issuance costs for this debt refinancing.

The final proposed form of this financing will be presented to Council at a City Council meeting in the near future. As with all public, tax-exempt financings, this financing will require an opinion from a nationally-recognized law firm regarding certain tax-related matters. Mr. Dee Wisor of Sherman & Howard has served as the City's bond counsel on numerous other issues and is thoroughly familiar with the City's charter, ordinances and outstanding bond covenants.

If Council approves of Kutak Rock, the disclosure document, or Official Statement, will be drafted by Mr. Tom Peltz of this firm. This firm has also acted in this capacity on numerous other bond issues, and is familiar with the City's financial position, charter, ordinances and outstanding bond covenants.

Staff is recommending retaining both firms for this financing. An alternative includes retaining other attorneys. This is not recommended, as the fees quoted by the recommended firms are reasonable, in line with past financings, at or below the fees that are being charged by other firms for such services, and their familiarity with the City and its legal documents is significant. The City will realize significant efficiencies by retaining these firms.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Table Mountain Animal Shelter 2002 Assessment

Prepared By Dan Montgomery, Chief of Police and
A. L. Wilson, Lieutenant

Summary Statement:

- In 1996 Council authorized the City Manager to enter into an IGA with Jefferson County, Arvada, Lakewood, Golden, Wheatridge, Morrison and Mountain View for the purposes of sheltering animals at the Table Mountain Animal Shelter.
- This outsourcing of Animal Control functions required a one-time buy in of \$60,000.00. The agreement further provided continued operational funding for the Table Mountain Animal Shelter through a yearly assessment to those jurisdictions that utilize the shelter.
- Each yearly assessment is based upon population and usage by the individual jurisdictions. The 2002 assessment for Westminster is \$35,664.00, and needs to be paid.

Expenditure Required: \$35,644.00

Source of Funds: Police Department 2002 General Fund Operating Budget

Recommended City Council Action:

Approve the expenditure of \$35,644 for Westminster's annual assessment for usage of the Table Mountain Animal Shelter.

Policy Issue(s):

Should Westminster continue to outsource animal control shelter services to the Table Mountain Animal Shelter?

Alternative(s):

Consider withdrawing from the IGA. This alternative would require that we have an alternative animal shelter available. Current facilities, and the new Public Safety Center currently under construction, will not allow the City to operate an animal control shelter. At the present time, there really is no viable alternative to paying this annual assessment, and continuing to be an active partner in this Inter-governmental Agreement.

Background Information:

The outsourcing of animal control shelter facilities has proven to be an effective cost savings venture. It is anticipated that it would cost a great deal to return this service to municipal control, including the hiring of additional personnel and significant building renovations.

The current assessment is based upon Adams county population and Jefferson County population for Westminster. The Adams County portion of the assessment is set at \$19,298 for 2002. The Jefferson County portion of the assessment is \$16,346. Total assessment for Westminster is \$35,644.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Public Hearing and Action on Panorama Pointe Second Amended Preliminary Development Plan

Prepared By: John Quinn, Planner II

Summary Statement

- The City Council is requested to hold a public hearing and approve the application by MEM-B Westminster Properties LLC and the Westminster Housing Authority for an amendment to the Panorama Pointe Preliminary Development Plan for a senior housing development, within Panorama Pointe Subdivision, Planned Unit Development located south of Alcott Way and west of 83rd Way on Parcel C. The project is adjacent to the west and south property lines of the existing Panorama Pointe Community Senior Center located on Parcel D. (See Attachment A)
- The existing Preliminary Development Plan (PDP) permits a three-story building to be constructed on the Parcel C.
- The amended PDP proposes to construct a four-story building on Parcel C, at a maximum elevation of 5,545.50 feet for the top of the building.
- The primary reason for the construction of a four-story building on the site is to reduce the excessive hall length and distance from residences rooms to the food service in the existing Panorama Pointe Community Senior Center located on Parcel D. The developers have stated “that without the change from a three-story to a four-story building the proposed project is not feasible.”

Expenditure Required: \$0

Source of Funds: Not applicable

Recommended City Council Action

1. Hold a public hearing
2. Approve the Second Amended Panorama Pointe Preliminary Development Plan within the Panorama Pointe Subdivision, Planned Unit Development. This recommendation is based on the findings set forth in Section 11-5-14 of the Westminster Municipal Code; and conditional upon the Official Development Plan meeting all of the Design Guidelines and development criteria of the City.

Planning Commission Recommendation

The Planning Commission voted unanimously (6-0) to recommend to City Council that the Second Amended Panorama Pointe Preliminary Development Plan within the Panorama Pointe Subdivision, Planned Unit Development be approved. This recommendation is based on the findings set forth in Section 11-5-14 of the Westminster Municipal Code; and conditional upon the Official Development Plan meeting all of the Design Guidelines and development criteria of the City.

Policy Issue(s)

Should the City approve the Second Amended Panorama Pointe Preliminary Development Plan within the Panorama Pointe Subdivision, Planned Unit Development?

Alternative(s)

Deny the request of the applicant for the Second Amended Panorama Pointe Preliminary Development Plan within the Panorama Pointe Subdivision, Planned Unit Development. This action will result in the applicant being limited to constructing a three-story building. According to the MEM-B Westminster Properties LLC, representatives, limiting construction to a three-story building would render the project infeasible.

Background Information

Applicant/Property Owner

MEM-B Westminster Properties LLC
1165 S. Pennsylvania Avenue, Suite 103
Denver, Colorado 80210

Surrounding Land Use and Comprehensive Land Use Plan Designations

North – the property is vacant and zoned B-1, Commercial. The CLUP designates the property as Office and permits office uses with a maximum Floor Area Ratio (FAR) of .50

East – the property is occupied by the Panorama Pointe Community Senior Center and is zoned Planned Unit Development (PUD). The CLUP designates the property as Multi-Family and permits residential dwellings with a density not to exceed 18 units per acre.

South – the property is occupied by an independent living senior citizen housing project, and is zoned PUD. The CLUP designates the property as Multi-Family and permits residential dwellings with a density not to exceed 18 dwelling units per acre.

West – the property is vacant and is zoned B-1, Commercial. The CLUP designates the property as Office and permits office uses with a maximum FAR of .50

Site Plan Information

The proposed senior housing site comprises 4.12 acres of property and the Comprehensive Land Use Plan will permit a maximum of 18 du's per acre. This allows a maximum of 74 senior independent living units to be developed on the site.

Traffic and Transportation

As part of the construction of the senior housing facility a second access street will be required to be constructed to provide adequate emergency access to the site. This new secondary access is shown on the Preliminary Development Plan (PDP) and extends north on the Clay Street alignment from West 82nd Place. The secondary road alignment shown on the PDP is schematic only. Staff and the developer are working together to lessen the impact of the road alignment on the City's open space parcel located on the west side of the site. The primary access to the site is from W 84th Avenue, via Alcott Way and W 83rd Way.

Service Commitment Category

The Panorama Pointe project consists of several separate parts that have been constructed over the last few years. Due to the continuing nature of the development over the years it is considered an active senior housing development and is not required to compete for Service Commitments. When the applicant submits an Official Development Plan (ODP) and it is approved by Planning Commission, the required number of Category E, Service Commitments to serve the development will be provided.

Referral Agency Responses

No referral agencies expressed concern with the proposed changes to the PDP.

Public Comments

A neighborhood meeting was held on September 6, 2001, in the Panorama Pointe Senior Center to discuss the proposed project with adjacent property owners and interested citizens. Notices were mailed to 85 property owners and five (5) neighborhood organizations in the area. Mr. Dennis Haubert, President of the Parkview Home Owners Association (HOA), was the only person in attendance and expressed support for the proposed project. The Parkview development is a condominium project located south of W. 82nd Place and west of Zuni Street. The entire north side of W 82nd Place across the street from the Parkview condominiums is devoted to various types of senior housing facilities.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Former Hawn Property Annexation and Zoning

Prepared By: David Falconieri, Planner III

Summary Statement

- The former Hawn property is roughly a triangular shaped parcel of 59.3 acres located along the west side of US 36 south of Church Ranch Boulevard.
- The City purchased the land from the R. D. Hawn family through a condemnation proceeding that was finalized in 2000. Open Space funds were used to make the purchase.
- Staff is recommending that the land be annexed in order to have control over the zoning and emergency services to the property.
- Staff is recommending that the property be zoned O-1.
- The property in question is governed by the Northeast Comprehensive Development Plan and the use proposed is compatible with that plan.

Expenditure Required: \$0

Source of Funds: Not Applicable

Recommended City Council Action

1. Hold a public hearing
2. Adopt Resolution No. 9 making certain findings as required under Section 31-12-110 C.R.S. regarding the annexation of unincorporated lands.
3. Pass on first reading Councillor's Bill No. 3 annexing the former Hawn property to the City of Westminster.
4. Pass on first reading Councillor's Bill No. 4 zoning the former Hawn property from A-2 in Jefferson County to O-1 in the City of Westminster.

Planning Commission Recommendation

This case was heard by the Planning Commission on February 12, 2002. The Commissioners voted unanimously (6-0) to recommend to the City Council that the former Hawn property be annexed to the City and that the property be zoned O-1. One individual spoke at the public hearing inquiring about the plans for parking and trail head uses.

Policy Issue(s)

When the Northeast Comprehensive Development Plan was adopted in 1996, the City Council adopted a policy stating that lands within the enclave area should be eventually annexed into the City, assuming the uses proposed were in compliance with the Northeast Comprehensive Development Plan.

Alternative(s)

Recommend that the property not be annexed at this time. If this action is adopted, the County would be required to continue to provide services and would be required to enforce its zoning codes.

Background Information

The property subject to this proposed annexation was acquired by the City through condemnation proceedings that were finalized in 2000. The land was purchased with Open Space funds. The parcel is located at the confluence of the Big Dry Creek and Walnut Creek, making it a strategic parcel for the purposes of trail construction. A pedestrian underpass for the Big Dry Creek trail already exists under US 36.

The annexation of the property will permit the City to construct any improvements needed on the land without the involvement of the County, and would permit the City to provide emergency services and zoning enforcement capabilities. Staff is recommending that the property be zoned O-1.

Section 31-12-106 C.R.S. permits a municipality to annex land owned by the City without the need for notice or a petition hearing. Staff has, however, notified the County of the proposed annexation. No response has been received.

The property is located within Sub-Area F in the Northeast Comprehensive Development Plan, that essentially permits any use that is approved by the City of Westminster, or any of the uses currently permitted in the A-2 zone district within the County. The use of the property as open space would comply with all tenets of the plan. No amendment to the City's Comprehensive Land Use Plan (CLUP) will therefore be necessary, since the Northeast Comprehensive Development Plan has been adopted into the CLUP already.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

RESOLUTION

RESOLUTION NO **9**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk an application for the annexation of the property described in said application; and

WHEREAS, City Council has held a hearing concerning the proposed annexation as required by section 31-12-110 C.R.S.; and

WHEREAS, having completed the required hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THAT:

1. The City Council finds:
 - a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
 - b. A community of interest exists between the area proposed to be annexed and the City;
 - c. The area is urban or will be urbanized in the near future; and
 - d. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
 - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
 - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;

b. That the annexation will not result in the attachment of area from a school district;

c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;

d. That the City of Westminster has in place a plan for the area proposed to be annexed; and

e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-110, C.R.S.

PASSED AND ADOPTED this 25th day of February, 2002.

ATTEST:

Mayor

City Clerk

Hawn Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **3**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST, SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written application for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the application and accompanying maps are in substantial compliance with Section 31-12-110, et.seq., Colorado Revised Statutes, as amended; and

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

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

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

NOW, THEREFORE, the City of Westminster ordains:

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

A parcel of land in the northwest quarter, southwest quarter of Section 13 and the northeast quarter, southeast quarter of Section 14, Township 2 South, Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the east quarter corner of said Section 14; thence along the east line of said quarter S00°21'47"W, 49.38 feet to the true point of beginning:

Thence S89°36'05"W, 25.79 feet; thence S06°09'47"W, 18.89 feet; thence S89°31'30"W, 1.03 feet; thence N01°41'04"E, 1334.32 feet; thence N80°09'34"E, 5.56 feet to a point on the west line of the northwest quarter of said Section 13; thence N00°42'12"E and along said west line, 1354.61 feet to the northwest corner of said section; thence N44°39'44"E, 88.04 feet to a point on the westerly right-of-way of US Highway Number 36, as recorded at Book 704 Page 352 of the Records of the Jefferson County Clerk and Recorder; thence along said right-of-way and along the following nine (9) courses:

1. S59°13'00"E, 124.47 feet;
2. S41°47'59"E, 272.87 feet;
3. S29°55'52"E, 311.03 feet;
4. S13°59'07"E, 36.40 feet;
5. S27°01'43"E, 165.60 feet;
6. S15°04'10"W, 115.42 feet;
7. S29°55'52"E, 600.00 feet;
8. N60°04'08"E, 100.00 feet;
9. S29°55'52"E, 1637.76 feet;

Thence S89°36'05"W, 1795.67 feet to the point of beginning.

Said parcel contains 61.074 acres, more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of February, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 4th day of March, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **4**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST, SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

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

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

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

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

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

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County A-2 to City of Westminster O-1. A parcel of land located in Section 13, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land in the northwest quarter, southwest quarter of Section 13 and the northeast quarter, southeast quarter of Section 14, Township 2 South, Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the east quarter corner of said Section 14; thence along the east line of said quarter S00°21'47"W, 49.38 feet to the true point of beginning:

Thence S89°36'05"W, 25.79 feet; thence S06°09'47"W, 18.89 feet; thence S89°31'30"W, 1.03 feet; thence N01°41'04"E, 1334.32 feet; thence N80°09'34"E, 5.56 feet to a point on the west line of the northwest quarter of said Section 13; thence N00°42'12"E and along said west line, 1354.61 feet to the northwest corner of said section; thence N44°39'44"E, 88.04 feet to a point on the westerly right-of-way of US Highway Number 36, as recorded at Book 704 Page 352 of the Records of the Jefferson County Clerk and Recorder; thence along said right-of-way and along the following nine (9) courses:

1. S59°13'00"E, 124.47 feet;

2. S41°47'59"E, 272.87 feet;
3. S29°55'52"E, 311.03 feet;
4. S13°59'07"E, 36.40 feet;
5. S27°01'43"E, 165.60 feet;
6. S15°04'10"W, 115.42 feet;
7. S29°55'52"E, 600.00 feet;
8. N60°04'08"E, 100.00 feet;
9. S29°55'52"E, 1637.76 feet;

Thence S89°36'05"W, 1795.67 feet to the point of beginning.

Said parcel contains 61.074 acres, more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of February, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 4th day of March, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Former Lang Property Annexation and Zoning

Prepared By: David Falconieri, Planner III

Summary Statement

- The former Lang property is a 6.4-acre parcel located on the southwest corner of Wadsworth Boulevard and 99th Avenue.
- The City purchased the parcel in 1999 with Open Space funds in order to provide better access to the Big Dry Creek Trail.
- Staff is proposing that the property be zoned O-1.
- The area proposed for annexation is included within the Northeast Comprehensive Development Plan and the use proposed is compatible with the tenets of that plan.

Expenditure Required: \$0

Source of Funds: Not Applicable

Recommended City Council Action

1. Hold a public Hearing
2. Adopt resolution No. 10 making certain findings as required under Section 31-12-110 C.R.S. concerning the annexation of unincorporated lands.
3. Pass on first reading Councillor's Bill No. 5 annexing the former Lang property to the City of Westminster.
4. Pass Councillor's Bill No. 6 zoning the former Lang property from Jefferson County A-2 to City of Westminster O-1.

Planning Commission Recommendation

This case was heard by the Planning Commission on February 12, 2002. The Commissioners voted unanimously (6-0) to recommend to the City Council that the former Lang property be annexed to the City and that the property be zoned O-1. Two individuals at the hearing asked about potential uses for the property and the timing of the trail construction.

Policy Issue(s)

When the Northeast Comprehensive Development Plan was adopted by the City Council in 1996, the policy was adopted that all of the properties within the enclave area should be annexed when requests are made.

Alternative(s)

Make a finding that the Lang property not be annexed at this time. If this position is adopted, the County would be required to continue to provide services for this parcel of City owned land.

Background Information

The Lang property was purchased by the City in order to provide a possible off-street alignment for the Big Dry Creek Trail, and a possible location for a trailhead and parking. This parcel is located where the trail crosses Wadsworth Boulevard and having that crossing under City jurisdiction will allow the City to better control the crossing and the provision of emergency services.

Section 31-12-106 C.R.S. permits a municipality to annex land owned by the City without the need for notice or a petition hearing. Staff has, however, notified the County of the proposed annexation. No response has been received.

The Lang property is located within Sub-Area B of the Northeast Comprehensive Development Plan, which has already been adopted into the Westminster Comprehensive Land Use Plan (CLUP). No amendment to the CLUP will therefore be required as part of the annexation. The Northeast Comprehensive Development Plan permits all of the uses that would be permitted in the City's O-1 zone district.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

RESOLUTION

RESOLUTION NO **10**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk an application for the annexation of the property described in said application; and

WHEREAS, City Council has held a hearing concerning the proposed annexation as required by section 31-12-110, C.R.S.; and

WHEREAS, having completed the required hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THAT:

1. The City Council finds:
 - a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
 - b. A community of interest exists between the area proposed to be annexed and the City;
 - c. The area is urban or will be urbanized in the near future; and
 - d. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
 - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
 - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;

b. That the annexation will not result in the attachment of area from a school district;

c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;

d. That the City of Westminster has in place a plan for the area proposed to be annexed; and

e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-110, C.R.S.

PASSED AND ADOPTED this 25th day of February, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **5**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

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

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

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the accompanying maps are in substantial compliance with Section 31-12-106(3), et.seq., Colorado Revised Statutes, as amended; and

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

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation may be annexed by ordinance at this time; and

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

NOW, THEREFORE, the City of Westminster ordains:

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

Lots 1 thru 4, Wadsworth Acres and a portion of the West 99th Avenue, Wadsworth Blvd. and Yarrow Court rights-of-ways, also described as follows:

A parcel of land in the south one-half of Section 14, Township 2 South, Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the south quarter-corner of said Section 14; thence along the south line of said Section 14, a distance of 40 feet to the west right-of-way line of Wadsworth Blvd.; thence northerly along said west right-of-way line a distance of 1747.15 feet to the southeast corner of Lot 4, Wadsworth Acres, as recorded in Book 23 at Page 22 of the Jefferson County Clerk and Records office, said point being the true point of beginning:

Thence S89°44'40"W and along the south line of said Lot 4, a distance of 130.01 feet to a point on the right-of-way line of Yarrow Court, thence along said right-of-way line, and said right-of-way line extended. The following four (4) courses:

1. Along a curve to the right, whose radius is 45.00, Delta is 146°14'00", and whose long chord bears S72°52'05"W, 86.12', an arc distance of 114.85 feet;
2. S89°44'40"W, a distance of 317.59 feet;
3. Along a curve to the right, whose radius is 123.01', Delta is 91°09'44", an arc distance of 195.72 feet;
4. N00°53'40"E, a distance of 274.50 feet to a point on the north right-of-way line of West 99th Avenue; thence along said right-of-way line, N89°44'40"E, a distance of 725.03 feet to a point on the east right-of-way line of Wadsworth Blvd.; thence S00°53'40"W and along said right-of-way line a distance of 375.01 feet; thence S89°44'40"W a distance of 70.01 feet to the point of beginning.

Said parcel contains 6.407 acres, more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of February, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 4th day of March, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **6**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

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

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

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

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

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

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County A-2 to City of Westminster O-1. A parcel of land located in Section 14, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

Lots 1 thru 4, Wadsworth Acres and a portion of the West 99th Avenue, Wadsworth Blvd. and Yarrow Court rights-of-ways, also described as follows:

A parcel of land in the south one-half of Section 14, Township 2 South, Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the south quarter-corner of said Section 14; thence along the south line of said Section 14, a distance of 40 feet to the west right-of-way line of Wadsworth Blvd.; thence northerly along said west right-of-way line a distance of 1747.15 feet to the southeast corner of Lot 4, Wadsworth Acres, as recorded in Book 23 at Page 22 of the Jefferson County Clerk and Records office, said point being the true point of beginning:

Thence S89°44'40"W and along the south line of said Lot 4, a distance of 130.01 feet to a point on the right-of-way line of Yarrow Court, thence along said right-of-way line, and said right-of-way line extended. The following four (4) courses:

1. Along a curve to the right, whose radius is 45.00, Delta is 146°14'00", and whose long chord bears S72°52'05"W, 86.12', an arc distance of 114.85 feet;
2. S89°44'40"W, a distance of 317.59 feet;
3. Along a curve to the right, whose radius is 123.01', Delta is 91°09'44", an arc distance of 195.72 feet;
4. N00°53'40"E, a distance of 274.50 feet to a point on the north right-of-way line of West 99th Avenue; thence along said right-of-way line, N89°44'40"E, a distance of 725.03 feet to a point on the east right-of-way line of Wadsworth Blvd.; thence S00°53'40"W and along said right-of-way line a distance of 375.01 feet; thence S89°44'40"W a distance of 70.01 feet to the point of beginning.

Said parcel contains 6.407 acres, more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of February, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 4th day of March, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Councillor's Bill No. 7 re Costco Wholesale Corporation Business Assistance Package

Prepared By: Susan Grafton, Economic Development Manager

Summary Statement

- City Council action is requested to pass the attached Councillors Bill which authorizes the execution of the attached business assistance agreement with Costco Wholesale Corporation.
- Costco has agreed fully to the attached agreement, which does include a commitment from Costco to remain at the current location for a minimum of 6.5 years.

Expenditure Required: \$ 0

Source of Funds: The Business Assistance to Costco will be funded through permit fees, use tax and sales tax rebates, directly generated from Costco.

Recommended City Council Action:

Pass Councilor's Bill No. 7 on first reading authorizing the City Manager to execute and implement the business assistance agreement with COSTCO WHOLESALE CORPORATION.

Policy Issue:

Does Council desire to provide assistance to Costco to promote the expansion of the existing store?

Alternative(s):

Do Nothing: One alternative to offering the above business assistance package is to offer nothing to Costco. In this case, Costco will most likely not proceed with the planned expansion and may consider looking at alternative sites in or outside the City. Also, the City's relationship with Costco will be significantly hindered.

Provide Less: Another alternative is to provide less assistance than what is recommended. However, less assistance may cause Costco to rethink their expansion plans and may consider looking at alternative sites in or outside the City.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. However, Costco has expressed agreement with the package as proposed.

Background Information:

City Staff has been meeting with representatives from Costco since February to encourage the company to expand at its existing location on 92nd Avenue. Costco was considering abandoning that location and building a larger store elsewhere, either in or outside of the City. Since Costco is the number one sales tax producer for the City, Staff was aggressive in trying to retain the company in Westminster.

During Staff's meetings with Costco Wholesale Corporation, it was discovered that Costco would be willing to stay at the current location if a gasoline self-service station could be located nearby. Coincidentally, the property adjoining Costco next to 92nd Avenue was for sale. The City has agreed to support the location of the gasoline station on the adjoining lot. The gasoline station will cost approximately \$600,000 to build. Costco will also be building a 12,400 s.f. expansion to the existing building, as well as updating its refrigeration equipment and parking areas. The expansion is estimated to cost \$2,847,000 for construction and \$500,000 for new equipment.

All together, Costco is expecting to spend \$3,947,000 over the next 5 years: for remodeling the existing store (\$2,847,000); building the gasoline station (\$600,000); equipment purchases (\$500,000) at move-in; and an average of \$100,000 in equipment purchases annually thereafter. Based on these numbers, the City will receive approximately \$105,400 in permit fees and use tax during the same time period.

Because of the recent opening of the new Arvada Costco, the sales at the Westminster store have dropped. However, the expansion of the Westminster store will make this store more competitive. According to Costco projections, it is anticipated that sales will return to the 2000 and 2001 levels in about 2005. During the 5 years after the completion of the expansion, Costco is expected to contribute to the City \$2,112,500 in sales tax above the current projections for this same period without the expansion. This is in addition to sales tax revenue projected for this same period without the expansion. Costco is projecting a 20% increase in total sales following the expansion.

Staff recommends that assistance be provided to this project. Without this expansion, the store would not be as competitive with other Costco stores in the area. Further, Costco's expansion at its current location prevents the vacancy of this large retail space in the City's key retail area. Costco was looking to vacate this property and locate in a potential new retail center inside or outside the City. The City's willingness to allow the self-service gas station and provide this business assistance package convinced Costco to expand at the current location.

Based on the 5-year projection of incremental sales tax, as well as other City tax and fee revenue, Staff recommends the following assistance package:

Proposed Assistance Package	Value	<u>Approximate</u>
<u>Permit-Fee Rebate</u>		\$ 11,845
50% of the building related fees (excluding water & sewer tap fees) will be rebated (Estimated \$23,691 x 50% = \$11,845)		
<u>Building Use Tax Rebate</u>		\$ 25,852
50% of the Use Tax on construction materials for this project will be rebated (Estimated \$51,704 x 50% = \$25,852)		
<u>Sales Tax Rebate</u>		\$ 1,762,303
80% of the sales tax collected over the base year amount will be rebated up to a maximum of \$1.762 million (\$1.8 million less permit fee and use tax rebates - \$37,697). The Base year amount will be determined by actual Sales Tax collections garnered during the year period prior to issuance of the Certificate of Occupancy for the expansion.		
Total Proposed Assistance Package		\$1,800,000

Council will also note in the agreement that Costco will be committing to stay in its current location for a minimum of six and a half (6.5) years.

This assistance package is based upon the City's goal to retain major retailers in the City. Costco is the number one sales tax generator in the City. The expansion of the existing Costco facility will strengthen Costco's commitment to the current site.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

**ASSISTANCE AGREEMENT FOR
COSTCO WHOLESALE CORPORATION IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this _____ day of _____, 2002, between the CITY OF WESTMINSTER (the "City"), and COSTCO WHOLESALE CORPORATION ("Costco")

WHEREAS, the City wishes to provide certain assistance to Costco, as part of Costco's expansion efforts, in exchange for Costco maintaining its current location within the City; and

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WHEREAS, Costco plans to construct a 12,400 square foot expansion to its existing warehouse (the "Building Expansion"), plus build a new fueling facility ("the Fueling Facility") at its current place of business at 6400 West 92nd Avenue in Westminster, Colorado (the "site"); and

WHEREAS, as used herein, "Costco Facility" shall mean the existing warehouse, or the existing warehouse plus the Building Expansion and Fueling Facility, as the context requires; and

WHEREAS, City Council finds the execution of this Agreement will benefit and advance the public interest and welfare of the City and its citizens by retaining this business within the City.

In consideration of the mutual promises set forth below, the City and Costco agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to Costco 50% of the building-related permit fees, as required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, paid by Costco in connection with the construction of the Building Expansion and Fueling Facility, both of which are expected to be completed by December 31, 2004.

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2. Use Tax Rebate - Construction. The City shall rebate to Costco 50% of the Building Use Tax, as required under W.M.C. sections 4-2-9 and 4-2-3, paid to the City on the construction materials used in connection with the construction of the Building Expansion and the Fueling Facility.

3. Sales Tax Rebate. The City will rebate to Costco a portion of the sales tax revenue paid to the City by the Costco Facility pursuant to the following process:

(a) Base Sales Tax Amount. Promptly following the issuance of the final Certification of Occupancy for the Building expansion, the City shall establish the Base Sales Tax Amount. The Base Sales Tax amount will be the total amount of Sales Tax collected during the Base Year by the City from the Costco Facility, and attributable to the imposition against retail sales of the City's 3.0% Sales Tax (excluding the City's .25% Open Space Tax). Costco will be notified of the City's determination of the Base Sales Tax Amount at the address set forth in subsection (g) below.

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(b) Base and Assistance Years. The Base Year is defined as the period of time equivalent to the 13 reporting periods prior to opening of the Building Expansion. The Assistance Years are defined as each consecutive 13 reporting periods following the Base Year, or prior Assistance Year, as applicable. Reporting periods, as referred to in this paragraph, are those periods annually established by Costco and provided to the City's Sales Tax Administrator. The end of the Base Year will be at the end of the reporting period just prior to the issuance of the Final Certificate of Occupancy for the Building Expansion.

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(c) Sales Tax Increment. The Sales Tax Increment is that amount of Sales Tax collected during an Assistance Year from Costco that is in excess of the Base Sales Tax Amount.

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(d) Sales Tax Rebate Amount. Any rebates provided by the City to Costco will be from the Sales Tax Increment. The City shall rebate to Costco 80% of the Sales Tax Increment.

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(e) Payment. Once the City has collected the Base Sales Tax Amount during an Assistance Year, then Sales Tax Rebate payments will be provided to Costco. The Sales Tax Rebate amount will be paid to Costco in an Annual payment, made within 30 days following the end of the applicable Assistance Year. The Sales Tax Rebate Payment will be submitted electronically to Costco's designated financial institution.

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(f) End of Sales Tax Rebate. The Sales Tax Rebate shall end at the point when the Sales Tax Rebate, Building Permit Fee Rebate and Use Tax Rebate equal, in total, \$1,800,000.

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(g) Notification. All formal notices and correspondence shall be delivered to:

Costco Wholesale
999 Lake Drive
Issaquah, WA 98027
Attention: Gail Tsuboi, Director of Property Management
Phone: (425) 313-6178

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4. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if Costco has not opened the Building Expansion and the Fueling Facility for business to the public and received a Certificate of Occupancy by December 31, 2004.

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5. Repayment. In the event Costco ceases business operations within the City within six years and 180 days after Costco receives the Certificate of Occupancy for the Building Expansion, then in such event Costco shall pay to the City the total amount of fees and taxes, which were actually rebated by the City to Costco, pursuant to this Agreement.

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6. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

7. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council. The City agrees to annually consider appropriating amounts due hereunder, including amounts (if any) received by the City in any prior year, which amounts were not appropriated and paid to Costco in such prior year for the account of Costco.

8. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

COSTCO WHOLESALE CORPORATION

CITY OF WESTMINSTER

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Title

Michele Kelley
City Clerk

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2002

COUNCILLOR'S BILL NO. **7**
INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH COSTCO
WHOLESALE CORPORATION

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, COSTCO WHOLESALE CORPORATION plans to construct a 12,400 square foot warehouse expansion and new fueling facility in the City of Westminster; and

WHEREAS, a proposed Assistance Agreement between the City and COSTCO WHOLESALE CORPORATION is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with COSTCO WHOLESALE CORPORATION in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 25th day of February 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this 4th day of March 2002.

ATTEST:

Mayor

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Resolution No. 11 re Village at Harmony Park Service Commitment Award Extension

Prepared by: Patrick Caldwell, Planner II

Summary Statement

- Attached is a request from Kenneth Neumann, CEO of Neumann Homes of Colorado, LLC, the new owner of the Village at Harmony Park single-family detached residential project, requesting an extension of the Service Commitments the City Council awarded to the project on March 20, 2000. The initial 30 Service Commitments will expire in March 2002, and the developer will not be ready to use those 30 by the deadline. Therefore, a time extension is requested. The original and proposed revisions to the Service Commitment awards for the Village at Harmony Park are shown in Table 1 below.

Table 1

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>Total</u>
Original	30	70	70	70	69	309
Proposed	-	-	170	70	69	309

- The City’s Growth Management Program allows City Council to consider (based on specific criteria) these requests and grant extensions if desired based on the following criteria;
 1. The need for the extension is the result of some unusual and unforeseeable circumstance reasonably beyond the control of the developer, and
 2. The extension is needed to avoid undue or inequitable hardship that would otherwise result if the extension were not granted, and
 3. There is no reason to believe that the developer will not be able to proceed with the development of the project within the extended time period.
- The builder, Neumann Homes of Colorado, LLC, purchased the project in January, 2002 and has taken the following steps to move the project forward:
 1. Revised and improved elevations for the larger single-family detached lots have been submitted to the Planning Department for review.
 2. Plans have been submitted to the Building Division for review and approval.

Expenditure Required: \$ 0

Source of Funds: N/A

Recommended City Council Action:

Adopt Resolution No. 11 extending the existing Category B-1 Service Commitment award to the Village at Harmony Park single-family detached residential project based on a finding that the Village at Harmony Park project meets Westminster Municipal Code Section 11-3-2(A) 2 criteria of the City’s Growth Management Program.

SUBJECT: Resolution re Village at Harmony Park Service Commitment Award Extension Page 2

Policy Issue(s)

Whether the City should approve an extension for the first 30 Service commitments needed to complete the project.

Alternative(s)

Do not adopt the attached Resolution extending Service Commitments to the Village at Harmony Park project. This would result in the applicant not being able to complete the project as anticipated and require the developer to compete in a future Category B-1 competition for the remaining 30 Service Commitments needed to complete the project.

Background

As part of the new residential competition process within the City's Growth Management Program, Service Commitments awarded to specific projects as a result of the competitive process are subject to a two-year expiration. In the past, there have been instances where developers anticipate a certain schedule, request Service Commitments based on that tentative schedule, but are ultimately unable to meet the expiration deadline. For this reason, the Growth Management Program allows City Council the ability to review extension requests for projects that have been proceeding through the development review process but at a slower rate than originally anticipated. This provision is to help ensure that Service Commitments awarded to projects that do not proceed to the City's development review process would be returned to the water supply for future award to another project within a reasonable amount of time. The Village at Harmony Park project has been an active and ongoing project, but at a slower pace than originally projected.

VHP Inc., the original developer of the Village at Harmony Park, submitted a proposal through the 2000 Category B-1 competition to develop the project, and was awarded 309 Service Commitments in March 2000. Final approval of the proposed development did not occur until July 2001 and significant changes to the drainage and utilities layout has caused subsequent delays. The project was subsequently sold to Neumann Homes in January 2002.

Current Service Commitment resolutions now provide for a three-year time period for their use before the commitments expire. If these criteria had been in use at the time the Service Commitments were approved for the Village at Harmony Park in 2000, then Neumann Homes would have an additional year (until December 2003) to utilize the first 30 Service Commitments.

The attached Resolution reflects the Service Commitments needed for the development and the time extension for the Village at Harmony Park.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

RESOLUTION

RESOLUTION NO. **11**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

CATEGORY B-1 (NEW SINGLE-FAMILY RESIDENTIAL) SERVICE COMMITMENT AWARD
EXTENSION FOR THE VILLAGE AT HARMONY PARK PROJECT

WHEREAS, the City of Westminster has adopted by Ordinance a Growth Management Program for the period 2000 through 2010; and

WHEREAS, within Ordinance No. 2651 there is a provision that Service Commitments for residential projects shall be awarded in Category B-1 (new single-family detached) on a competitive basis through criteria adopted periodically by resolution of the City Council and that each development shall be ranked within each standard by the degree to which it meets and exceeds the said criteria; and

WHEREAS, the City's ability to absorb and serve new single-family development is limited, and the City of Westminster has previously adopted Resolution No. 76, Series of 1997, specifying the various standards for new multi-family projects based upon their relative impact on the health, safety and welfare interests of the community, and has announced to the development community procedures for weighing and ranking projects prior to receiving the competition applications; and

WHEREAS, the City of Westminster City Council has previously awarded 309 Category B-1 Service Commitments for the Village at Harmony Park residential project for the site north of 128th Avenue, east of Zuni Street and generally west of I-25 per Resolution No. 25, Series 2000; and

WHEREAS, Resolution No. 25 Series 2000 establishes that the Service Commitment award to the Village at Harmony Park residential project shall expire two years after the Service Commitment award date (March 20, 2000) adopted by the Westminster City Council and shall, therefore, expire on March 20, 2002; and

WHEREAS, the developer of the Village at Harmony Park residential project has provided a written request for an extension of 30 of the 309 Category B-1 Service Commitments awarded to the Village at Harmony Park residential project by the Westminster City Council on March 20, 2000; and

WHEREAS, Westminster Municipal Code Section 11-3-2 (A) 2 establishes criteria for City Council to consider when reviewing requests for Service Commitment Award extensions for new residential projects that previously received Service Commitment Awards as a result of the City's new residential competition process; and

WHEREAS, the Service Commitment award extension for the Village at Harmony Park residential project is the result of an unusual and unforeseeable circumstance reasonable beyond the control of the developer, is needed to avoid undue hardship that would otherwise result if the extension were not granted, and there is not reason to believe that the developer will not be able to proceed with the development of the project within the extended time period; and

WHEREAS, the developer for the Village at Harmony Park residential project has proceeded to the City's development review process; and

WHEREAS, a total of 309 single-family detached units does not exceed the density requirements within the City's Comprehensive Land Use Plan; and

WHEREAS, the goals of the Growth Management Program include balancing growth with the City's ability to provide water and sewer services, preserving the quality of life for the existing Westminster residents, and providing a balance of housing types.

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

1. A Category B-1 Service Commitment award is hereby extended to the Village at Harmony Park project proposed for the site north of 128th Avenue, east of Zuni Street, east of Bannock Street and west of I-25 listed below as follows:

Table 1

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>Total</u>
Original	30	70	70	70	69	309
Proposed	-	-	170	70	69	309

2. The Service Commitment award to the project listed above is conditional and subject to the following:

- a) For each project, the applicant must complete and submit proposed development plans to the City for the required development review processes.
- b) Each Service Commitment award is conditional upon City approval of each project listed above and does not guarantee City approval of any project or proposed density.
- c) The City of Westminster shall not be required to approve any Preliminary Development Plan, Official Development Plan, or rezoning action necessary for development of property involved in this Category B-1 award nor shall any other binding effect be interpreted or construed to occur in the City as a part of the Category B-1 award.
- d) The Growth Management Program does not permit City Staff to review any new residential development plans until Service Commitments have been awarded to the project. The City Staff during the competition process does not review the sketch plans submitted by applicants. Significant changes to the sketch plan are probable once the City's development review process begins for any project.
- e) Any and all projects that do not receive City approval are not entitled to the Service Commitment awards, and the Service Commitments shall be returned to the water supply figures.
- f) The Service Commitment award for the project listed above, if approved by the City, may only be used within the project specified above.
- g) This Service Commitment award shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.
- h) The Category B-1 Service Commitment awards shall be valid for a period of two years from the date of award specified on this Resolution (February 25, 2002) provided the applicant proceeds with the development review process and the project is approved by the City. The Service Commitment award for any project shall expire unless at least one building permit is issued for the project during that three-year period. Future year awards are effective as of January 1 of the specified year.
- i) If Service Commitments are allowed to expire, or if the applicant chooses not to pursue the development, the Service Commitment award shall be returned to the water supply figures. The award recipient shall lose all entitlement to the Service Commitment award under those conditions.
- j) All minimum requirements and all incentive items indicated by the applicant as specified within the competition shall be included as part of the proposed development and listed on the Official Development Plan for the project.

3. The Category B-1 Service Commitments award shall be reviewed and updated each year. If it is shown that additional or fewer Service Commitments are needed in the year specified, the City reserves the right to make the necessary modifications. If fewer Service Commitments are needed in any given year, the unused amount in that year will be carried over in to the following year provided the Service Commitments have not expired as specified above.

PASSED AND ADOPTED this 25th day of February, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Resolution No. 12 re Harmony Park Enclave Annexation Petition

Prepared By: Patrick Caldwell, Planner II

Summary Statement

- The City has received a proposal to annex a .7-acre parcel in the proximity of 130th Avenue on the east side of Zuni Street (see attached map). This parcel will be incorporated into the abutting Harmony Park residential development.
- Upon receiving a petition for annexation, the City Council is required by State Statute to make a finding of whether or not said petition is in compliance with Section 31-12-107 (1) C.R.S. In order for the petition to be found in compliance, Council must find that the petition contains the following information:
 - An allegation that the annexation is desirable and necessary.
 - An allegation that the requirements of Section 31-12-104 and 31-12-105 C.R.S have been met. (These sections are to be reviewed by the Council at the formal public hearing.)
 - Signatures and mailing addresses of at least 50% of the landowners of the land to be annexed. (In this case, Kenneth P. Neumann, signer of the petition, owns 100% of the property.)
 - The legal description of the land to be annexed.
 - The date of each signature.
 - An attached map showing the boundaries of the area.
- Planning Staff has reviewed the petition and has determined that it complies with the above requirements.
- If the City Council finds that the petition is in substantial compliance with these requirements, a resolution must be approved that establishes a hearing date at which time the Council will review the merits of the proposed annexation.

Expenditure Required: None

Source of Funds: n/a

Recommended City Council Action

Adopt Resolution No. 12 accepting the annexation petition submitted by Kenneth P. Neumann and make the findings required by State Statute on the sufficiency of the petition.

Policy Issue(s)

Whether the City should accept the annexation petition for the Neumann property.

Alternative(s)

Do not accept the annexation petition for this property. Staff does not recommend this action, as this will prevent this parcel from being annexed.

Background

The .7-acre parcel is located immediately east of and adjacent to Zuni Street and approximately 500 feet north of 128th Avenue. It is located in unincorporated Adams County and is used for residential purposes, consistent with its zoning in Adams County.

The Official Development Plan (ODP) for the Village at Harmony Park encompassed 109.54 acres and was approved for 309 single-family detached residential units by the City Council on July 9, 2001. The ODP surrounds the parcel at the north, east and south. The City and County of Broomfield is immediately west across Zuni Street.

The proposed annexation was contemplated with the design of the Village at Harmony Park. Subsequent amendments to the plans for the Village at Harmony Park will incorporate the annexed parcel in a manner consistent with the development. If the parcel is not annexed it would remain an out parcel and would be out of character with the remainder of Harmony Park.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

RESOLUTION

RESOLUTION NO. **12**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

WHEREAS, there has been filed with the City Clerk of the City of Westminster, petitions, copies of which are attached hereto and incorporated by reference, for the annexation of certain territory therein-described to the City;

WHEREAS, the City Council has been advised by the City Attorney and the City Manager that the petition and accompanying map are in substantial compliance with Sections 31-12-101, et.seq., Colorado Revised Statutes, as amended;

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

1. City Council finds the said petitions and annexation maps to be in substantial compliance with all state statutory requirements, including C.R.S. Section 31-12-107 (1).
2. City Council hereby establishes April 8, 2002, 7:00 PM at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by C.R.S. Section 31-12-108 (1).
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with C.R.S. Section 31-12-108 (2).

Passed and adopted this 25th day of February, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
February 25, 2002

SUBJECT: Resolution No. 13 re Contract with Variable Annuity Life Insurance Company (VALIC) for Administration of the City's Deferred Compensation (457) Plan

Prepared By: Mary Ann Parrot, Finance Director

Summary Statement

City Council approval of a contract with VALIC is requested as the City's exclusive provider for deferred compensation administration, record keeping and custody. This means that the City will consolidate from two providers to one, thus realizing significant savings for participants, with the same or better high quality services and products as with the current providers.

- In 1998, Staff began discussions with the International City and County Management Association Retirement Corporation Association (ICMA-RC) and Nationwide Insurance Company (formerly PEBSCO), in an attempt to negotiate fee reductions from .90% and .95% per member account per year, respectively. The City has had very good service from these firms and desired to retain them as providers.
- ICMA declined to negotiate, citing a discount pricing policy when the City's funds reached a certain level. Nationwide's representative was able to bring an offer to the City, but the fees were higher than those found at other accounts for the same price. In addition, Nationwide wanted to charge an annual fee to each participant account, which would have reduced the savings proposed.
- With City Manager approval, the plan was marketed in September 2001. An RFP was sent to five nationally known firms, soliciting proposals for administration, record keeping and custody of the City's deferred compensation program and plan assets. The City received four responses:
 - ICMA bid .29% per account per year to administer the plan,
 - Nationwide bid .25% per account per year, then lowered their fees at the final presentation to .10% when plan assets reached \$20 million,
 - Lincoln National Insurance Co bid .20% per account per year,
 - VALIC bid .05% to administer the plan, adding an adjustment of .03% for one account held at Nationwide, for .08% per account per year.
- Savings accrue to employees' accounts. The only cost to the City was the cost of \$9,500 for consultant fees in assisting the City in the RFP process; funds were budgeted and spent in 2001 for this assistance. This is a no-cost benefit the City can provide to the employees.

Expenditure Required: No City funds. \$13,360 annually in 2002, based on \$16.7 million funds under management.

Source of Funds: Fees will be charged to each employee's account at quarter-end, at the rate of .05% per annum. An additional .03% is to be charged for amortization of \$62,000 Market Value Adjustment for liquidating a fixed account at Nationwide. This will be amortized over 10 years.

Recommended City Council Action

Adopt Resolution No. 13 approving selection of Variable Annuity Life Insurance Company as the City's exclusive provider for the City's 457 Deferred Compensation Program, for a term of five years, at a cost of .05% fees to each employee per annum (with an additional .03% for amortization of Market Value Adjustment for the Nationwide Fixed Fund) and authorizing the City Manager to sign the necessary documents on behalf of the City.

Policy Issue(s)

Does City Council desire to enter into an exclusive contract with a deferred compensation provider to secure a lower-cost plan for participants, versus the present arrangement of having two providers?

Alternative(s)

Remain with the current providers and do not consolidate with one provider. This is not recommended for the following reasons:

- Fund selection with VALIC is as good or better than ICMA and Nationwide.
- VALIC will provide Staff with a semi-annual performance review of the funds, something neither ICMA nor Nationwide offered. This will allow Staff to be more pro-active in monitoring the performance of the funds offered in this important retirement plan.
- Customer Service is as good as or better than both ICMA and Nationwide. This guarantees that a representative of the City's choosing will meet with City employees to assist in fund selection, education and retirement planning. Innovest, the City's consultant, rated the VALIC educational materials as excellent and the best of the proposing firms.
- Costs to the employees are much lower. On an account of \$50,000, annual savings are over \$400 per year in fees, thus growing to over \$6,000 in additional retirement savings over a 10-year period, assuming 8% earning power. VALIC has also stated that when the funds under management reach \$30 million, fees would be reduced to 0%, and when the City's account is profitable to VALIC (estimated in three years), they are willing to negotiate the refund of other money manager fees to the City's participants.

Delay consolidation until a later date. This is not recommended for the following reasons:

- Fees have been competitive at these levels for several years, evidenced by many other cities' experiences across the country. They will also come down as the funds under management grow. There is no upside to delaying, whereas the additional costs to the employees warrants changing sooner, rather than later.
- The responding companies are the large, well-known providers of governmental deferred compensation plans. Searching for other bidders will not improve the quality of services, nor reduce the fees.
- On behalf of selected other employees, the City also reviewed the Fire and Police Pension Association's (FPPA) deferred compensation program, a program established under state statute, available to public safety personnel only. FPPA is not recommended at this time for the primary reason that Staff desires to make this a plan that will be of the most benefit to all employees, as opposed to providing a service to a select group of employees. Several other reasons include: less extensive fund offerings, customer service and education. FPPA is a plan still under development and is not as robust or complete as the VALIC plan. The FPPA plan is also subject to change by the State Legislature.

Background Information

Many cities over the past decade have looked to a large number of national firms for administration of their deferred compensation programs. As a result, fees have come down due to competition, while product offerings have grown and customer service has improved. Staff expectations were that fees for the City's deferred compensation plan could be lowered to something in the range of 0% to .25%, depending on factors such as plan size, other income accruing to the bidding firm, and profit margins.

The size of the City's plan in September 2001 was \$16.7 million; total accounts included: 399 full-time participants, 607 seasonal participants and 1,258 inactive accounts (those who were not deferring funds in bi-weekly payrolls).

A group of five employees comprised the study committee for the review of these costs:

- Matt Lutkus, Deputy City Manager for Administration
- Margie Miller, Pension Administrator
- Debbie Mitchell, Human Resources Manager
- Kim McDaniel, Pension Benefit Specialist.

Staff hired Innovest Portfolio Solutions as consultants in September 2001 to assist them in the search for a high quality firm at a reasonable cost. Innovest is the City's pension consultant and has conducted searches for deferred compensation providers for other cities and governmental agencies, most notable among them the Denver Water Board with \$39 million under management.

Innovest and City Staff issued an RFP, received and reviewed responses and conducted in-depth interviews with all bidders. When the choice was narrowed to VALIC, Staff called two references: the Denver Water Board, who hired VALIC approximately one year ago, and Halifax Medical Center in Florida, who had terminated VALIC and moved to another provider. Denver Water Board was an excellent reference and had only positive things to say about VALIC. Halifax terminated their contract with VALIC because they needed to consolidate three plans into one provider. Halifax had very positive things to say about VALIC, both during their tenure and during transition to their new provider.

In addition, Staff conducted 25 employee meetings across the City, at all facilities, over a period of three months from October through December, talking with employees, explaining the process being used, objectives to attain, and the conversion process, in the event that a different provider was selected. Secondly, Staff assembled a videotape to distribute to outlying facilities in order to reach as many employees as possible. Employee interest was very high, with many questions and suggestions. Employees indicated support for the change, identifying cost savings and preserving the quality of fund offerings as advantages in changing over to VALIC.

Three major criteria were used to compare proposers:

- Fund offerings,
- Customer service and education, and
- Fees.

A summary is provided below with additional details within these three broad categories.

- Fund Offerings
 - VALIC is offering a core portfolio of 28 to 48 funds, with access to their universe of approximately 1,000 funds through a brokerage window. ICMA offers 39 funds with a universe of 39 funds; Nationwide offers 38 to 48 funds with a universe of approximately 2,000 funds.
 - VALIC had done a thorough review of funds to offer the City, and included extensive details in their proposal to the City, including information on this ability to ensure a smooth transition from ICMA and Nationwide. Neither ICMA nor Nationwide included this level of detailed information.
 - VALIC offers quarterly performance reports to the City administration on all funds, with an in-depth review with City staff on a semi-annual basis. Neither ICMA nor Nationwide offered this service.
 - VALIC offered two creative solutions for our "seasonal employees" with no cost to the employees. At first, ICMA and Nationwide did not offer a "seasonal solution," upon reflection, they did offer a service; however, VALIC's solutions were superior.

➤ Customer Service and Education

- VALIC will have their service representative(s) on site at City facilities weekly, bi-weekly or monthly, depending on City desires. They will also agree in writing not to solicit employees on other insurance products, even though they are licensed extensively to sell these products. Neither ICMA nor Nationwide could agree to this level of service.
- In addition, the City will be able to select the service representative of their choice from among 50 VALIC representatives. ICMA and Nationwide do not have the resources to provide this option to the City; these firms do experience turnover, so this will help to assist the City with longevity in its service representatives.
- VALIC's educational material is robust and a significant improvement over one of the City's current providers, as well as on a par with the materials from the second provider. Innovest rated VALIC's materials as the best of the four proposers.
- VALIC included a detailed transition calendar, including a timetable and other materials to describe the transition, if they are selected. Neither ICMA nor Nationwide provided any of these details.

➤ Costs

- VALIC's costs were lowest at .08%, which included the Market Value Adjustment to be made if Nationwide were terminated. The reason VALIC was able to do this is because they derive additional income from legal arrangements with the mutual fund companies; all of this was disclosed to the City.
- VALIC also agreed to re-negotiate the refund of the mutual fund company rebates to plan participants when the City's account broke even and became profitable, estimated to be sometime in the third year of the contract. In response to additional inquiries, Nationwide reduced their fees to .10% when the account reached \$20 million under management. However, VALIC remained the lowest cost option at the end of the interviews conducted.
- Upon the City's request, VALIC also disclosed their cost structure, as did Nationwide, thus allowing Staff the ability to see when and where the City's account reached a profitable status. This allowed Staff to negotiate the best services at the lowest costs for the City's employees. ICMA declined to disclose their cost information on the basis that it was proprietary information.

➤ Other

- VALIC is a well-established insurance and financial services provider, having been incorporated in 1955; their book of business is predominantly public plans, comprising 77% of their portfolio. It is a member of AIG (American International Group), one of the largest insurance and financial service companies in the country, with \$128 billion in assets.

Staff will be present at the February 25 City Council meeting to answer questions on this project.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

SERIES OF 2002

RESOLUTION AUTHORIZING THE SELECTION OF Variable Annuity Life Insurance Company (VALIC) AS THE CITY'S EXCLUSIVE PROVIDER FOR THE CITY'S 457 DEFERRED COMPENSATION PROGRAM AND ADOPTION OF THE PLAN

WHEREAS, the City of Westminster wishes to consolidate from two previous deferred compensation providers to one provider, thus realizing significant savings for participants; and

WHEREAS, the City's deferred compensation plan was marketed in September 2001, with VALIC being the low bidder; and

WHEREAS, the City wishes to select VALIC as the provider for its 457 Deferred Compensation program for the exclusive benefits of its employees and their beneficiaries.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER:

1. That the City hereby approves the selection of VALIC as the City's exclusive provider for the City's 457 Deferred Compensation Program, for a term of five (5) years, at a cost of .05% fees to each employee per annum (with an additional .03% for amortization of Market Value Adjustment for the Nationwide Fixed Fund).
2. That the City hereby adopts said 457 Deferred Compensation Program, the provisions of which are to be set out in a plan document.
3. That the City Manager is hereby authorized to sign the necessary documents on behalf of the City.
4. That the City hereby retains the right, from time to time, to amend, modify or discontinue all or any portion of said 457 Deferred Compensation Program plan document without the consent of the employees participating in said plan, or the beneficiaries of any employees participating in said plan.

PASSED AND ADOPTED this 25th day of February, 2002.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, February 25, 2002. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, and McNally. Absent Kauffman.

The minutes of the February 11, 2002 meeting was approved.

Mayor Moss, Dan Montgomery, Police Chief, and Sergeants Jeff Sill and Tim Carlson presented Police Department Service Awards for Purple Heart to Stephanie Topkoff, Meritorious Service to Tim Carlson, Guy Coshall, Chris Hempelmann, Charles Rowe, Jeff Sill, and Dan Spinder, and Distinguished Service to Steve Bare, Krista Bunten, Dan McIntosh, Scott Takahashi, Stephanie Topkoff and Matt Trenka; and presented an appreciation plaque to Michele Haney for her service on the Complaint Review team at the Police Department.

Council approved: Financial Report for January 2002; Quarterly Insurance Report for October-December 2001; Bond and Disclosure Counsel Agreements with Sherman & Howard for bond counsel services at a fee of \$35,000 and with Kutak Rock for disclosure counsel services at a fee of \$22,500 for \$20 Million W&WW Bonds; \$35,644 for Westminster's annual assessment for usage of the Table Mountain Animal Shelter; 2nd Amended PDP on Panorama Pointe.

At 7:40 P.M. the public hearing was opened on the Panorama Pointe 2nd Amended Preliminary Development Plan located south of Alcott Way and west of 83rd Way; at 8:10 P.M. the public hearing was opened on the Former Hawn Property Annexation and Zoning located west of US 36, South of Church Ranch; at 8:16 P.M. the public hearing was opened on Former Lang Property Annexation and Zoning located on the southwest corner of Wadsworth Boulevard and 99th Avenue.

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

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST, SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO
purpose: annexing Former Hawn Property

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST, SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO
purpose: zoning the Former Hawn Property

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO
purpose: annexing Former Lang Property

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO
purpose: zoning the Former Lang Property

A BILL OR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH COSTCO WHOLESALE CORPORATION
purpose: business assistance package with Costco Wholesale

The following Resolution were adopted:

Resolution No. 9 re making certain findings on Former Hawn Property

Resolution No. 10 re making certain findings on Former Lang Property

Resolution No. 11 re Village at Harmony Park Service Commitment Award Extension

Resolution No. 12 re Harmony Park Enclave Annexation Petition

Resolution No. 13 re Contract with VALIC for Administration of City's Deferred Comp Plan

At 8:25 P.M. the meeting was adjourned.

By order of the Westminster City Council
Michele Kelley, CMC, City Clerk

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