



## CITY COUNCIL AGENDA

**NOTICE TO READERS:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given. Many items have been previously discussed at a Council Study Session.

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
  - A. Employee Service Awards
  - B. Earth Hour Proclamation 2013
  - C. 2013 Adams County Mayors' and Commissioners' Youth Award
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
  - A. Financial Report for January 2013
  - B. Change Date of First City Council Meeting in March
  - C. Torii Square Park Renovation
  - D. Front End Loader Purchase
  - E. Police Motorcycles Purchase
  - F. 2013 Intergraph Corporation Software Maintenance Contract
  - G. Second Reading of Councillor's Bill No. 9 re Supplemental Appropriation for the Lease Purchase of Golf Carts

### 9. Appointments and Resignations

### 10. Public Hearings and Other New Business

- A. Councillor's Bill No. 10 re Supplemental Appropriation for the Lease Purchase of a Replacement Fire Engine
- B. Replacement Fire Engine Lease Purchase Agreement
- C. Replacement Fire Engine Purchase and Sale Agreement with Authorized Trade In

### 11. Old Business and Passage of Ordinances on Second Reading

- A. Reopen the Continued Public Hearing for the Hyland Village Subdivision
- B. Second Amended Preliminary Development Plan for the Hyland Village Subdivision
- C. Eighth Amended Official Development Plan for the Hyland Village Subdivision

### 12. Miscellaneous Business and Executive Session

- A. City Council
- B. Executive Session
  1. Obtain direction from City Council re a proposed Economic Development Incentive Agreement with Horizon Ag Products pursuant to WMC 1-11-3(C)(4), WMC 1-11-3 (C)(7) and CRS 24-6-402(4)(e)
  2. Obtain direction from City Council re a proposed Economic Development Incentive Agreement with MSI, LLC pursuant to WMC 1-11-3(C)(4), WMC 1-11-3 (C)(7) and CRS 24-6-402(4)(e)
  3. Obtain direction from City Council re a proposed Economic Development Incentive Agreement with Colorado Casual Furniture pursuant to WMC 1-11-3(C)(4), WMC 1-11-3 (C)(7) and CRS 24-6-402(4)(e)

### 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.



**WESTMINSTER**  
**Strategic Plan**  
**2012-2017**  
**Goals and Objectives**

---

**STRONG, BALANCED LOCAL ECONOMY**

- Maintain/expand healthy retail base, increasing sales tax receipts
- Attract new targeted businesses, focusing on primary employers and higher paying jobs
- Develop business-oriented mixed use development in accordance with Comprehensive Land Use Plan
- Retain and expand current businesses
- Develop multi-modal transportation system that provides access to shopping and employment centers
- Develop a reputation as a great place for small and/or local businesses
- Revitalize Westminster Center Urban Reinvestment Area



**FINANCIALLY SUSTAINABLE CITY GOVERNMENT PROVIDING EXCEPTIONAL SERVICES**

- Invest in well-maintained and sustainable city infrastructure and facilities
- Secure and develop long-term water supply
- Focus on core city services and service levels as a mature city with adequate resources
- Maintain sufficient reserves: general fund, utilities funds and self insurance
- Maintain a value driven organization through talent acquisition, retention, development and management
- Institutionalize the core services process in budgeting and decision making
- Maintain and enhance employee morale and confidence in City Council and management
- Invest in tools, training and technology to increase organization productivity and efficiency



**SAFE AND SECURE COMMUNITY**

- Citizens are safe anywhere in the City
- Public safety departments: well equipped and authorized staffing levels staffed with quality personnel
- Timely response to emergency calls
- Citizens taking responsibility for their own safety and well being
- Manage disaster mitigation, preparedness, response and recovery
- Maintain safe buildings and homes
- Protect residents, homes, and buildings from flooding through an effective stormwater management program



**VIBRANT NEIGHBORHOODS IN ONE LIVABLE COMMUNITY**

- Develop transit oriented development around commuter rail stations
- Maintain and improve neighborhood infrastructure and housing
- Preserve and restore historic assets
- Have HOAs and residents taking responsibility for neighborhood private infrastructure
- Develop Westminster as a cultural arts community
- Have a range of quality homes for all stages of life (type, price) throughout the City
- Have strong community events and active civic engagement



**BEAUTIFUL AND ENVIRONMENTALLY SENSITIVE CITY**

- Have energy efficient, environmentally sensitive city operations
- Reduce energy consumption citywide
- Increase and maintain greenspace (parks, open space, etc.) consistent with defined goals
- Preserve vistas and view corridors
- A convenient recycling program for residents and businesses with a high level of participation



***Mission statement: We deliver exceptional value and quality of life through SPIRIT.***

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, FEBRUARY 11, 2013, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Faith Winter, and Councillors Bob Briggs, Mark Kaiser, and Scott Major were present at roll call. Councillors Herb Atchison and Mary Lindsey were absent. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, were also present.

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Major, to approve the minutes of the regular meeting of January 28, 2013, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that Monday, February 18, was Presidents' Day. In observance of the holiday, City offices would be closed and there would be no City Council study session.

After tonight's meeting, the Council would meet in executive session to review and discuss City facility security measures pursuant to Section 1-11-3(C)(6), W.M.C., and Section 24-6-402(4)(d), CRS. Then the Westminster Economic Development Authority Board of Directors would meet in executive session to discuss strategy and progress on negotiations related to the Westminster Urban Center Redevelopment and the possible sale, acquisition, trade or exchange of property interests, including future leases, and provide instructions to the Authority's negotiators as authorized by Sections 24-6-402 (4)(a) and 24-6-402(4)(e), CRS.

COUNCIL REPORTS

Mayor McNally reported that Don Tripp, Director of Parks, Recreation and Libraries, and Staff had arranged for volunteers to man a booth at the Home and Garden Show to solicit donations for renovations to the Jessica Ridgeway Memorial Park. The park renovation was receiving a lot of public support at the event.

Additionally, the Citizens Police Academy Alumni Association had conducted a successful breakfast fundraiser at Quaker Steak and Lube over the weekend.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: award the bid to replace one tandem-axle tractor truck for the Utilities Division to Transwest Trucks in the amount of \$125,776, based on the 2012 - 2013 Colorado Department of Transportation bid award; and approve the revised penalty guidelines adopted by the Special Permit and License Board on January 16, 2013.

It was moved by Councillor Kaiser, seconded by Councillor Major, to approve the consent agenda as presented. The motion carried with all Council members voting favorably.

RESOLUTION NO. 9 ESTABLISHING 2013 RECOVERY CONTRACT INTEREST RATE

It was moved by Councillor Major, seconded by Mayor Pro Tem Winter, to adopt Resolution No. 9 establishing the 2013 calendar year interest rate for non-City funded public improvement recovery contracts at 5.25 percent and an interest rate of 4.5 percent for City-funded public improvements. The motion passed unanimously at roll call.

RESOLUTION NO. 10 AUTHORIZING IGA WITH UDFCO FOR KALCEVIK GULCH DRAINAGE PLAN

It was moved by Councillor Briggs, seconded by Councillor Major, to adopt Resolution No. 10 authorizing the City Manager to execute an intergovernmental agreement with the Urban Drainage and Flood Control District pertaining to the Kalcevik Gulch Basin Master Drainage Plan. At roll call, the motion carried unanimously.

ADDITION TO MASTER LEASE AGREEMENT FOR LEASE/PURCHASE OF GOLF COURSE CARTS

It was moved by Councillor Major, seconded by Councillor Kaiser, to authorize the City Manager to sign an agreement to add \$484,283 to the existing master lease to lease/purchase golf course carts with a four-year term, an approximate finance cost of \$31,450, and a total payback of approximately \$515,733. The motion carried with all Council members voting affirmatively.

COUNCILLOR'S BILL NO. 9 – SUPPLEMENTAL APPROPRIATION INCREASING GOLF COURSE FUND

Upon a motion by Councillor Major, seconded by Councillor Briggs, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 9 on the first reading appropriating \$484,283 in the Golf Course Fund for the lease purchase of replacement golf carts and utility vehicles at the Legacy Ridge Golf Course and The Heritage Golf Course.

GOLF COURSE CARTS AND UTILITY VEHICLES PURCHASE

Contingent upon final passage of Councillor's Bill No. 9 and based on the City Manager's recommendation, it was moved by Councillor Major and seconded by Councillor Kaiser, to find that the public interest would be best served by purchasing 133 golf carts, 4 player assistant carts, 2 beverage carts, 2 range picker turf carts, 2 five-gang picker units and 2 ball picker gang units for \$484,283 from Club Car/Colorado Golf and Turf, Inc. through the National Intergovernmental Purchasing Alliance pricing agreement. The motion passed unanimously.

ADJOURNMENT

There being no further business to come before the City Council, it was moved by Councillor Kaiser and seconded by Mayor Pro Tem Winter to adjourn. The motion passed and the Mayor adjourned the meeting at 7:06 p.m.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**Agenda Memorandum**

City Council Meeting  
February 25, 2013



**SUBJECT:** Presentation of Employee Service Awards

**Prepared By:** Debbie Mitchell, General Service Director  
Dee Martin, Workforce Planning & Compensation Manager

**Recommended City Council Action**

Present service pins and certificates of appreciation to employees celebrating 20 or more years of service with the City and in five year increments thereafter.

**Summary Statement**

- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In the second grouping of 2013, employees with 20, 25, 30 and 35 years of service will be celebrated tonight.
  - Presentation of 20-year certificates and pins - Councillor Scott Major
  - Presentation of 25-year certificates, pins and checks - Mayor Nancy McNally
  - Presentation of 30-year certificate and pin - Mayor Pro Tem Faith Winter
  - Presentation of 35-year certificate and pin - Councillor Herb Atchison

**Expenditure Required:** \$7,500

**Source of Funds:** \$5,000 - General Fund - Parks, Recreation & Libraries  
\$2,500 - General Fund - Community Development

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

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

|             |  |                             |
|-------------|--|-----------------------------|
| Kelly Alvis | Fire Lieutenant                              | Fire Department             |
| Dee Martin  | Workforce Planning & Compensation<br>Manager | General Services Department |

The following 25-year employees will be presented with a check, certificate and service pin:

|                         |                                    |                               |
|-------------------------|------------------------------------|-------------------------------|
| Eugene “Rusty” Caldwell | Foreman                            | Parks, Recreation & Libraries |
| John Kasza              | City Forester                      | Parks, Recreation & Libraries |
| Robert G. Wood          | Engineering Construction Inspector | Community Development         |

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

|             |                    |                   |
|-------------|--------------------|-------------------|
| Chris Pardo | Senior Criminalist | Police Department |
|-------------|--------------------|-------------------|

The following 35-year employee will be presented with a certificate and service pin:

|                |                  |                               |
|----------------|------------------|-------------------------------|
| Jerry Magnetti | Parks Supervisor | Parks, Recreation & Libraries |
|----------------|------------------|-------------------------------|

On February 27, 2013, the City Manager will host an employee awards luncheon. During this time, 4 employees will receive their 15-year service pin, 6 employees will receive their 10-year service pin, and 7 employees will receive their 5-year service pin. Recognition will also be given to those celebrating their 20<sup>th</sup>, 25<sup>th</sup>, 30<sup>th</sup> and 35<sup>th</sup> anniversaries. This is the second luncheon in 2013 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the first luncheon is 335 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

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

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 6 B

### Agenda Memorandum

City Council Meeting  
February 25, 2013



**SUBJECT:** Earth Hour Proclamation 2013

**Prepared By:** Rachel Harlow-Schalk, Senior Projects Officer  
Lisa Bressler, Environmental Advisory Board Chairperson

### Recommended City Council Action

Councillor Lindsey will present to Lisa Bressler, Environmental Advisory Board Chairperson, a proclamation establishing Saturday, March 23, 2013, between 8:30 p.m. and 9:30 p.m. as Earth Hour in the City of Westminster.

### Summary Statement

- Since 2009, the City of Westminster has observed Earth Hour calling attention to the energy saving difference that can be made by shutting off electricity for one hour collectively.
- The City of Westminster will proclaim Saturday, March 23, 2013 between 8:30 p.m. and 9:30 p.m. as Earth Hour.
- During this hour, the highly visible City Hall bell tower will be turned off and residents and businesses will be encouraged to participate in similar energy saving efforts during this hour.

**Expenditure Required:** \$0

**Source of Funds:** N/A



**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Earth Hour is the World Wildlife Fund's global initiative to focus communities on the impact one hour can have energy savings. Individuals, businesses and governments are asked to turn off their lights for one hour to show their support for measures that reduce energy consumption.

The event began in Sydney, Australia on March 31, 2007, when 2.2 million people and 2,100 businesses turned off their lights for one hour - a massive collective effort that reduced Sydney's energy consumption by 10.2 percent for one hour. That is the equivalent effect of taking 48,000 cars off the road for a year.

Earth Hour 2013 will take place from 8:30 - 9:30 p.m. Mountain Standard Time on Saturday, March 23. During this hour, Westminster households, businesses and non-emergency operations are urged to switch off lights and non-essential appliances. Westminster is one of hundreds of cities worldwide participating in this event.

The events scheduled for Earth Hour are as follows:

- The Westminster City Hall clock tower shall be turned off for one hour beginning at 8:30 p.m. on Saturday, March 23, 2013.
- The City Green Team and the Environmental Advisory Board will partner to educate residents interested in energy conservation by promoting the event on the Green Team's Facebook Page and on the City's Public Calendar.

Westminster's participation in Earth Hour supports City Council's Strategic Plan goal of a Beautiful and Environmentally Sensitive City by setting an example of easy ways to reduce energy consumption and educate the community on ways to reduce energy use.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Proclamation

**WHEREAS**, our community is concerned with the impact of energy consumption and the future health and well-being of our planet and believes energy efficiency and natural resource conservation are important elements to preserving our environment; and,

**WHEREAS**, Earth Hour is both an international and local symbolic event organized by World Wildlife Fund to raise awareness about energy consumption issues and to encourage businesses, individuals and government to take actions to reduce carbon emissions in their daily lives and operations; and

**WHEREAS**, All citizens, businesses, government agencies, and establishments can participate in this event by turning off all non-essential lighting for one hour beginning at 8:30 p.m. on Saturday, March 23, 2013 and by committing to take actions in the coming year to reduce conserve energy; and,

**WHEREAS**, the City of Westminster will turn off the clock tower, for the hour between 8:30 and 9:30 p.m. on Saturday, March 23, 2013 to conserve energy and raise awareness about global climate change as part of the city-wide energy conservation event.

**NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado**, on behalf of the entire City Council and Staff, do hereby proclaim Saturday, March 23, 2013, 8:30 p.m. to 9:30 p.m. as

### **EARTH HOUR**

and encourage all Westminster citizens and businesses to turn off all non-essential lighting during this time, and to commit to taking steps to conserve energy on a daily basis.

Signed this 25th day of February 2013.

---

Nancy McNally, Mayor



**Agenda Memorandum**

City Council Meeting  
February 25, 2013



**SUBJECT:** 2013 Adams County Mayors' and Commissioners' Youth Award

**Prepared By:** Aric Otzelberger, Assistant to the City Manager  
Melissa Diaz, Administrative Secretary

**Recommended City Council Action**

Recognize the youths selected for local recognition of the Adams County Mayors' and Commissioners' Youth Award and present certificates of achievement to: Ashley Bergen, Bianca Franco, Jasmine Gallegos, Luis Fernando Nunez, Bryce Swanson, Daniel Sanchez, LiAnna Taylor, Mark A. Gjestvang, Serena Brito, Kelly Osborne, Nghi Tran, Taylor Baxley, Samantha Bennett, Olivia Fousel, Brandon Heller, Victoria True and Bruna Siquiera.

**Summary Statement**

- 17 Westminster youths have been nominated through the Adams County Mayors' and Commissioners' Youth Award (ACMCYA) program for municipal-level recognition.
- City Council is requested to recognize these youth privately at a reception preceding the February 25, 2013, City Council meeting and publicly during the meeting.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

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

This winter, nominations were sought for youth ages 13 through 19 who have shown outstanding achievement and resilience despite facing significant challenges and adversity. All of the nominees will be honored by their respective municipalities. Additionally, if a nominee is selected to continue in the awards process, he or she will be honored at the Adams County banquet on April 12. This program used to include a metro-level recognition event, but program coordinators made the decision to discontinue this event in 2011. Following the dissolution of the metro-level program, the Adams County selection committee changed the name for the award to Adams County Mayors' and Commissioners' Youth Award (ACMCYA). Based on communication with Jefferson County Staff, Jefferson County is no longer participating in what was formerly the MMCYA program. All Westminster students, regardless of county of residence or school, are eligible for recognition through the ACMCYA program.

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

Instead, a description of the award and its criteria will be conveyed, and each nominee's name, age, school and nominator's name will be read as they receive their certificate. Additionally, City Council will host a brief reception for the nominees, nominators and their families prior to the Council meeting. 17 Westminster youths will be recognized.

Participation in the ACMCYA program supports the City Council Strategic Plan goal of "Vibrant Neighborhoods In One Livable Community" through the objective of having strong community events.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Recipient List

**City of Westminster  
2013 ACMCYA Recipients**

| <b>Nominee</b>       | <b>Age</b> | <b>School</b>              | <b>Nominator</b>         |
|----------------------|------------|----------------------------|--------------------------|
| Bergen, Ashley       | 17         | Hidden Lake High School    | Chris Sekera             |
| Franco, Bianca       | 18         | Hidden Lake High School    | Karen Marler             |
| Gallegos, Jasmine    | 17         | Hidden Lake High School    | Chris Sekera             |
| Nunez, Luis Fernando | 18         | Hidden Lake High School    | Wanda Martinez-DeLorenzo |
| Swanson, Bryce       | 17         | Hidden Lake High School    | Wanda Martinez-DeLorenzo |
| Sanchez, Daniel      | 16         | Hidden Lake High School    | Julie Mitchell           |
| Taylor, LiAnna       | 18         | Hidden Lake High School    | John Beckwith            |
|                      |            |                            |                          |
| Gjestvang, Mark A.   | 16         | Legacy High School         | Kathie Baxley            |
|                      |            |                            |                          |
| Brito, Serena        | 13         | Mandalay Middle School     | Marisa Marinac           |
| Osborne, Kelly       | 13         | Mandalay Middle School     | Marisa Marinac           |
| Tran, Nghi           | 13         | Mandalay Middle School     | Marisa Marinac           |
|                      |            |                            |                          |
| Baxley, Taylor       | 13         | Moore Middle School        | Heidi Cancellieri        |
| Bennett, Samantha    | 14         | Moore Middle School        | Heidi Cancellieri        |
| Fousel, Olivia       | 13         | Moore Middle School        | Heidi Cancellieri        |
| Heller, Brandon      | 13         | Moore Middle School        | Heidi Cancellieri        |
| True, Victoria       | 13         | Moore Middle School        | Heidi Cancellieri        |
|                      |            |                            |                          |
| Siquiera, Bruna      | 18         | Mountain Range High School | Olivia Hyten             |
|                      |            |                            |                          |
| De Anda, Megan       | 17         | Westminster High School    | Julie McCauley           |
|                      |            |                            |                          |



Agenda Memorandum

City Council Meeting  
February 25, 2013



**SUBJECT:** Financial Report for January 2013  
**Prepared By:** Tammy Hitchens, Finance Director

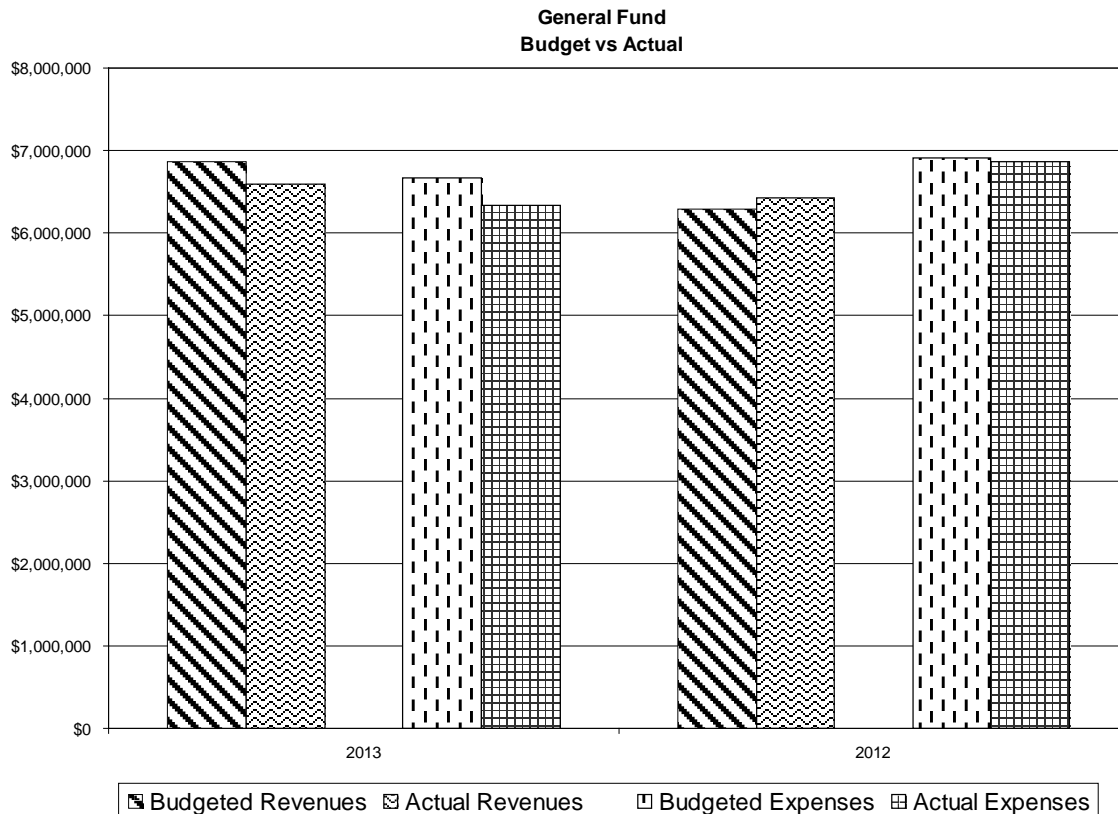
**Recommended City Council Action**

Accept the Financial Report for January as presented.

**Summary Statement**

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. The budget numbers that are presented reflect the City's amended adopted budget. Both revenues and expense are pro-rated based on 10-year historical averages.

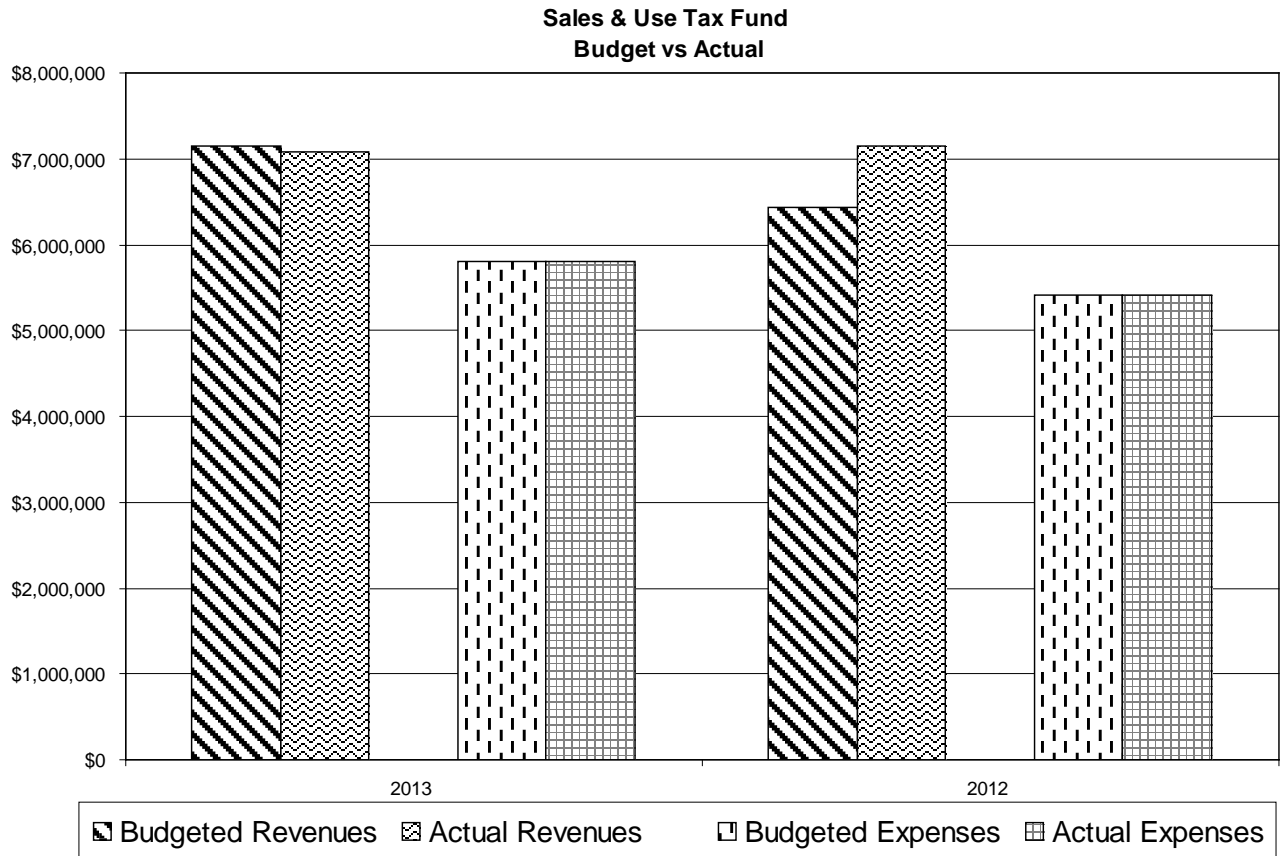
The General Fund revenues exceed expenditures by \$260,679. The following graph represents Budget vs. Actual for 2012-2013.



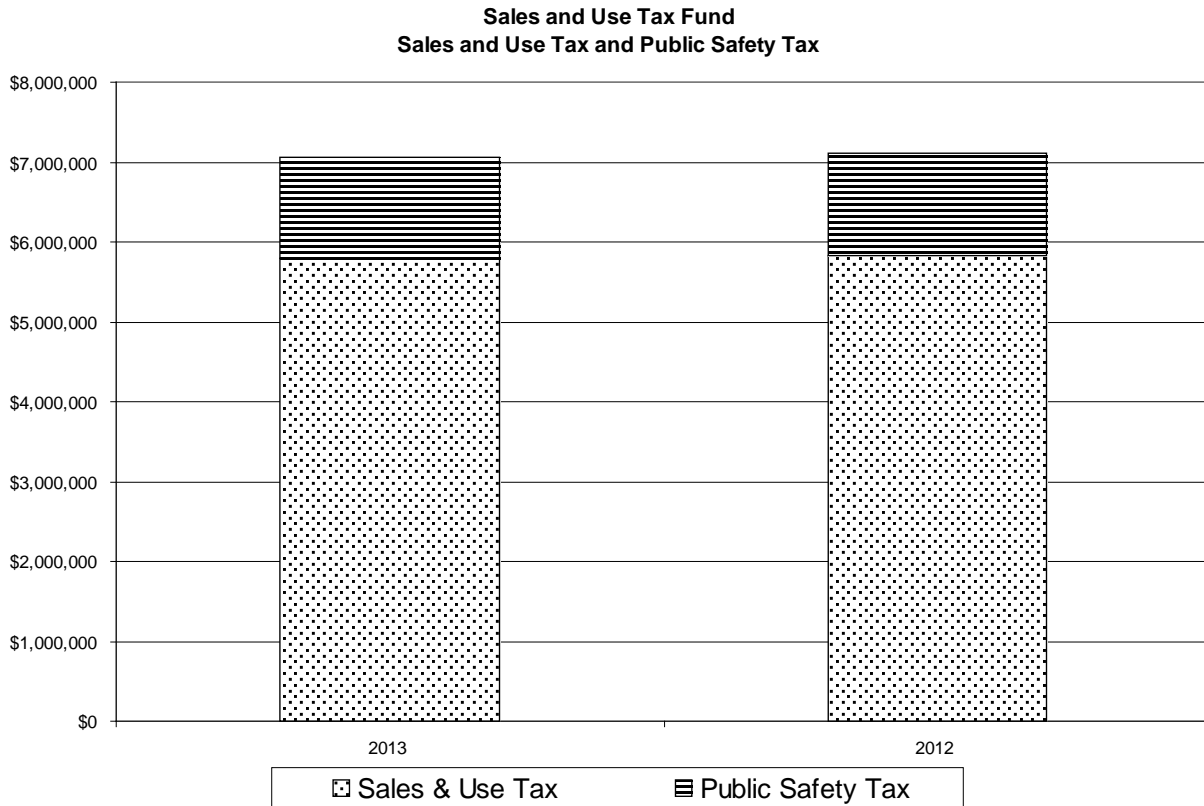
The 2013 budget to actual revenue variance is due to a timing difference in the receipt of franchise fees, and the expenditure variance is due to a timing difference in the posting of benefit charges for January payrolls.

The Sales and Use Tax Fund revenues exceed expenditures by \$1,275,747. On a year-to-date cash basis, total sales and use tax is down 0.6% from 2012. Key components are listed below:

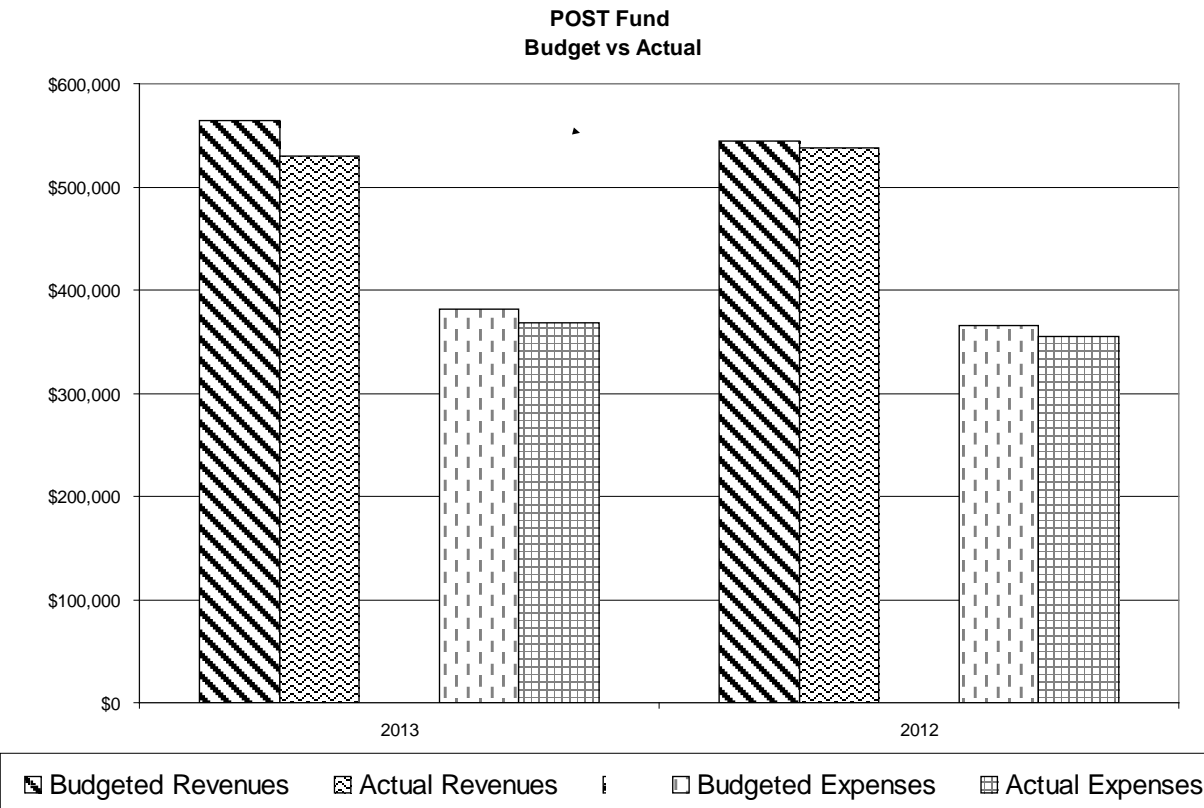
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are up 6.0% from the prior year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 60.4% of all collections, are down 3.5% for the month.
- Urban renewal areas make up 42.5% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 82.0% of this money is being retained for General Fund use.



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

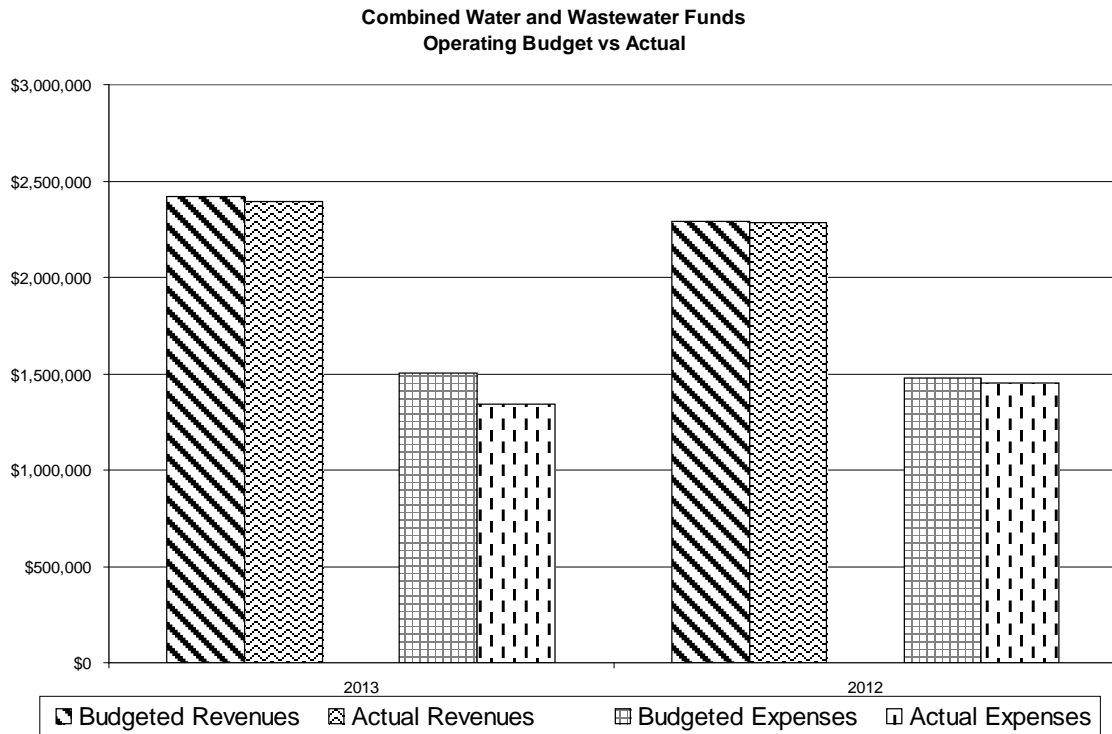


The Parks Open Space and Trails Fund revenues exceed expenditures by \$160,981.



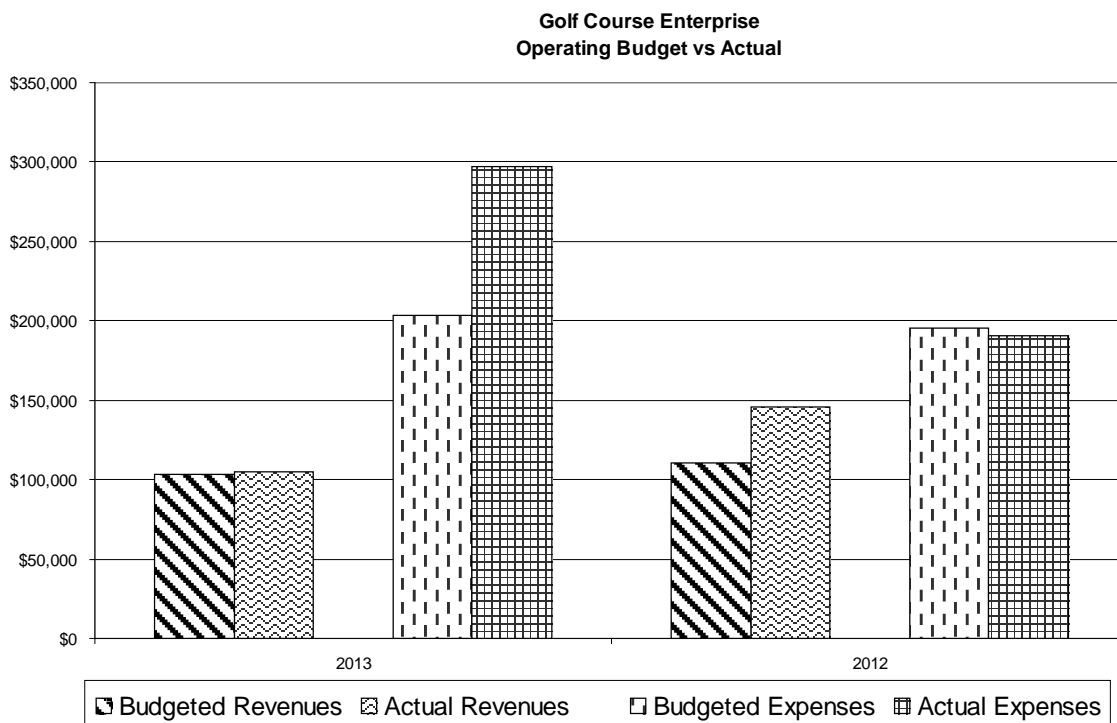


The combined Water & Wastewater Fund revenues exceed expenditures by \$1,490,901. Operating revenues exceed operating expenditures by \$1,050,626. \$14,977,000 is budgeted for capital projects and reserves.



The 2013 budget to actual expenditure variance is due to a timing difference in the posting of benefit charges for January payrolls.

The combined Golf Course Fund expenditures exceed revenues by \$191,743.



In 2013, the budget to actual expenditure variance reflects a timing difference in lease payments between years.

**Policy Issue**

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

**Alternative**

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

**Background Information**

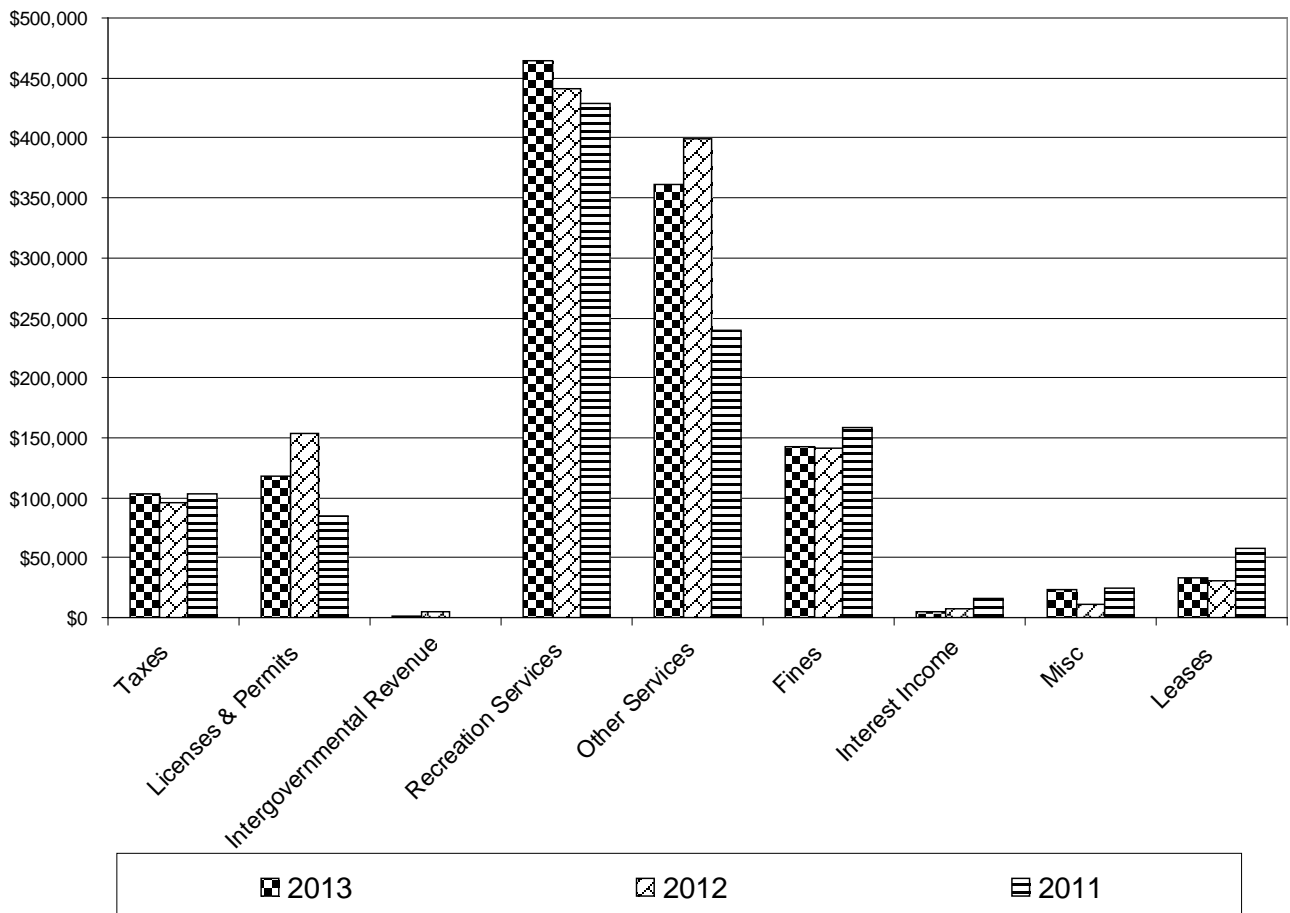
This section includes a discussion of highlights of each fund presented.

**General Fund**

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

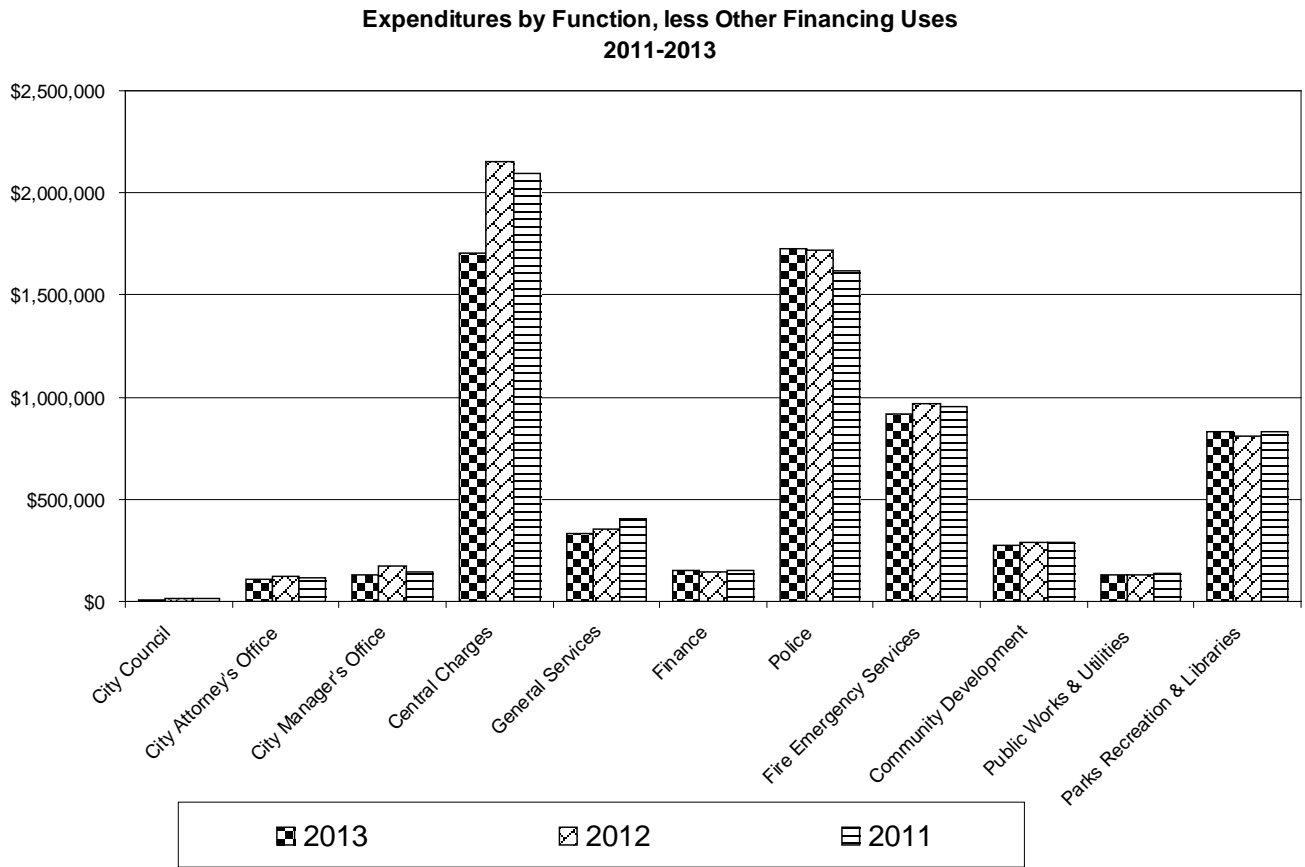
The following chart represents the trend in actual revenues from 2011-2013 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2011-2013**



- Other Services is down primarily due to a timing difference between years of Franchise Fee receipts.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2011-2013.



- The 2013 budget to actual expenditure variance is due to a timing difference in the posting of benefit charges for January payrolls

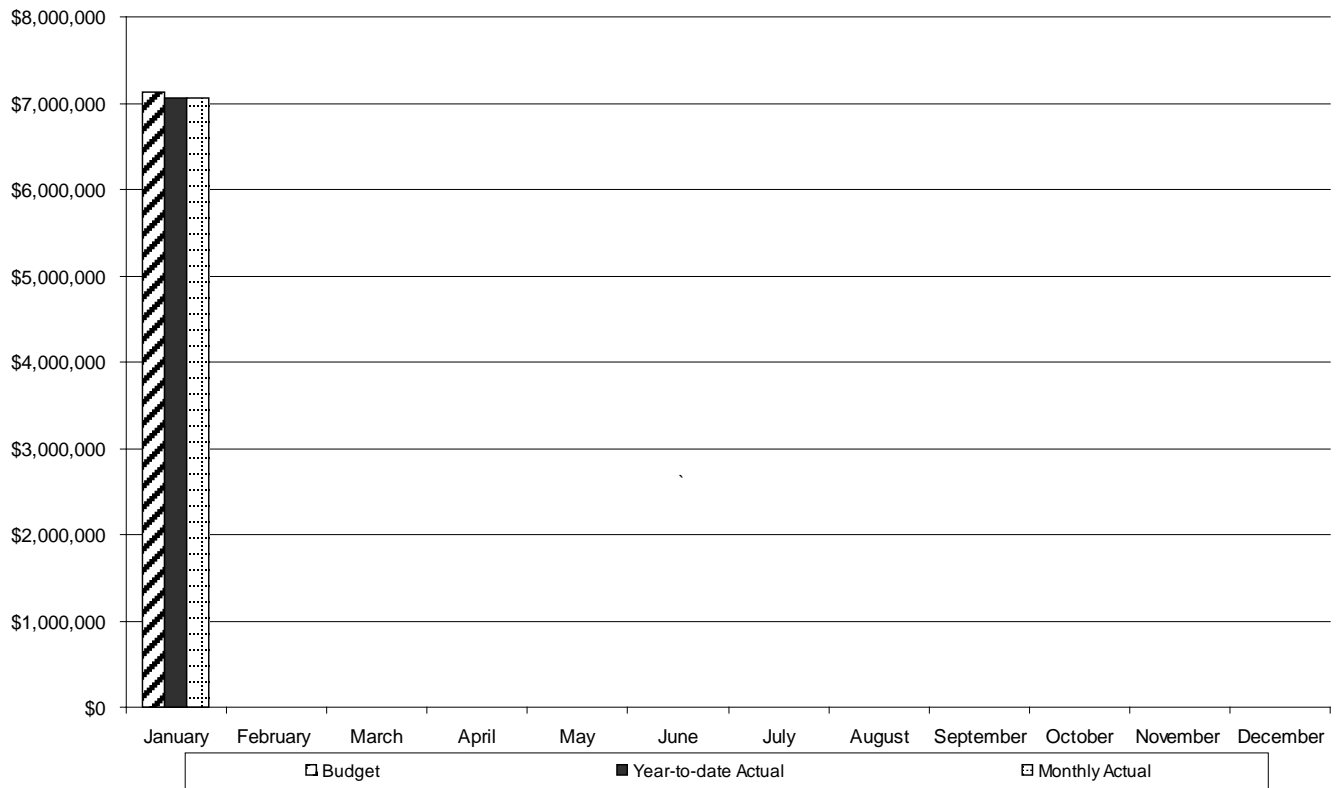
**Sales and Use Tax Funds (Sales & Use Tax Fund and Parks, Open Space and Trails Sales & Use Tax Fund)**

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

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

**Sales & Use Tax - excluding Interest,  
Transfers and Carryover  
2013**

Budget = \$69,320,135

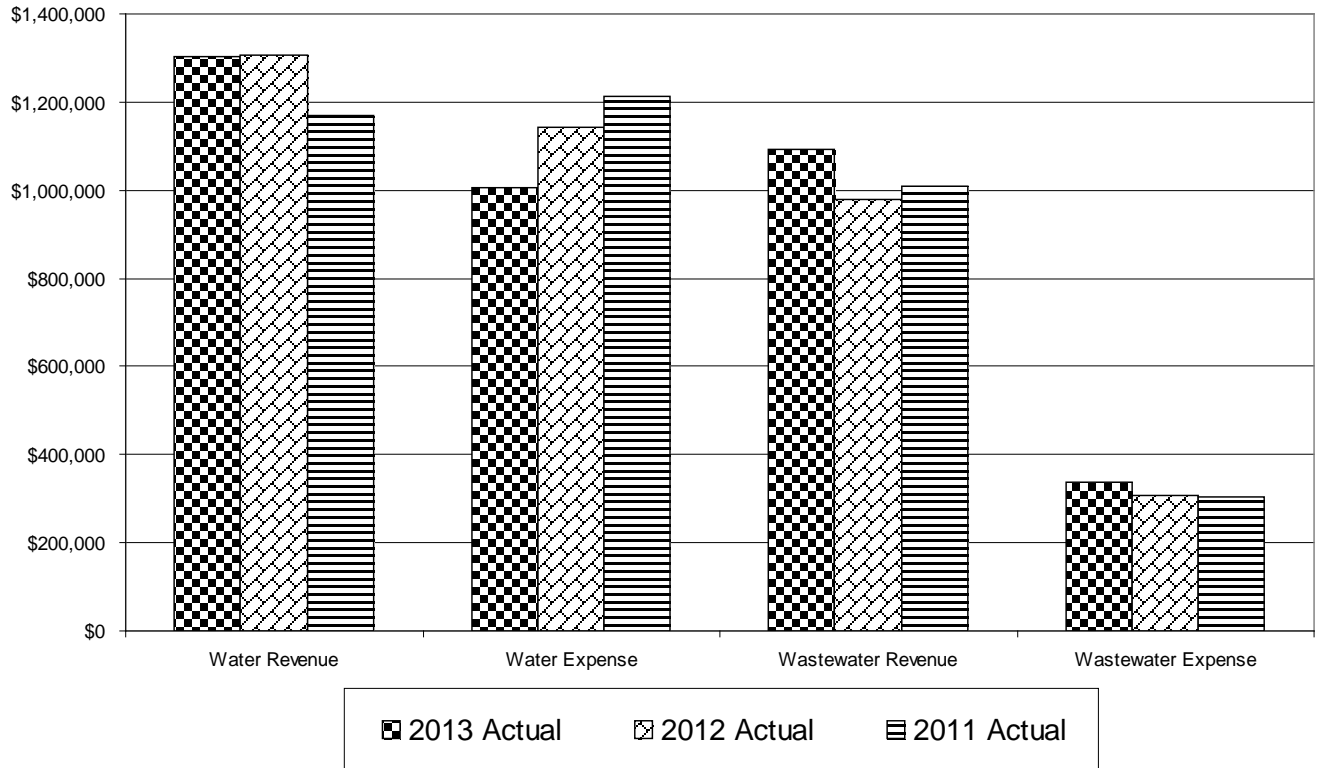


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

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

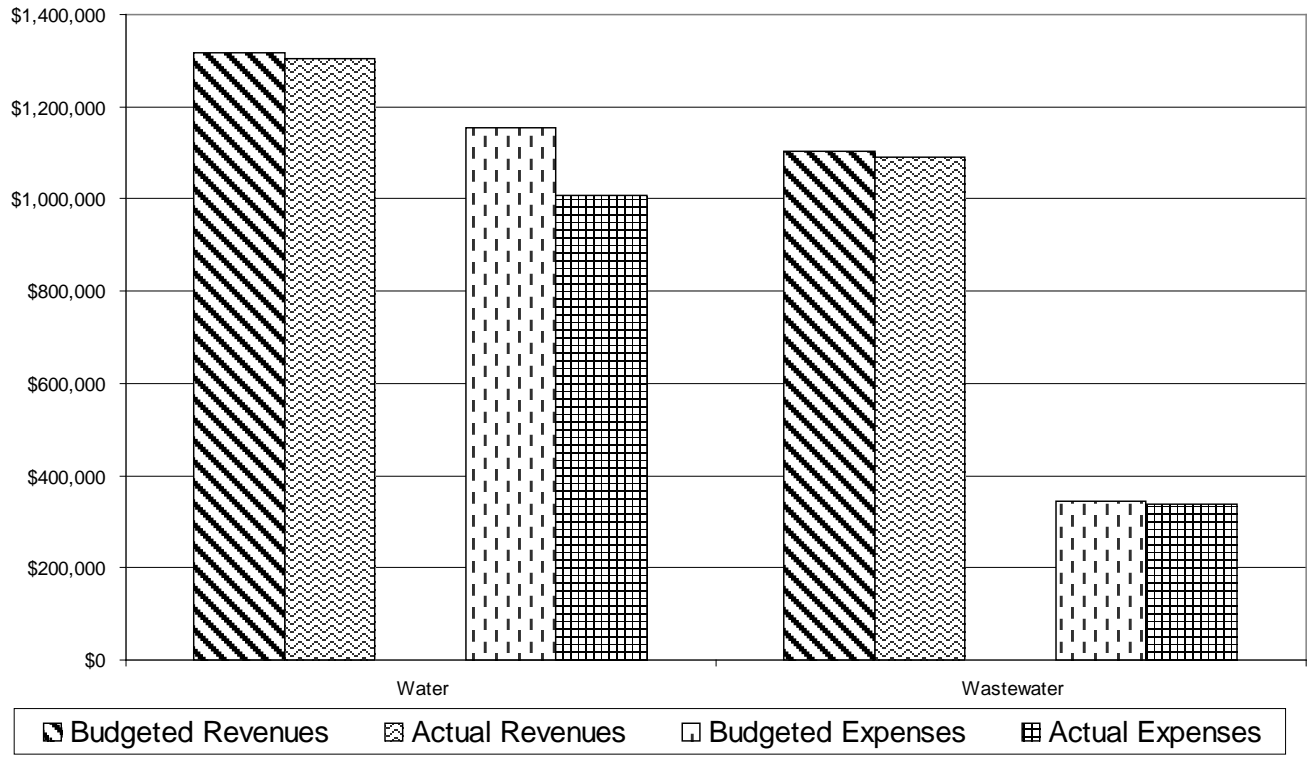
These graphs represent segment information for the Water and Wastewater funds.

**Water and Wastewater Funds  
Operating Revenue and Expenses 2011-2013**



The Water Fund revenue variance is due to the effect of climatic variations on water as well as increased billing rates. The expenditure variance in the Water Fund is due to a timing difference in the posting of benefit charges for January payrolls.

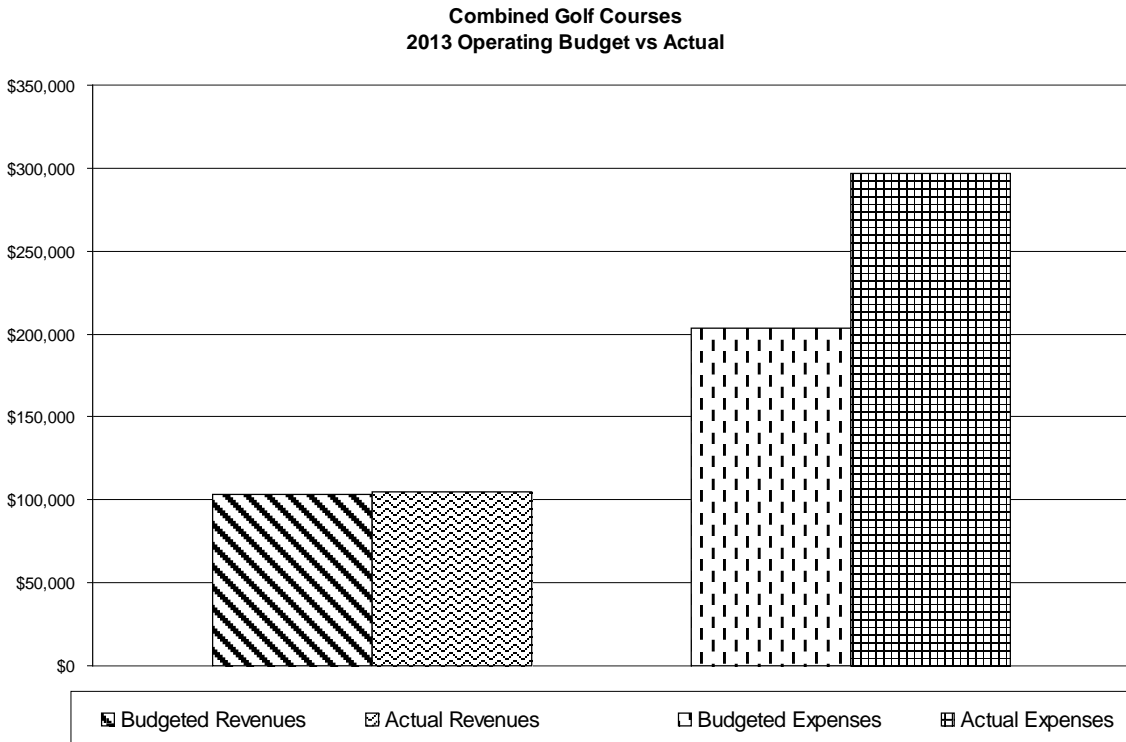
**Water and Wastewater Funds  
2013 Operating Budget vs Actual**



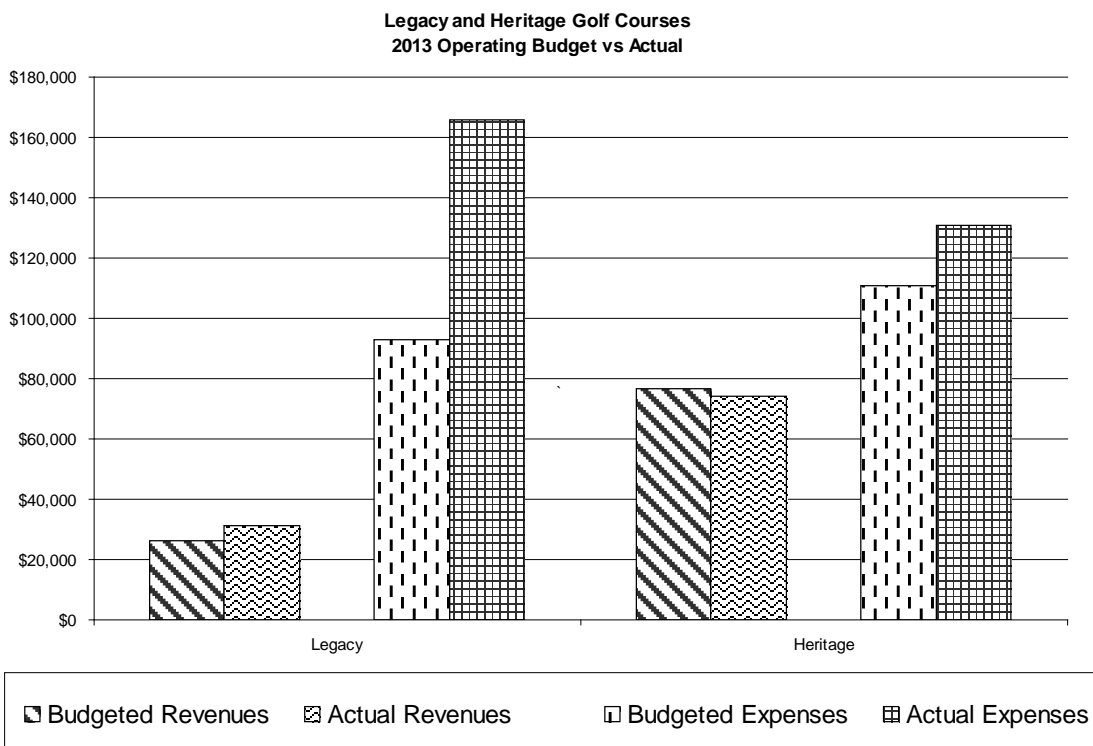
The 2013 budget to actual expenditure variance in the Water Fund is due to a timing difference in the posting of benefit charges for January payrolls.

**Golf Course Enterprise (Legacy and Heritage Golf Courses)**

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



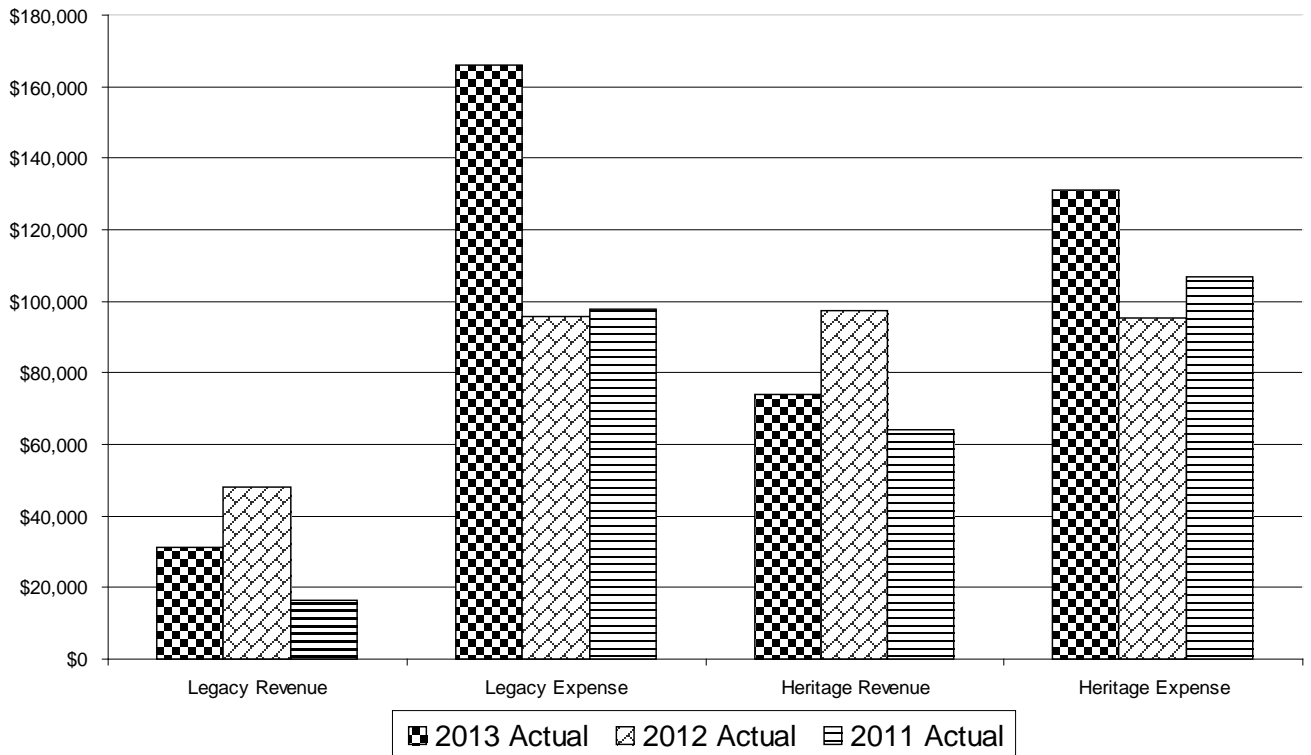
In 2013, the budget to actual expenditure variance reflects a timing difference in lease payments that resulted from refinancing the 2007 golf course equipment lease during the last quarter of 2012. Payments are now made at the beginning of each year rather than quarterly. The variance will smooth as the year progresses. The 2009 golf course equipment lease was paid off early, which also contributes to this variance.



The budget to actual expenditure variances reflect differences in the timing of lease payments in both funds.

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

**Legacy and Heritage Golf Courses  
Operating Revenue and Expenses 2011-2013**



The effects of the 2007 golf course equipment lease refinancing are seen again in the Legacy expenditure variance. The early payoff of the 2009 golf course equipment lease also contributes to the expenditure variance in both Legacy and Heritage. In 2013, the airport lease payment was made in January, whereas in 2012, it was made in February, further impacting the Heritage expenditure variance.

This financial report supports City Council’s Strategic Plan Goal of Financially Sustainable City Government Providing Exceptional Services by communicating timely information on the results of City operations and to assist with critical decision making.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Financial Statements
- Shopping Center Report



**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                   | Budget            | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual           | (Under) Over<br>Budget | %            |
|-------------------------------|-------------------|------------------------------------|-------|------------------|------------------------|--------------|
| General Fund                  |                   |                                    |       |                  |                        | Budget       |
| <b>Revenues</b>               |                   |                                    |       |                  |                        |              |
| Taxes                         | 5,729,500         | 72,233                             |       | 103,293          | 31,060                 | 143.0%       |
| Licenses & Permits            | 1,619,750         | 115,464                            |       | 117,975          | 2,511                  | 102.2%       |
| Intergovernmental Revenue     | 5,030,446         | 31,040                             |       | 1,539            | (29,501)               | 5.0%         |
| Charges for Services          |                   |                                    |       |                  |                        |              |
| Recreation Services           | 6,710,438         | 389,765                            |       | 463,960          | 74,195                 | 119.0%       |
| Other Services                | 9,878,856         | 690,294                            |       | 361,386          | (328,908)              | 52.4%        |
| Fines                         | 2,260,000         | 171,989                            |       | 142,749          | (29,240)               | 83.0%        |
| Interest Income               | 125,000           | 9,878                              |       | 5,275            | (4,603)                | 53.4%        |
| Miscellaneous                 | 1,655,506         | 17,320                             |       | 23,264           | 5,944                  | 134.3%       |
| Leases                        | 401,779           | 33,273                             |       | 33,273           | 0                      | 100.0%       |
| Interfund Transfers           | 64,049,819        | 5,337,485                          |       | 5,337,485        | 0                      | 100.0%       |
| <b>Total Revenues</b>         | <b>97,461,094</b> | <b>6,868,741</b>                   |       | <b>6,590,199</b> | <b>(278,542)</b>       | <b>95.9%</b> |
| <b>Expenditures</b>           |                   |                                    |       |                  |                        |              |
| City Council                  | 254,094           | 17,547                             |       | 10,628           | (6,919)                | 60.6%        |
| City Attorney's Office        | 1,256,550         | 94,394                             |       | 109,792          | 15,398                 | 116.3%       |
| City Manager's Office         | 1,567,013         | 122,433                            |       | 131,153          | 8,720                  | 107.1%       |
| Central Charges               | 25,508,631        | 1,674,381                          |       | 1,707,627        | 33,246                 | 102.0%       |
| General Services              | 5,994,725         | 410,943                            |       | 334,864          | (76,079)               | 81.5%        |
| Finance                       | 2,110,661         | 157,575                            |       | 152,808          | (4,767)                | 97.0%        |
| Police                        | 21,330,429        | 1,865,045                          |       | 1,727,994        | (137,051)              | 92.7%        |
| Fire Emergency Services       | 12,525,053        | 990,715                            |       | 915,604          | (75,111)               | 92.4%        |
| Community Development         | 4,202,436         | 306,214                            |       | 276,020          | (30,194)               | 90.1%        |
| Public Works & Utilities      | 8,039,149         | 163,099                            |       | 131,731          | (31,368)               | 80.8%        |
| Parks, Recreation & Libraries | 14,672,353        | 863,725                            |       | 831,299          | (32,426)               | 96.2%        |
| <b>Total Expenditures</b>     | <b>97,461,094</b> | <b>6,666,071</b>                   |       | <b>6,329,520</b> | <b>(336,551)</b>       | <b>95.0%</b> |
| Revenues Over(Under)          |                   |                                    |       |                  |                        |              |
| Expenditures                  | 0                 | 202,670                            |       | 260,679          | 58,009                 |              |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                          | Budget                   | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual                  | (Under) Over<br>Budget | %<br>Budget |
|--------------------------------------|--------------------------|------------------------------------|-------|-------------------------|------------------------|-------------|
| <b>Sales and Use Tax Fund</b>        |                          |                                    |       |                         |                        |             |
| <b>Revenues</b>                      |                          |                                    |       |                         |                        |             |
| Sales Tax                            |                          |                                    |       |                         |                        |             |
| Sales Tax Returns                    | 47,601,952               | 5,285,917                          |       | 5,349,504               | 63,587                 | 101.2%      |
| Sales Tx Audit Revenues              | 724,000                  | 60,092                             |       | 30,607                  | (29,485)               | 50.9%       |
| S-T Rev. STX                         | <u>48,325,952</u>        | <u>5,346,009</u>                   |       | <u>5,380,111</u>        | <u>34,102</u>          | 100.6%      |
| Use Tax                              |                          |                                    |       |                         |                        |             |
| Use Tax Returns                      | 8,017,000                | 483,445                            |       | 380,668                 | (102,777)              | 78.7%       |
| Use Tax Audit Revenues               | 785,000                  | 65,155                             |       | 34,354                  | (30,801)               | 52.7%       |
| S-T Rev. UTX                         | <u>8,802,000</u>         | <u>548,600</u>                     |       | <u>415,022</u>          | <u>(133,578)</u>       | 75.7%       |
| Total STX and UTX                    | <u><u>57,127,952</u></u> | <u><u>5,894,609</u></u>            |       | <u><u>5,795,133</u></u> | <u><u>(99,476)</u></u> | 98.3%       |
| Public Safety Tax                    |                          |                                    |       |                         |                        |             |
| PST Tax Returns                      | 11,883,683               | 1,207,277                          |       | 1,246,157               | 38,880                 | 103.2%      |
| PST Audit Revenues                   | 308,500                  | 25,606                             |       | 12,987                  | (12,619)               | 50.7%       |
| Total Rev. PST                       | <u>12,192,183</u>        | <u>1,232,883</u>                   |       | <u>1,259,144</u>        | <u>26,261</u>          | 102.1%      |
| Interest Income                      | 85,000                   | 7,083                              |       | 5,231                   | (1,852)                | 73.9%       |
| Interfund Transfers                  | 265,458                  | 22,122                             |       | 22,122                  | 0                      | 100.0%      |
| Total Revenues                       | <u><u>69,670,593</u></u> | <u><u>7,156,697</u></u>            |       | <u><u>7,081,630</u></u> | <u><u>(75,067)</u></u> | 99.0%       |
| <b>Expenditures</b>                  |                          |                                    |       |                         |                        |             |
| Central Charges                      | <u>69,670,593</u>        | <u>5,805,883</u>                   |       | <u>5,805,883</u>        | <u>0</u>               | 100.0%      |
| Revenues Over(Under)<br>Expenditures | <u><u>0</u></u>          | <u><u>1,350,814</u></u>            |       | <u><u>1,275,747</u></u> | <u><u>(75,067)</u></u> |             |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description           | Budget           | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual         | (Under) Over<br>Budget | %<br>Budget |
|-----------------------|------------------|------------------------------------|-------|----------------|------------------------|-------------|
| <b>POST Fund</b>      |                  |                                    |       |                |                        |             |
| <b>Revenues</b>       |                  |                                    |       |                |                        |             |
| Sales & Use Tax       | 5,085,325        | 554,297                            |       | 524,506        | (29,791)               | 94.6%       |
| Interest Income       | 10,000           | 833                                |       | 1,330          | 497                    | 159.7%      |
| Miscellaneous         | 85,030           | 7,086                              |       | 2,040          | (5,046)                | 28.8%       |
| Interfund Transfers   | 19,542           | 1,629                              |       | 1,629          | 0                      | 100.0%      |
| <b>Total Revenues</b> | <u>5,199,897</u> | <u>563,845</u>                     |       | <u>529,505</u> | <u>(34,340)</u>        | 93.9%       |
| <b>Expenditures</b>   |                  |                                    |       |                |                        |             |
| Central Charges       | 4,869,081        | 373,579                            |       | 364,468        | (9,111)                | 97.6%       |
| Park Services         | 330,816          | 8,233                              |       | 4,056          | (4,177)                | 49.3%       |
|                       | <u>5,199,897</u> | <u>381,812</u>                     |       | <u>368,524</u> | <u>(13,288)</u>        | 96.5%       |
| Revenues Over(Under)  |                  |                                    |       |                |                        |             |
| Expenditures          | <u>0</u>         | <u>182,033</u>                     |       | <u>160,981</u> | <u>(21,052)</u>        |             |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                                  | Budget            | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual           | (Under) Over<br>Budget | %<br>Budget |
|--|-------------------|------------------------------------|-------|------------------|------------------------|-------------|
| <b>Water and Wastewater Funds - Combined</b> |                   |                                    |       |                  |                        |             |
| <b>Operating Revenues</b>                    |                   |                                    |       |                  |                        |             |
| License & Permits                            | 75,000            | 6,250                              |       | 8,340            | 2,090                  | 133.4%      |
| Rates and Charges                            | 45,315,766        | 2,376,924                          |       | 2,379,472        | 2,548                  | 100.1%      |
| Miscellaneous                                | 435,000           | 36,250                             |       | 7,328            | (28,922)               | 20.2%       |
| Total Operating Revenues                     | <u>45,825,766</u> | <u>2,419,424</u>                   |       | <u>2,395,140</u> | <u>(24,284)</u>        | 99.0%       |
| <b>Operating Expenses</b>                    |                   |                                    |       |                  |                        |             |
| Central Charges                              | 6,032,672         | 502,723                            |       | 477,149          | (25,574)               | 94.9%       |
| Finance                                      | 646,064           | 63,314                             |       | 62,466           | (848)                  | 98.7%       |
| Public Works & Utilities                     | 21,385,660        | 700,833                            |       | 615,495          | (85,338)               | 87.8%       |
| Parks, Recreation & Libraries                | 152,415           | 2,134                              |       | 2,014            | (120)                  | 94.4%       |
| Information Technology                       | 2,868,928         | 232,383                            |       | 187,390          | (44,993)               | 80.6%       |
| Total Operating Expenses                     | <u>31,085,739</u> | <u>1,501,387</u>                   |       | <u>1,344,514</u> | <u>(156,873)</u>       | 89.6%       |
| Operating Income (Loss)                      | <u>14,740,027</u> | <u>918,037</u>                     |       | <u>1,050,626</u> | <u>132,589</u>         |             |
| <b>Other Revenue and Expenses</b>            |                   |                                    |       |                  |                        |             |
| Tap Fees                                     | 4,560,000         | 262,950                            |       | 202,040          | (60,910)               | 76.8%       |
| Interest Income                              | 365,000           | 30,416                             |       | 27,138           | (3,278)                | 89.2%       |
| Interfund Transfers                          | 2,533,172         | 211,097                            |       | 211,097          | 0                      | 100.0%      |
| Debt Service                                 | (7,221,199)       | 0                                  |       | 0                | 0                      |             |
| Total Other Revenue (Expenses)               | <u>236,973</u>    | <u>504,463</u>                     |       | <u>440,275</u>   | <u>(64,188)</u>        |             |
| Increase (Decrease) in Net Assets            | <u>14,977,000</u> | <u>1,422,500</u>                   |       | <u>1,490,901</u> | <u>68,401</u>          |             |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                       | Budget            | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual           | (Under) Over<br>Budget | %<br>Budget |
|-----------------------------------|-------------------|------------------------------------|-------|------------------|------------------------|-------------|
| <b>Water Fund</b>                 |                   |                                    |       |                  |                        |             |
| <b>Operating Revenues</b>         |                   |                                    |       |                  |                        |             |
| License & Permits                 | 75,000            | 6,250                              |       | 8,340            | 2,090                  | 133.4%      |
| Rates and Charges                 | 32,100,766        | 1,275,674                          |       | 1,288,515        | 12,841                 | 101.0%      |
| Miscellaneous                     | 425,000           | 35,417                             |       | 6,778            | (28,639)               | 19.1%       |
| Total Operating Revenues          | <u>32,600,766</u> | <u>1,317,341</u>                   |       | <u>1,303,633</u> | <u>(13,708)</u>        | 99.0%       |
| <b>Operating Expenses</b>         |                   |                                    |       |                  |                        |             |
| Central Charges                   | 4,253,473         | 354,456                            |       | 331,567          | (22,889)               | 93.5%       |
| Finance                           | 646,064           | 63,314                             |       | 62,466           | (848)                  | 98.7%       |
| Public Works & Utilities          | 14,427,195        | 503,509                            |       | 423,078          | (80,431)               | 84.0%       |
| PR&L Standley Lake                | 152,415           | 2,134                              |       | 2,014            | (120)                  | 94.4%       |
| Information Technology            | 2,868,928         | 232,383                            |       | 187,390          | (44,993)               | 80.6%       |
| Total Operating Expenses          | <u>22,348,075</u> | <u>1,155,796</u>                   |       | <u>1,006,515</u> | <u>(149,281)</u>       | 87.1%       |
| Operating Income (Loss)           | <u>10,252,691</u> | <u>161,545</u>                     |       | <u>297,118</u>   | <u>135,573</u>         |             |
| <b>Other Revenue and Expenses</b> |                   |                                    |       |                  |                        |             |
| Tap Fees                          | 3,500,000         | 205,500                            |       | 197,136          | (8,364)                | 95.9%       |
| Interest Income                   | 250,000           | 20,833                             |       | 19,178           | (1,655)                | 92.1%       |
| Interfund Transfers               | 2,097,065         | 174,755                            |       | 174,755          | 0                      | 100.0%      |
| Debt Service                      | (5,714,756)       | 0                                  |       | 0                | 0                      |             |
| Total Other Revenues (Expenses)   | <u>132,309</u>    | <u>401,088</u>                     |       | <u>391,069</u>   | <u>(10,019)</u>        |             |
| Increase (Decrease) in Net Assets | <u>10,385,000</u> | <u>562,633</u>                     |       | <u>688,187</u>   | <u>125,554</u>         |             |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                       | Budget            | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual           | (Under) Over<br>Budget | %<br>Budget |
|-----------------------------------|-------------------|------------------------------------|-------|------------------|------------------------|-------------|
| <b>Wastewater Fund</b>            |                   |                                    |       |                  |                        |             |
| <b>Operating Revenues</b>         |                   |                                    |       |                  |                        |             |
| Rates and Charges                 | 13,215,000        | 1,101,250                          |       | 1,090,957        | (10,293)               | 99.1%       |
| Miscellaneous                     | 10,000            | 833                                |       | 550              | (283)                  | 66.0%       |
| Total Operating Revenues          | <u>13,225,000</u> | <u>1,102,083</u>                   |       | <u>1,091,507</u> | <u>(10,576)</u>        | 99.0%       |
| <b>Operating Expenses</b>         |                   |                                    |       |                  |                        |             |
| Central Charges                   | 1,779,199         | 148,267                            |       | 145,582          | (2,685)                | 98.2%       |
| Public Works & Utilities          | 6,958,465         | 197,324                            |       | 192,417          | (4,907)                | 97.5%       |
| Total Operating Expenses          | <u>8,737,664</u>  | <u>345,591</u>                     |       | <u>337,999</u>   | <u>(7,592)</u>         | 97.8%       |
| Operating Income (Loss)           | <u>4,487,336</u>  | <u>756,492</u>                     |       | <u>753,508</u>   | <u>(2,984)</u>         |             |
| <b>Other Revenue and Expenses</b> |                   |                                    |       |                  |                        |             |
| Tap Fees                          | 1,060,000         | 57,450                             |       | 4,904            | (52,546)               | 8.5%        |
| Interest Income                   | 115,000           | 9,583                              |       | 7,960            | (1,623)                | 83.1%       |
| Interfund Transfers               | 436,107           | 36,342                             |       | 36,342           | 0                      | 100.0%      |
| Debt Service                      | (1,506,443)       | 0                                  |       | 0                | 0                      |             |
| Total Other Revenues (Expenses)   | <u>104,664</u>    | <u>103,375</u>                     |       | <u>49,206</u>    | <u>(54,169)</u>        |             |
| Increase (Decrease) in Net Assets | <u>4,592,000</u>  | <u>859,867</u>                     |       | <u>802,714</u>   | <u>(57,153)</u>        |             |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| <b>Description</b>                       | <b>Budget</b>    | <b>Pro-rated<br/>for Seasonal<br/>Flows</b> | <b>Notes</b> | <b>Actual</b>  | <b>(Under) Over<br/>Budget</b> | <b>%<br/>Budget</b> |
|--|------------------|---|--------------|----------------|--------------------------------|---------------------|
| <b>Storm Drainage Fund</b>               |                  |   |              |                |                                |                     |
| <b>Revenues</b>                          |                  |   |              |                |                                |                     |
| Charges for Services                     | 2,082,000        | 173,500                                     |              | 167,710        | (5,790)                        | 96.7%               |
| Interest Income                          | 50,000           | 4,167                                       |              | 3,680          | (487)                          | 88.3%               |
| Miscellaneous                            | 0                | 0   |              | 13             | 13                             |                     |
| <b>Total Revenues</b>                    | <u>2,132,000</u> | <u>177,667</u>                              |              | <u>171,403</u> | <u>(6,264)</u>                 | 96.5%               |
| <b>Expenses</b>                          |                  |   |              |                |                                |                     |
| General Services                         | 86,200           | 0   |              | 93             | 93                             |                     |
| Community Development                    | 174,090          | 12,534                                      |              | 12,558         | 24                             | 100.2%              |
| PR&L Park Services                       | 200,000          | 3,400                                       |              | 3,000          | (400)                          | 88.2%               |
| Public Works & Utilities                 | 322,710          | 323   |              | 0              | (323)                          |                     |
| <b>Total Expenses</b>                    | <u>783,000</u>   | <u>16,257</u>                               |              | <u>15,651</u>  | <u>(606)</u>                   | 96.3%               |
| <b>Increase (Decrease) in Net Assets</b> | <u>1,349,000</u> | <u>161,410</u>                              |              | <u>155,752</u> | <u>(5,658)</u>                 |                     |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                              | Budget           | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual           | (Under) Over<br>Budget | %<br>Budget   |
|--|------------------|------------------------------------|-------|------------------|------------------------|---------------|
| <b>Golf Course Funds - Combined</b>      |                  |                                    |       |                  |                        |               |
| <b>Revenues</b>                          |                  |                                    |       |                  |                        |               |
| Charges for Services                     | 2,967,608        | 54,408                             |       | 56,277           | 1,869                  | 103.4%        |
| Interest Income                          | 0                | 0                                  |       | 410              | 410                    |               |
| Interfund Transfers                      | 582,143          | 48,512                             |       | 48,512           | 0                      | 100.0%        |
| <b>Total Revenues</b>                    | <u>3,549,751</u> | <u>102,920</u>                     |       | <u>105,199</u>   | <u>2,279</u>           | <u>102.2%</u> |
| <b>Expenses</b>                          |                  |                                    |       |                  |                        |               |
| Central Charges                          | 217,435          | 18,823                             |       | 14,525           | (4,298)                | 77.2%         |
| Recreation Facilities                    | 3,332,316        | 184,756                            |       | 282,417          | 97,661                 | 152.9%        |
| <b>Total Expenses</b>                    | <u>3,549,751</u> | <u>203,579</u>                     |       | <u>296,942</u>   | <u>93,363</u>          | <u>145.9%</u> |
| <b>Increase (Decrease) in Net Assets</b> | <u>0</u>         | <u>(100,659)</u>                   |       | <u>(191,743)</u> | <u>(91,084)</u>        |               |



**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                       | Budget           | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual           | (Under) Over<br>Budget | %<br>Budget |
|-----------------------------------|------------------|------------------------------------|-------|------------------|------------------------|-------------|
| <b>Legacy Ridge Fund</b>          |                  |                                    |       |                  |                        |             |
| <b>Revenues</b>                   |                  |                                    |       |                  |                        |             |
| Charges for Services              | 1,582,258        | 25,316                             |       | 29,861           | 4,545                  | 118.0%      |
| Interest Income                   | 0                | 0                                  |       | 410              | 410                    |             |
| Interfund Transfers               | 10,372           | 864                                |       | 864              | 0                      | 100.0%      |
| Total Revenues                    | <u>1,592,630</u> | <u>26,180</u>                      |       | <u>31,135</u>    | <u>4,955</u>           | 118.9%      |
| <b>Expenses</b>                   |                  |                                    |       |                  |                        |             |
| Central Charges                   | 113,659          | 10,002                             |       | 7,009            | (2,993)                | 70.1%       |
| Recreation Facilities             | 1,478,971        | 82,822                             |       | 158,931          | 76,109                 | 191.9%      |
| Total Expenses                    | <u>1,592,630</u> | <u>92,824</u>                      |       | <u>165,940</u>   | <u>73,116</u>          | 178.8%      |
| Increase (Decrease) in Net Assets | <u>0</u>         | <u>(66,644)</u>                    |       | <u>(134,805)</u> | <u>(68,161)</u>        |             |

**City of Westminster  
Financial Report  
For One Month Ending January 31, 2013**

| Description                       | Budget           | Pro-rated<br>for Seasonal<br>Flows | Notes | Actual          | (Under) Over<br>Budget | %<br>Budget |
|-----------------------------------|------------------|------------------------------------|-------|-----------------|------------------------|-------------|
| <b>Heritage at Westmoor Fund</b>  |                  |                                    |       |                 |                        |             |
| <b>Revenues</b>                   |                  |                                    |       |                 |                        |             |
| Charges for Services              | 1,385,350        | 29,092                             |       | 26,416          | (2,676)                | 90.8%       |
| Interfund Transfers               | 571,771          | 47,648                             |       | 47,648          | 0                      | 100.0%      |
| Total Revenues                    | <u>1,957,121</u> | <u>76,740</u>                      |       | <u>74,064</u>   | <u>(2,676)</u>         | 96.5%       |
| <b>Expenses</b>                   |                  |                                    |       |                 |                        |             |
| Central Charges                   | 103,776          | 8,821                              |       | 7,516           | (1,305)                | 85.2%       |
| Recreation Facilities             | 1,853,345        | 101,934                            |       | 123,486         | 21,552                 | 121.1%      |
| Total Expenses                    | <u>1,957,121</u> | <u>110,755</u>                     |       | <u>131,002</u>  | <u>20,247</u>          | 118.3%      |
| Increase (Decrease) in Net Assets | <u>0</u>         | <u>(34,015)</u>                    |       | <u>(56,938)</u> | <u>(22,923)</u>        |             |

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 JANUARY 2013 MONTH AND YEAR-TO-DATE

| Center<br>Location<br>Major Tenant                                     | /----- Current Month -----/ |                |         | /----- Last Year -----/ |                |         | /--- %Change ---/ |     |       |
|--|-----------------------------|----------------|---------|-------------------------|----------------|---------|-------------------|-----|-------|
|  | General<br>Sales            | General<br>Use | Total   | General<br>Sales        | General<br>Use | Total   | Sales             | Use | Total |
| THE ORCHARD<br>144TH & I-25<br>JC PENNEY/MACY'S                        | 699,233                     | 23,116         | 722,348 | 632,503                 | 15,739         | 648,243 | 11                | 47  | 11    |
| WESTFIELD SHOPPING CENTER<br>NW CORNER 92ND & SHER<br>WALMART 92ND     | 494,421                     | 1,714          | 496,135 | 498,458                 | 1,618          | 500,075 | -1                | 6   | -1    |
| SHOPS AT WALNUT CREEK<br>104TH & REED<br>TARGET                        | 362,059                     | 2,265          | 364,323 | 323,029                 | 1,339          | 324,368 | 12                | 69  | 12    |
| NORTHWEST PLAZA<br>SW CORNER 92 & HARLAN<br>COSTCO                     | 265,623                     | 935            | 266,558 | 239,074                 | 288            | 239,362 | 11                | 224 | 11    |
| SHERIDAN CROSSING<br>SE CORNER 120TH & SHER<br>KOHL'S                  | 254,800                     | 1,925          | 256,725 | 224,073                 | 2,054          | 226,126 | 14                | -6  | 14    |
| SHOENBERG CENTER<br>SW CORNER 72ND & SHERIDAN<br>WALMART 72ND          | 246,396                     | 2,458          | 248,854 | 242,983                 | 1,093          | 244,075 | 1                 | 125 | 2     |
| BROOKHILL I & II<br>N SIDE 88TH OTIS TO WADS<br>HOME DEPOT             | 235,870                     | 3,143          | 239,013 | 239,369                 | 1,763          | 241,132 | -1                | 78  | -1    |
| INTERCHANGE BUSINESS CENTER<br>SW CORNER 136TH & I-25<br>WALMART 136TH | 221,561                     | 582            | 222,143 | 209,728                 | 717            | 210,445 | 6                 | -19 | 6     |
| NORTH PARK PLAZA<br>SW CORNER 104TH & FEDERAL<br>KING SOOPERS          | 214,128                     | 1,320          | 215,448 | 201,636                 | 1,699          | 203,335 | 6                 | -22 | 6     |
| PROMENADE SOUTH/NORTH<br>S/N SIDES OF CHURCH RANCH BLVD<br>SHANE/AMC   | 181,235                     | 21,295         | 202,531 | 164,672                 | 17,840         | 182,512 | 10                | 19  | 11    |
| CITY CENTER MARKETPLACE<br>NE CORNER 92ND & SHERIDAN<br>BARNES & NOBLE | 176,492                     | 535            | 177,027 | 178,466                 | 2,026          | 180,492 | -1                | -74 | -2    |
| STANDLEY SHORES CENTER<br>SW CORNER 100TH & WADS<br>KING SOOPERS       | 138,256                     | 242            | 138,498 | 132,968                 | 543            | 133,511 | 4                 | -55 | 4     |
| VILLAGE AT THE MALL<br>S SIDE 88TH DEPEW-HARLAN<br>TOYS 'R US          | 114,271                     | 345            | 114,616 | 126,122                 | 343            | 126,465 | -9                | 1   | -9    |
| LUCENT/KAISER CORRIDOR<br>112-120 HURON - FEDERAL<br>LUCENT TECHNOLOGY | 17,212                      | 70,853         | 88,066  | 20,168                  | 56,953         | 77,121  | -15               | 24  | 14    |
| WESTMINSTER MALL<br>88TH & SHERIDAN<br>JC PENNEY                       | 78,752                      | 1,020          | 79,772  | 156,703                 | 1,731          | 158,434 | -50               | -41 | -50   |

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 JANUARY 2013 MONTH AND YEAR-TO-DATE

| Center<br>Location<br>Major Tenant  | Current Month    |                |           | Last Year        |                |           | %Change |       |       |
|---|------------------|----------------|-----------|------------------|----------------|-----------|---------|-------|-------|
|   | General<br>Sales | General<br>Use | Total     | General<br>Sales | General<br>Use | Total     | Sales   | Use   | Total |
| ROCKY MOUNTAIN PLAZA<br>SW CORNER 88TH & SHER<br>GUITAR STORE             | 74,511           | 227            | 74,737    | 70,626           | 300            | 70,926    | 6       | -24   | 5     |
| WESTMINSTER CROSSING<br>136TH & I-25<br>LOWE'S                            | 57,734           | 136            | 57,870    | 54,766           | 122            | 54,888    | 5       | 11    | 5     |
| WESTMINSTER PLAZA<br>FEDERAL-IRVING 72ND-74TH<br>SAFEWAY                  | 56,322           | 466            | 56,788    | 54,653           | 261            | 54,915    | 3       | 78    | 3     |
| VILLAGE AT PARK CENTRE<br>NW CORNER 120TH & HURON<br>CB & POTTS           | 51,550           | 1,564          | 53,114    | 40,754           | 986            | 41,739    | 26      | 59    | 27    |
| COUNTRYDALE BUSINESS PARK<br>S SIDE 108TH & WADSWORTH<br>BALL CORPORATION | 803              | 50,181         | 50,984    | 868              | 287            | 1,155     | -7      | 17393 | 4314  |
| STANDLEY LAKE MARKETPLACE<br>NE CORNER 99TH & WADSWORTH<br>SAFEWAY        | 47,468           | 233            | 47,701    | 45,834           | 180            | 46,014    | 4       | 30    | 4     |
| BROOKHILL IV<br>E SIDE WADS 90TH-92ND<br>MURDOCH'S                        | 35,728           | 243            | 35,971    | 37,553           | 286            | 37,838    | -5      | -15   | -5    |
| WILLOW RUN<br>128TH & ZUNI<br>SAFEWAY                                     | 34,504           | 237            | 34,740    | 35,473           | 1,062          | 36,535    | -3      | -78   | -5    |
| ELWAY/DOUGLAS CORRIDOR<br>NE CORNER 104TH & FED<br>ELWAY MOTORS           | 31,470           | 714            | 32,184    | 22,296           | 695            | 22,991    | 41      | 3     | 40    |
| WAVE CAR CENTER CORNER<br>W SIDE 91ST & WADSWORTH<br>WAVE CARE WASH       | 4,458            | 27,551         | 32,009    | 4,554            | 310            | 4,863     | -2      | 8800  | 558   |
|   | 4,094,859        | 213,298        | 4,308,156 | 3,957,327        | 110,234        | 4,067,561 | 3       | 94    | 6     |



## Agenda Item 8 B

### Agenda Memorandum

City Council Meeting  
February 25, 2013

**SUBJECT:** Change Date of First City Council Meeting in March

**Prepared By:** Linda Yeager, City Clerk

### Recommended City Council Action

Change the date of the first regularly scheduled City Council meeting in March from March 11 to March 18.

### Summary Statement

- This year a majority of City Council will be attending the National League of Cities Annual Conference on the second Monday of March. To avoid a potential lack of a quorum on March 11, Staff recommends the meeting normally held on the second Monday be rescheduled to the third Monday in March, March 18, 2013.
- If approved, City Council will conduct a study session on March 4 and regular meetings on March 18 and 25, 2013.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

Council could decide to leave the March 11 regular meeting date unchanged or to move the meeting to an alternate date or day of the week.

**Background Information**

Occasionally, conflicts arise with dates of regularly scheduled Council meetings and the dates of holidays, important civic events, and/or conferences that the City Council traditionally attends, and the Council's schedule of meetings is changed to accommodate the occurrence. The week of March 10 the majority of City Council will be attending the National League of Cities Annual Conference. To accommodate Council's attendance at this valuable conference and remove any conflict, Staff suggests that the March 11 meeting be rescheduled and held on March 18.

The public is aware that regular Council meetings and study sessions are held on Mondays, thus it makes sense to reschedule meetings to a different Monday of the month when conflicts arise.

Respectfully submitted,

J. Brent McFall  
City Manager



Agenda Memorandum

City Council Meeting  
February 25, 2013



**SUBJECT:** Torii Square Park Renovation

**Prepared By:** Kathy Piper, Landscape Architect II

**Recommended City Council Action**

Authorize the City Manager to execute a contract with the low bidder, T2 Construction, Inc. in the amount of \$215,137 for Torii Square Park renovation with a 10% contingency of \$21,513, authorize Staff to purchase site amenities from separate vendors not to exceed \$22,000 and authorize Staff to replace Xcel lighting not to exceed \$3,500. Total project cost will be \$262,150.

**Summary Statement**

- Torii Square Park is located at 7596 W. 76<sup>th</sup> Avenue. (See attached site photo.)
- Staff held a public meeting on August 21, 2012, at the City’s Swim and Fitness Center. Public comments were gathered and integrated into the renovation plans.
- This project will maintain the Japanese theme and many of the original design elements based on public comments. The renovation will include a new shelter, concrete sidewalks, planting beds, a small boulder climbing area and a complete renovation of the irrigation system.
- Staff has also included the Rotary Club of Westminster in the design discussions and public meeting. Mr. Wilbur Flachman provided historical background information to Staff during the public meeting process.
- Bids were solicited from four reputable construction companies with experience in park construction. Of the four firms invited to bid, three provided bids. T2 Construction, Inc. provided the low bid.
- The construction should be completed by mid June 2013.
- T2 Construction, Inc. has successfully completed several construction projects for the City including Willowbrook Park and Carroll Butts Park.
- Adequate funds were budgeted and are available to complete this project.

**Expenditure Required:** \$262,150

**Source of Funds:** General Fund Capital Improvements Fund ADCO  
POST Bond Funds

**Policy Issue**

Should the City proceed with the park renovation at Torii Square Park?

**Alternative**

City Council could choose to not authorize the construction renovation at this time. However, Staff does not recommend this option as this project is both identified in the Parks and Recreation Master Plan for renovation and has not had a renovation since it was originally built in 1975.

**Background Information**

Torii Square Park is a 1.7 acre park that was originally constructed in 1975. The City and Rotary Club of Westminster dedicated a memorial for an exchange student, Yoko Nakamura Kishimoto, from Shizuoka, Japan at the park on July 27, 1975. The site also has a plaque dedicated to the first Westminster resident, Pleasant DeSpain, who homesteaded immediately north of the park site in 1870. Both of these memorials will remain on display at the park.

There have been no major renovations to this site since the original construction in 1975. In 2010, streetscape improvements along Lowell Boulevard provided a detached sidewalk and some pedestrian lighting along the western edge of the park. Staff is currently working with Community Development Department Staff to determine if the remaining overhead utility lines can be undergrounded. This additional work would occur after the renovation project is completed. Community Development Block Grant funds would be used for the undergrounding of the utility work.

A public meeting was held in August 2012 to receive comments on what the community would like to see within the park. In addition, a display board of the current site was placed at the Swim and Fitness Center for community members to add comments. The comments from the public did not vary significantly. Most requested that the park remain similar to what was there. Current renovations, based upon the public comments received, will include a new shelter, concrete sidewalks, a shade garden around the shelter area with a natural play element, a planting bed along the south fencing, and a new irrigation system throughout the park. Staff will be keeping the Japanese theme within the park. Staff will be working with Xcel to replace the existing lighting within the park.

The City’s Greenhouse Staff will be helping to grow a variety of hostas for use in the shade garden. The overall site plan and sidewalks will be located away from the large evergreen trees, where possible, to help with safety concerns and keep the mature trees.

Staff solicited bids from four companies. Three of them responded to the Request for Bid proposal. Staff reviewed the bids and determined that T2 Construction Inc. was the low bidder. T2 Construction Inc. has done projects in the past such as Carroll Butts Park, Countryside irrigation renovations, and Willowbrook Park. Construction will begin in April and completion is expected by the end of June.

|                    | <b>T2 Construction, Inc</b> | <b>Godland Construction</b> | <b>Arrow-J Landscape &amp; Design, Inc.</b> |
|--------------------|-----------------------------|-----------------------------|---|
| Base Bid           | \$215,136.30                | \$221,055.70                | \$247,838.17                                |
| 10% Contingency    | 21,513.63                   | 22,105.57                   | 24,738.82                                   |
| <b>Grand Total</b> | <b>\$236,646.93</b>         | <b>\$243,161.27</b>         | <b>\$272,621.99</b>                         |



**SUBJECT:** Torii Square Park Renovation

Page 3

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

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Site Photo

# Torii Square Park Renovation Feb 2013





**Agenda Memorandum**

City Council Meeting  
February 25, 2013



**SUBJECT:** Front End Loader Purchase

**Prepared By:** Jeffery H. Bowman, Fleet Manager

**Recommended City Council Action**

Authorize the purchase of a Volvo front-end loader from Power Equipment Company, utilizing the current award in place from the City of Sterling, for the amount of \$107,480.

**Summary Statement**

- City Council action is requested to authorize the purchase for one Parks, Recreation and Libraries Volvo L 60-G front-end loader, based on the City of Sterling award “Wheel Loader – 2012” in the amount of \$107,480.
- Authorize trade-in of a 2001 Komatsu WA 180 Loader to Power Equipment Company for the amount of \$31,000.
- Total cost for the front-end loader and attachments is \$138,480. Power Equipment Company will discount \$31,000 as trade-in allowance for unit 7081, a 2001 Komatsu WA 180 resulting in a total cost of \$107,480.
- City Council previously approved \$135,000 in the 2012 General Capital Outlay Replacement Fund (GCORF) budget to purchase this vehicle.

**Expenditure Required:** \$107,480

**Source of Funds:** General Capital Outlay Replacement Fund

**Policy Issue**

Should the City proceed with the purchase of one Parks, Recreation and Libraries front-end loader?

**Alternatives**

1. Reject the City of Sterling’s 2012 solicitation to four area dealerships and instruct City Staff to re-bid the front-end loader. This is not recommended because the City of Sterling bid reflects a competitive bid process that provided four dealerships the opportunity to compete fairly to provide the work truck.
2. Do not purchase the proposed replacement front-end loader in 2013. This is not recommended because the front-end loader has a maintenance history that makes it impractical to keep it in regular service based on Fleet Maintenance recommendations.

**Background Information**

As part of the 2013 Budget, City Council funded the purchase of one Parks, Recreation and Libraries front-end loader. The approved replacement front-end loader identified in the table below has reached a point where it is no longer economically reasonable to maintain in service. Please note, the life-to-date vehicle maintenance costs in the table do not include accident repairs or fuel cost.

| <b>CITY DEPARTMENT</b> | <b>REPLACEMENT VEHICLE</b>                 | <b>LIFE-TO-DATE VEHICLE MAINTENANCE COST</b> | <b>NEW VEHICLE MAKE/MODEL</b> | <b>NEW VEHICLE PRICE</b> | <b>BIDDER AWARDED</b>   |
|------------------------|--|--|-------------------------------|--------------------------|-------------------------|
| PR&L                   | Unit 7081<br>2001 Komatsu Front End Loader | \$42,186                                     | Volvo L60-G                   | \$107,480                | Power Equipment Company |

The current Komatsu WA 180 front-end loader is used for park maintenance projects, lifting material during construction and repair in parks, loading mulch and is used as a general maintenance loader. The new Volvo L60-G front-end loader will provide a safer work environment in playground sites with improved visibility from the cab. In addition, the Volvo L 60-G is equipped with purpose-built attachments that allow for expanded repair work at park sites.

In February 2012, the City of Sterling solicited loader pricing from four Colorado dealers, using their bid titled; “Wheel Loader – 2012.” Power Equipment Company (called PECO in the table below) is extending the same February 2012 pricing to the City of Westminster in February 2013. The bid result is as follows:

| <b>Dealer</b> | <b>Make</b>   | <b>Model</b> | <b>Price</b>        | <b>Trade</b>       | <b>Difference</b>   |
|---------------|---|--------------|---------------------|--------------------|---------------------|
| PECO          | Volvo   | L-60F        | \$118,264.00        | \$14,000.00        | \$104,264.00        |
|               | <b>Volvo</b>  | <b>L-60G</b> | <b>\$123,145.00</b> | <b>\$14,000.00</b> | <b>\$109,145.00</b> |
| CO Machinery  | Deere   | 444K         | \$135,900.00        | \$20,000.00        | \$115,900.00        |
| Wagner        | Cat   | 924K         | \$130,374.00        | \$15,000.00        | \$115,374.00        |
| Power Motive  | Komatsu   | WA 200       | \$119,373.13        | \$12,000.00        | \$107,373.13        |
|               | Komatsu   | WA 200       | \$124,172.76        | \$12,000.00        | \$112,172.76        |
|               | Cat did not provide a demo, as required                       |              |                     |                    |                     |
|               | Operators did not like the Komatsu's hydrostatic transmission |              |                     |                    |                     |
|               | Volvo was operator preference in all categories               |              |                     |                    |                     |

**SUBJECT:** Front End Loader Purchase

Page 3

This recommended purchase meets Council's Strategic Plan goals of Financially Sustainable City Government and a Beautiful and Environmentally Sensitive City by keeping a highly dependable fleet of vehicles and equipment on the job and obtaining the best possible price for these vehicles.

Respectfully submitted,

J. Brent McFall  
City Manager



**Agenda Memorandum**

City Council Meeting  
February 25, 2013



**SUBJECT:** Police Motorcycles Purchase

**Prepared By:** Jeffery H. Bowman, Fleet Manager

**Recommended City Council Action**

Award the bid for three 2013 Harley-Davidson police motorcycles to the low bidder, Sun Harley-Davidson, in the amount of \$55,878.

**Summary Statement**

City Council action is requested to award three 2013 police motorcycle purchases, based on the City of Westminster bid, to Sun Harley-Davidson. These motorcycles were previously budgeted and are within the amount authorized by City Council in the 2013 PST General Capital Outlay Replacement Fund budget as outlined below:

- The City of Westminster Police Department uses the Harley-Davidson FLHP Police Road King as its standard police motorcycle.
- Maintaining a standardized motorcycle fleet minimizes all costs, including training required by Fleet Mechanics.
- Police motorcycle operator training is consistent when performed on one motorcycle type.
- City Council action is requested to award three 2013 police motorcycle purchases, to replace three 2007 models that are currently used as training motorcycles.
- The City of Westminster solicited six Harley-Davidson dealerships across Colorado, and based on the results of bid F 1-7-0-2013, Sun Harley-Davidson was low bid.
- City Council previously approved \$75,000 in the 2012 General Capital Outlay Replacement Fund (GCORF) budget to purchase and light three police motorcycles.

**Expenditure Required:** \$55,878

**Source of Funds:** PST General Capital Outlay Replacement Fund

**Policy Issue**

Should the City proceed with the purchase of three 2013 police motorcycles from the low bidder, Sun Harley-Davidson?

**Alternatives**

1. Reject the Westminster bid and instruct Staff to re-bid these police motorcycles. This alternative is not recommended because the City of Westminster bid RFP F 1-7-0-2013 was sent directly to six Harley-Davidson dealers throughout Colorado.
2. Do not purchase some or all of the proposed motorcycles in 2013. This alternative is not recommended because all of the 2007 police motorcycles have a maintenance history that makes it impractical to keep them in regular service.

**Background Information**

As part of the 2013 Budget, City Council funded the purchase of three replacement police motorcycles. The standard motorcycle for Westminster Police Department is the Harley-Davidson FLHP Police Road King. There are currently 12 motorcycles in active status and three of the oldest models are used as trainers. Upon receipt of the 2013 Harley-Davidson FLHP Police Road King Models, the 2007 training motorcycles will be sold at auction and three 2008 models will be stripped and placed into the training pool. Rotating the oldest FLHP motorcycles into the training pool greatly reduces the cost of upkeep, because cosmetic damage inflicted during training does not affect the value when the trainers are sold at auction. This rotation process maintains 12 reliable Harley-Davidson FLHP Police Road King Models as front line motorcycles, provides standardized motorcycles for training, and minimizes training requirements for Fleet Mechanics.

Below is the bid tabulation for City of Westminster bid F 1-7-0-2013:

| <b>Vendor</b>                   | Grand Junction Harley-Davidson | Sun Harley-Davidson | Avalanche Harley-Davidson | High Country Harley-Davidson | Mile High Harley-Davidson | Rocky Mountain Harley-Davidson |
|---------------------------------|--------------------------------|---------------------|---------------------------|------------------------------|---------------------------|--------------------------------|
| Base Price per Bike             | \$17,160.95                    | \$16,906.00         | No Bid                    | No Bid                       | No Bid                    | No Bid                         |
| Delivery Time                   | “ASAP”                         | April-May 2013      | X                         | X                            | X                         | X                              |
| Anti lock Brakes                | Included                       | Included            | X                         | X                            | X                         | X                              |
| Siren Package #91453-0A         | Included                       | Included            | X                         | X                            | X                         | X                              |
| Saddle Bags                     | Included                       | Included            | X                         | X                            | X                         | X                              |
| Heated Grips                    | Included                       | Included            | X                         | X                            | X                         | X                              |
| Tach                            | \$492.00                       | Included            | X                         | X                            | X                         | X                              |
| Fuel Tuner w/ Air Cleaner       | \$955.90                       | \$680               | X                         | X                            | X                         | X                              |
| Tourpack System #54180-10       | \$1,655.90                     | \$1,040             | X                         | X                            | X                         | X                              |
| <b>Total Price with Options</b> | <b>\$20,264.80</b>             | <b>\$18,626.00</b>  | X                         | X                            | X                         | X                              |

**SUBJECT:** Police Motorcycles Purchase

Page 3

Although four of the companies who were sent bid packages chose not to bid, Staff believes the bid from Sun Harley Davidson is a good, competitive bid.

This recommended purchase meets Council's Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by keeping a highly dependable fleet of police motorcycles on the street and obtaining the best possible price for these vehicles.

Respectfully submitted,

J. Brent McFall  
City Manager





Agenda Memorandum

City Council Meeting  
February 25, 2013



**SUBJECT:** 2013 Intergraph Corporation Software Maintenance Contract

**Prepared By:** Lee Birk, Chief of Police  
Karin Marquez, Communications Supervisor

**Recommended City Council Action**

Authorize payment of \$150,389.38 to Intergraph Corporation for the 2013 Annual Software Maintenance Contract for the integrated Fire and Police Computer Aided Dispatch, Police Records Management System, Fire Records Management System, and mobile computer application systems.

**Summary Statement**

- The City of Westminster purchased an integrated Computer Aided Dispatch (CAD), Police and Fire Records Management Systems (RMS) and the Mobile Computer Applications from Intergraph Corporation in 2000. These systems are relied upon heavily by communications personnel for dispatching police and fire to emergencies and non-emergency events. The programs are utilized by police and fire personnel for entering call data from the public, police and fire offense reports and incident reports. They also provide a tool for field units to receive dispatch data and handle calls in the field.
- On March 19, 2012, City Council approved the Intergraph 2012 Annual Software Maintenance contract and the annual payment of \$141,393.56.
- The 2013 annual payment of \$150,389.38 extends the Intergraph annual maintenance contract through March 31, 2014 for the Police and Fire Departments. The 2013 annual contract payment exceeds the 5% annual cap over 2012, due to the fact that there were some functionality enhancements made to the software in 2012 that increased the software maintenance contract by \$1,926 above and beyond the 5% annual cost increase cap.
- It is critical for these systems to remain operational at all times and that problems with the system are addressed in a timely manner to ensure public safety response to critical incidents and emergencies. The yearly maintenance also provides for upgrades in existing software to ensure that the applications have current functionality as well as any necessary updates or repairs. The Information Technology Department strongly recommends that departments maintain current software applications and software maintenance contracts with their vendors to avoid system problems. The I.T. Department supports the Intergraph Corporation maintenance contract.
- Adequate funds for this expenditure were specifically budgeted in the Police and Fire Department's 2013 General Fund operating budget.

**Expenditure Required:** \$150,389.38

**Source of Funds:** 2013 Police General Fund Operating Budget - \$105,849.38  
2013 Fire General Fund Operating Budget - \$44,540.00

**Policy Issue**

Should the City of Westminster renew the annual software maintenance contract with Intergraph Corporation for the Police and Fire CAD, Police and Fire RMS, and the mobile computer application system?

**Alternative**

Do not pay the annual software maintenance and support. Staff does not recommend this alternative because this action would leave the communication and information technology operations of both the Police and Fire Departments without the support needed to keep the systems operating.

**Background Information**

The Intergraph systems were purchased in 2000 and included a Computer Aided Dispatch (CAD) system, Police and Fire Records Management Systems (RMS), the mobile computer applications and various system interfaces to include Enhanced 911 (E911) and Automatic Vehicle Locating. The system was designed to integrate all applications and components together to allow for a seamless transmission of data and information.

Communications staff input “service events” into a database and in turn, field units are able to receive those service events through their mobile data computers and consequently submit on-line offense reports into the Police RMS. The Police RMS is a repository for police crime reports, arrest data, impounded evidence and stolen property. It allows for the department to generate monthly and annual crime statistics that are required to be reported to the Federal Bureau of Investigations (FBI) via National Incident Based Reporting System (NIBRS) and to the Colorado Bureau of Investigations (CBI).

The City has executed and maintained a maintenance contract with Intergraph Corporation every year since the system was purchased. The annual maintenance contract allows all components of the system to be covered by the Intergraph Corporation. The contract provides for CAD system maintenance 24 hours a day, 365 days a year due to the critical nature of the application.

Support by Intergraph Corporation allows customers several options; the first is to have an immediate response to a problem by calling a telephone service support line that provides software support. The support line is answered by Intergraph Corporation support engineers for product specific technical needs and problems. The second option, generally used for non-emergency requests, is to seek on-line help via a service request. Additionally, the yearly maintenance contract provides for software upgrades, updates and fixes to ensure that the applications have current functionality.

This request supports Council’s Strategic Plan goals of a “Safe and Secure Community” and a “Financially Sustainable City Government Providing Exceptional Services” by maintaining a cost effective Police and Fire RMS, CAD and reporting system. This system assists both the Police and Fire Departments in responding to calls for service quickly and efficiently while maintaining accurate records of such events.

Respectfully submitted,

J. Brent McFall  
City Manager



**Agenda Item 8 G**

**Agenda Memorandum**

City Council Meeting  
February 25, 2013



**SUBJECT:** Second Reading of Councillor’s Bill No. 9 re Supplemental Appropriation for the Lease/Purchase of Golf Course Carts

**Prepared By:** Peggy Boccard, Recreation Services Manager  
Lance Johnson, Director of Golf

**Recommended City Council Action**

Pass Councillor’s Bill No. 9 on second reading appropriating \$484,283 in the Golf Course Fund for the lease purchase of replacement Legacy Ridge Golf Course and The Heritage Golf Course golf carts and utility vehicles.

**Summary Statement**

- On February 11, 2013, City Council approved of the lease/purchase of golf course carts, which will:
  - Fund the lease/purchase and financing costs of a replacement golf cart fleet at Legacy Ridge and The Heritage golf courses;
  - Replace an aging golf cart fleet that requires increased labor and parts to allow the carts to be used as safe rental and service vehicles; and
  - Provide essential vehicles necessary to maintain Guest service, course management, food and beverage service and revenue generation at both of the City’s golf courses.
- The lease/purchase and financing cost is estimated to be \$515,733 over a 4-year lease period, and adequate funding to cover the annual lease payments of \$129,374 is included in the adopted 2013 and 2014 Legacy Ridge and The Heritage Golf Course operating budgets.
- The interest rate will be determined on the date of commitment by the City as defined in the master lease agreement approved by City Council in 2001. The interest rate is projected to be between 2.5% and 3% percent.
- The Councillor’s Bill was passed on first reading on February 11, 2013.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **9**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

---

**A BILL**

**FOR AN ORDINANCE INCREASING THE 2013 BUDGET OF THE GOLF COURSE FUND  
AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2013 ESTIMATED  
REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2013 appropriation for the Golf Course Fund, initially appropriated by Ordinance No. 3655 is hereby increased by \$484,283. This appropriation is due to an increase in the master lease for the Golf Course Fund.

Section 2. The \$484,283 increase in the Golf Course Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 C-E, dated February 11, 2013, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

|                  |                  |
|------------------|------------------|
| Golf Course Fund | <u>\$484,283</u> |
| Total            | <u>\$484,283</u> |

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of February, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of February, 2013.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



Agenda Memorandum

City Council Meeting  
February 25, 2013



**SUBJECT:** Councillor’s Bill No. 10 re Replacement Fire Engine Purchase

**Prepared By:** Bill Work, Deputy Fire Chief  
Tim Burandt, Fire Lieutenant

**Recommended City Council Action**

1. Pass Councillor’s Bill No. 10 on first reading appropriating \$435,393 in the General Capital Outlay Replacement Fund for the lease purchase of the replacement fire engine as outlined.
2. Authorize the City Manager to sign a lease purchase agreement in the amount of \$435,393. Terms of the Lease are: a maximum of 7 years with an approximate finance cost of \$83,318 and a total payback of approximately \$518,711.
3. Based on the recommendation of the City Manager, City Council finds that the public interest would be best served by executing a sole source purchase and sale agreement with Pierce/Front Range Fire Apparatus for the purchase of a Pierce Velocity “Pump Under Cab” fire engine in an amount not to exceed \$560,393 contingent upon passage of Councillor’s Bill No. 10 on second reading and authorize trade-in of the 1998 Pierce engine (#5116) to Front Range Fire Apparatus for the amount of \$25,000.

**Summary Statement**

- Funds have been allocated in the 2013 budget for a \$100,000 down payment for the replacement of a 1998 Pierce Fire Engine (#5116). The lease/purchase and financing cost is estimated to be \$518,711 over a 7-year lease period, and adequate funding to cover the annual lease payments of \$74,102 is included in the Adopted 2013 and 2014 General Capital Outlay Replacement Fund (GCORF) budget. The interest rate will be determined on the date of commitment by the City as defined within the lease agreement. The interest rate is projected between 4.00 and 5.00 percent.
- City Council last reapproved sole vendor status for Pierce Manufacturing, Inc. in 2006 for a five year period. This sole source relationship has existed since 1994. Staff is recommending a one time extension of this relationship due to a favorable experience over the last 19 years. The Fleet Manager, City Purchasing Agent, and the City Manager’s Office support this recommendation.
- The next major fire engine purchase is not scheduled until 2016. At that time the Fire Department is looking at all options, including possible refurbishment of existing apparatus. If a new fire engine is determined to be the best option, a full “bid” process will be followed.
- Formal bids were not requested from other manufacturers. Staff did do a comparative cost analysis of this fire engine design with two other fire departments that recently took delivery of similar units. Staff found this pricing to be competitive and fair.
- Having this sole vendor relationship with Pierce has allowed standardization of several items: stocking spare parts, mechanic training, fire engineer training and operation, trouble shooting, and dealer support. Staff is very pleased with the Pierce fleet.
- Front Range Fire Apparatus has offered a trade-in price of \$25,000 for the 1998 Pierce engine that is being replaced. This trade-in amount is considered competitive.

**Expenditure Required:** Not to exceed \$560,393

**Source of Funds:** \$100,000 down payment - General Capital Outlay Replacement Fund-  
Public Safety Tax (GCORF-PST) Budget  
\$25,000 from trade-in  
\$435,393 Proceeds from Lease Purchase agreement in GCORF

**Policy Issues**

1. Does City Council want to approve an extension of the sole source relationship with Pierce Manufacturing, Inc.?
2. Does City Council want to accept the Pierce Manufacturing, Inc. bid using the sole source status?
3. Does City Council want to approve the trade-in of the 1998 Pierce fire engine to Front Range Fire Apparatus, using the trade-in value to offset the total replacement cost of the new engine?

**Alternatives**

1. City Council could direct staff to go out to bid. Staff does not recommend this alternative for several reasons. Staff has been very pleased with the fire apparatus purchased from Pierce. The true value when comparing fire apparatus is not just the purchase price. Quality of product, the ability to meet the bid specifications, and the value to fleet maintenance and fire department operators to have consistency in the type of product they work on and operate have all been considered. This standardization of fire apparatus has served the City well.
2. City Council could choose to not trade-in the old fire engine. This old fire engine could be sent to auction or marketed in some other fashion for resale. Staff does not believe either of these alternatives will net the City additional value. Trading in the old engine to Front Range Fire Apparatus also puts the burden of brokering the truck and the associated issues connected to that resale on the dealer instead of the City.

**Background Information**

The new fire engine will replace an existing 1998 Pierce engine that is currently being used by the Fire Department in a limited capacity as a reserve unit. Justification for replacing this fire engine includes the following:

- Engine has over 10,624 run time hours.
- Mileage is approximately 135,000 miles.
- Engine is 15 years old and does not incorporate the latest safety features and design capabilities. These missing features include independent front suspension with disc brakes, roll-over protection, frontal air bags, multiplexed electrical systems, reflective striping, and the effectiveness of the "Pump Under Cab" design.

The new fire engine is expected to be placed into service at Fire Station Four. The current Engine Four (#5119) will move into reserve status.

Pump Under Cab (PUC) Design:

The City purchased Pierce Velocity PUC fire engines in 2008, 2010 and a 105' Aerial Ladder Truck with this PUC design in 2011. This "pump under cab" design is the latest technology change that Pierce has developed to address concerns from the fire service. Basically, this new design eliminates the transfer case between the motor and the pump. This change shortens the power train/pump spacing needs. The result is that the pump is now accessed almost as easily as the motor, making it more efficient and safer for the mechanics. This design also allows the fire engine to be on a shorter wheelbase and allows the cabinet space to increase. The shorter wheelbase allows for greater maneuverability within the neighborhoods that have tighter streets. Staff from the City's Fleet Maintenance and Fire Department have embraced this technology and have been very pleased with the performance with the existing apparatus utilizing the design.

Cost Savings:

Staff has reviewed a number of options in order to reduce the cost of this fire engine. It should be noted that the cost of the 2010 Pierce Velocity PUC fire engine was \$576,416 before trade-in of the replaced apparatus. This requested purchase is for an amount of \$560,393 before trade-in. This may not seem like a huge amount of savings, but when adding in the inflationary costs, the cost that are now occurring with all new diesel motor purchases, the cost of new National Fire Protection Association (NFPA) requirements, there are at least \$50,000 worth of additional charges now that did not exist in 2010. Staff has found over \$65,000 in cost reductions. Some of these cost reductions resulted in:

- Reduced storage capacity and overall truck height
- Reduced generator capacity
- No compressed air foam system (CAFS)
- Eliminated the hydraulic hose reel and hose for extrication equipment
- Reduced the number of staff for inspection trips
- Eliminated on-site foam training
- Changes in pump valving, LED lighting, and other slight modifications

Pierce is reducing the original price quote of \$564,393 by a \$4,000 deduction for the \$100,000 down payment at time of the signed contract.

Price Comparisons:

Staff conducted price comparisons with three other fire departments that have recently purchased a similarly designed PUC fire engine from Pierce. The proposed Westminster 2013 Velocity PUC fire engine is also illustrated for comparison. Staff did take out and add option pricing for all of these units so that the comparative costs would be an equally equipped comparison. Specific breakdown of these various price comparisons can be supplied by staff if so desired.

|                      |                      |                      |                     |
|----------------------|----------------------|----------------------|---------------------|
| 2013 Westminster PUC | 2010 Westminster PUC | 2013 South Metro PUC | 2013 Olathe, KS PUC |
| \$560,393            | \$576,416            | \$564,269            | \$563,218           |

Delivery Time:

Fourth Quarter of 2013.

Specification and Dealer Evaluations:

Staff has been pleased with the facilities at Front Range Fire Apparatus as well as their ability to do warranty work and to provide support such as parts replacement. Previous evaluation revealed that Pierce had the fewest exceptions and concerns in terms of meeting the City’s specifications.

Engineering:

- Pierce is ISO 9001 certified. This type of certification is highly regarded in terms of assuring quality and attention to detail in all aspects of the manufacturing process.
- The independent front suspension, which provides better driver control and operation, is a third party add-on for most other manufacturers.
- The electrical multi-plexing is an engineering feature that has greatly reduced maintenance issues in correcting electrical problems. The City’s fleet maintenance personnel highly endorse this product. Pierce has had this type of electrical system design for seven years. The multi-plexing specified by the other manufacturers is a third party add-on that is relatively new to the industry and has a limited track record in terms of adequately assessing reliability.

Warranty:

After sale warranty and service are very important considerations that have been evaluated. Front Range Fire Apparatus and Pierce Manufacturing have received high ratings and customer satisfaction. The City of Westminster Fire Department would rate its experience with Front Range Fire Apparatus and Pierce as excellent. There have been several complex repair issues over the last several years with the Pierce engines that were handled in a very expedient and professional manner by the dealer and manufacturer. One example involved a major motor problem with a unit purchased in 2004. Altitude issues required some major engineering and re-fabrication to upsize the turbo and still get the motor to fit within the cab. Pierce returned the fire engine back to the factory and corrected the problem satisfactorily. While the truck was out of service, Pierce provided a loaner fire engine in order to not compromise emergency services. This type of response to a problem is just one reason why staff has been very satisfied with the Pierce product.

Sole Source Status:

The City has a history of sole source status with Pierce Manufacturing, Inc. The City has been buying Pierce fire apparatus since 1988. Sole source status has been established with Pierce since 1996. The most recent renewal of this sole source relationship was approved in May of 2006 for a five year period. The Pierce product can tend to be more expensive than their competitors, but buyers realize a higher quality product that has an excellent reputation in terms of quality, reliability, engineering, customer service and satisfaction. Sole source status continues to provide several direct benefits for the City. Having fire apparatus from a sole source vendor has allowed the City to stock a number of Pierce parts. Having these parts in stock at Fleet Maintenance allows for faster turn around time on a number of repairs. The City’s Fleet Division has endorsed sole source status for Pierce Manufacturing. Fleet Maintenance has invested considerable time and money in the hardware and software needed to perform diagnostic testing and in the training of the mechanics to use this diagnostic and repair equipment. Fire Department operators/drivers also benefit by having like apparatus to work with. Driving, handling, pump operation and routine maintenance have all been improved by not having to deal with a variety of design and quality in the apparatus.

Trade-In:

Front Range has offered a trade-in price of \$25,000. The buyer accepts the terms that delivery of the trade-in would not occur until the delivery of the new engine. This trade-in value is felt to be fair and significantly more than what sending the fire engine to auction would bring. It should be noted that the trade-in is the last of the “green” fire trucks.

Lease-Purchase:

The lease/purchase financing cost is estimated to be \$83,318 over a maximum 7-year lease period, and adequate funding to cover the estimated annual lease payments of \$74,102 is included in the Adopted 2013 and 2014 General Capital Outlay Replacement Fund (GCORF) budget. The current interest rate projection is between 4.00 and 5.00 percent; however, the final rate and associated annual total lease payments will not be determined until a lease purchases agreement is finalized later this year (upon delivery of the replacement truck). Staff will evaluate the feasibility to shorten the lease period to be less than 7 years if the annual budgeted funding level accommodates such action and the master lease terms work accordingly.

This appropriation will amend General Capital Outlay Replacement Fund revenue and expense accounts as follows:

**REVENUES**

| <b>Description</b>       | <b>Account Number</b> | <b>Current Budget</b> | <b>Amendment</b> | <b>Revised Budget</b> |
|--------------------------|-----------------------|-----------------------|------------------|-----------------------|
| Lease Proceeds           | 4500.46005.0000       | \$0                   | \$435,393        | \$435,393             |
| Total Change to Revenues |                       |                       | <u>\$435,393</u> |                       |



**EXPENSES**

| <b>Description</b>       | <b>Account Number</b>  | <b>Current Budget</b> | <b>Amendment</b> | <b>Revised Budget</b> |
|--------------------------|------------------------|-----------------------|------------------|-----------------------|
| Capital Outlay – PST     | 80645010911.80400.8888 | \$0                   | \$435,393        | \$435,393             |
| Total Change to Expenses |                        |                       | <u>\$435,393</u> |                       |

Strategic Plan Goals:

This project helps to meet two of the goals in the City’s Strategic Plan. Safe and Secure Community is fostered by helping to create a better equipped Fire Department with reliable apparatus. Financially Sustainable City Government Providing Exceptional Services is fostered by effective cost containment/control measures from living within budget and finding cost savings.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **10**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

---

**A BILL  
FOR AN ORDINANCE INCREASING THE 2013 BUDGET OF THE GENERAL CAPITAL  
OUTLAY REPLACEMENT FUND AND AUTHORIZING A SUPPLEMENTAL  
APPROPRIATION FROM THE 2013 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2013 appropriation for the General Capital Outlay Replacement Fund, initially appropriated by Ordinance No. 3655 is hereby increased by \$435,393. This appropriation is due to an increase in the master lease for the General Capital Outlay Replacement Fund.

Section 2. The \$435,393 increase in the General Capital Outlay Replacement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 A-C, dated February 25, 2013, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

|   |                  |
|---|------------------|
| General Capital Outlay Replacement Fund | <u>\$435,393</u> |
| Total                                   | <u>\$435,393</u> |

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of February, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 18<sup>th</sup> day of March, 2013.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**Agenda Memorandum**

City Council Meeting  
February 25, 2013



**SUBJECT:** Continued Public Hearing and Action on the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision

**Prepared By:** Terri Hamilton, Planner III

**Recommended City Council Action**

1. Reopen the continued public hearing from November 12, 2012.
2. Approve the Second Amended Preliminary Development Plan for the Hyland Village Subdivision with the condition that the appropriate Home Owners Association documents have been revised to the satisfaction of City staff prior to issuance of the first building permit for this property. The Home Owners Association documents will need to reflect an agreement that a rental project will pay equal dues to those that would pertain to a for sale/condominium project. This recommendation is based on a finding that the proposed change to allow a rental multi-family use meets the criteria set forth in Westminster Municipal Code Section 11-5-14.
3. Approve the Eighth Amended Official Development Plan for the Hyland Village Subdivision with the condition that the appropriate Home Owners Association documents have been revised to the satisfaction of City staff prior to issuance of the first building permit for this property. The Home Owners Association documents will need to reflect agreement that a rental project will pay equal dues to those that would pertain to a for sale/condominium project. This recommendation is based on a finding that the proposed change to allow a rental multi-family use meets the criteria set forth in Westminster Municipal Code Section 11-5-15.

**Summary Statement**

- On November 12, 2012, City Council re-opened the October 10, 2011, continued public hearing on these items. The items were further continued to February 25, 2013, in order for the applicant to have additional time to address questions regarding financial impacts of the proposed Preliminary Development Plan (PDP)/Official Development Plan (ODP) amendments to the Home Owners Association (HOA).
- The 71-acre Hyland Village Subdivision is located at the southwest corner of 98<sup>th</sup> Avenue and Sheridan Boulevard. The subdivision consists of parcels for mixed-use, multi-family, townhome, single-family detached, and public land dedication/open space. Existing construction consists of 12 townhome units and 4 single-family homes.
- A 5-acre undeveloped multi-family parcel is located within the interior of the subdivision at the northeast corner of 96<sup>th</sup> Avenue and Ames Street.

- The multi-family parcel is designated for approximately 150 dwelling units and is currently restricted to a development marketed to individual buyers (condominiums).
- The proposed Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan would allow the use of the 5-acre multi-family parcel to be marketed to individual buyers (condominiums) or as a rental project (apartments).
- Staff is recommending approval of the proposed change to these development plans for the following reasons:
  - 1) The owner of the land requesting the addition of multi-family rental use to the list of permitted uses has agreed to assume responsibility for assessments (dues) equal to what a condominium project would have otherwise paid. The 0.5% recreational facility fund fee will apply, with initial collection at a future time if the developed project is sold after completion. This agreement will be reflected in appropriate Home Owners Association documents.
  - 2) In addition to the above, the owner of the land requesting the addition of multi-family rental to the list of permitted uses has also agreed to other HOA stipulations regarding voting rights, builder rights and annexation into the HOA.
  - 3) Future residents of the multi-family site would be entitled to use the community pool and clubhouse as intended by the existing approved PDP and ODP.

**Expenditure Required:** \$0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

This request was heard by the Planning Commission on September 27, 2011. Six people spoke at the public hearing: two consultants representing Provident (West Hyland Holdings) and the Pappageorge, Hintz and Minnick property owners spoke in favor of the request - one noting that, for comparison, the Bradburn subdivision has apartments that look good. Four residents of the subdivision spoke against the association impacts and issues; and one person was neutral about the project, but also concerned about Home Owners Association impacts.

The Planning Commission voted 5-2 to approve the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision, with Commissioners Mayo, Colling, McConnell, Boschert and Carpenter voting for approval. Commissioners Anderson and McClung voted against the amendment stating that:

- The City has several apartment complexes contemplated or that could break ground next year but does not have a variety of options for condominiums.
- There are more options for rental apartments up and down Sheridan Boulevard close to this site but not condominiums or townhouses.
- They are not ready to concede that condominiums or future condominium projects should be converted to apartment complexes.
- One of the great advantages of this site was to have owner-occupied residences throughout the site, and that was of interest to the Planning Commission and the City when the project was approved in 2007.
- They did not want to set a precedent for changing a condominium project to apartments.
- We owe the residents who live there the certainty of what will happen.

### **Policy Issue**

Should the City Council approve the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision, allowing the multi-family parcel the option to be developed as apartments?

### **Alternatives**

1. Affirm the recommendation of the Planning Commission to approve the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision without the proposed condition of approval. City staff does not support this alternative because subsequent to the Planning Commission meeting (when staff initially supported the request) staff was informed that a rental product would not provide the same financial contribution to the Home Owners Association. The change in land use could then create a significant financial impact to the Home Owners Association and its viability, create a potential adverse influence for the development, and create a potential adverse impact upon future development by negatively impacting HOA revenue that could then lead to deteriorating common amenities which are required by the zoning for the property. Therefore, this alternative does not meet all of the criteria set forth in Westminster Municipal Code Section 11-5-4 and 11-5-15. The proposed condition regarding dues addresses this concern.
2. Approve the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision with the following conditions:
  - That the appropriate Home Owners Association documents have been revised to reflect assessments for a rental project equal to that of an ownership project, and

- That the appropriate HOA documents have been revised to reflect collection of the 0.5% recreation facility fund fee for the fair market value of the entire constructed rental project to be collected at time of completion of the project from the property owner and prior to release of surety by the City, and
- That the revised HOA documents will need to meet the satisfaction of City staff prior to issuance of the first building permit for this property.

This recommendation with conditions noted would be based on a finding that the proposed change to allow rental multi-family use meets the criteria set forth in Westminster Municipal Code Sections 11-5-14 and 11-5-15.

City Staff supports this alternative recommendation if the City Council wants to ensure that the HOA receives the initial recreation facility fund fee at an established time that City staff can enforce, otherwise the collection of this fee will not occur until sale of the developed rental project – the timing of such sale is unknown. However, staff does not support this alternative overall, as it does not reflect the agreement between developer and current HOA declarant, and pushes the City very deep into HOA administration. The City generally does not get involved at this level.

3. Deny the Second Amended Preliminary Development Plan and Eighth Amended Official Development Plan for Hyland Village Subdivision. A recommendation of denial supports the original intent of this Planned Unit Development (PUD) - to provide a variety of housing options within the subdivision marketed to individual buyers, not as rental projects. There are existing apartments in the vicinity of Hyland Village, but fewer condominiums. A recommendation of denial can also be based on the financial impact of a rental project regarding the uncertainty in the initial timing of collection of the recreation facility fund fee. The first collection of this fee for a rental project would not occur until a completed rental project is sold. This postpones the first collection of this fee until the developed rental project is sold at an unknown future time. (With an ownership/condominium project this fee would be collected upon the sale of each for-sale unit.)

This recommendation would be based on a finding that the proposed change to allow rental multi-family does not meet the criteria set forth in Westminster Municipal Code Section 11-5-14 and 11-5-15.

City Staff does not support this alternative due to a general decline in the construction of new condominium type housing. The demand of rental housing has been increasing as rental housing offers greater flexibility in mobility needed for many employment opportunities, as well as a housing option that does not require bank financing by individuals. Vacancy rates are generally low for rental housing and rents are generally increasing.

## **Background Information**

### Nature of Request

The applicant is requesting the option of constructing a rental apartment project on the existing multi-family parcel that is currently restricted to be marketed and sold to individual buyers. The adjacent undeveloped village green parcel, under the same ownership, is not proposed to be altered. Future residents of the multi-family parcel will use the future pool and community building as indicated with the existing PDP and ODP.

Location

The multi-family parcel, platted as Lot 1 Block 9, is approximately a 5-acre parcel located in the interior of the subdivision at the northeast corner of 96<sup>th</sup> Avenue and Ames Street. The village green parcel, platted at Tract SS, is surrounded on three sides by the multi-family parcel. (See Attachment A - Vicinity Map).

There are sixteen completed dwelling units within Hyland Village - four single-family homes and two six-plex row houses. Other owners of undeveloped lots within the subdivision are indicated on the attached ownership map. (See Attachment B - Ownership Map)

Public Notification

Because the November 12, 2012, public hearing was opened and continued to a date certain (February 25, 2013), no published notice, property posting or written notice for the February 25 public hearing is required. This was stated at the November 12 public hearing to clarify any question there might be regarding expectations of public notification.

Applicant/Property Owner

1225 Prospect, LLC  
5723 Arapahoe Avenue #2B  
Boulder, Colorado 80303  
Contact: Michael Markel, Manager

Surrounding Land Use and Comprehensive Land Use Plan Designations

| <b>Development Name</b>                                      | <b>Zoning</b> | <b>CLUP Designation</b>                        | <b>Use</b>       |
|--|---------------|--|------------------|
| North: Future Townhomes - Hyland Village                     | PUD           | Traditional Mixed-Use Neighborhood Development | Primarily Vacant |
| South: Future Townhomes - Hyland Village                     | PUD           | Traditional Mixed-Use Neighborhood Development | Vacant           |
| East: Future Mixed Use – Hyland Village                      | PUD           | Traditional Mixed-Use Neighborhood Development | Vacant           |
| West: Future Single-Family and Private Park - Hyland Village | PUD           | Traditional Mixed-Use Neighborhood Development | Primarily Vacant |

Site Plan Information

Site Design: The multi-family parcel is in the interior of the Hyland Village Subdivision and is surrounded by public streets. The design of the multi-family parcel will occur with a future amendment to the Hyland Village ODP and will address site design, traffic and transportation, landscape design, architecture, signage and lighting. The specific design details of the project will be evaluated for compatibility with the surrounding existing or future development, function, and quality, regardless if the project is for ownership or rental of units. The City has design guidelines for Traditional Mixed Use Neighborhood Development (TMUND) projects and multi-family development that are used during the review of a specific proposal. The maximum allowable density on this parcel would not change if apartments are allowed.

Public Land Dedication/School Land Dedication: The required public land dedication for Hyland Village has previously occurred, with the City owning open space parcels at the northeast and southeast and south portions of the subdivision. A cash-in-lieu payment for school land dedication has also been completed. These dedications or payments are not affected by the ownership or rental of the multi-family units.

Council Goals and Objectives

The Hyland Village subdivision supports the Goal and Objectives of providing Vibrant Neighborhoods in One Livable Community. Examples of this are to maintain and improve neighborhood infrastructure and housing, have HOAs and residents taking responsibility for neighborhood private infrastructure, and have a range of quality homes for all stages of life (type, price) throughout the City.

The subdivision also supports the Goal and Objectives of providing a Beautiful and Environmentally Sensitive City. Examples of this are to increase and maintain green space (parks, open space, etc.) consistent with defined goals and to preserve vistas and view corridors.

Service Commitment Category

Service Commitments have been previously awarded and will not be impacted with the Second Amended PDP or Eighth Amended ODP. However, Service Commitments for this project expire May 23, 2013. The landowners are likely to request an extension of the Service Commitment Award for this project in the next several months, prior to their expiration.

Referral Agency Responses

Not applicable

Neighborhood Meetings and Public Comments

Four neighborhood meetings have been held regarding this proposal. The first meeting was held Monday, August 8, 2011 (prior to the September 27, 2011, Planning Commission meeting). There were eleven attendees. Questions from the attendees were varied. There was both support and lack of support for the request. Notes by the City Planner documented questions and responses from that meeting. (Attachment C – Meeting Notes and Emails). Also, several emails were sent to the City Planner, also attached to this memorandum. For those who did not support this request, concerns and questions generally were as follows:

- Rental property would negatively affect the value of homes
- The maintenance and architectural quality of rental property is lower than an ownership property
- Questions regarding impact to the Home Owners Association (primarily financial impact)
  - The collection of a per unit “recreation” fee at closing (McStain did this)
  - A reduction of Home Owners Association fees generated from the apartment project
  - Access of apartment residents to the future pool/clubhouse

A second neighborhood meeting was held on April 4, 2012, after the October 10, 2011 City Council meeting was continued. There were eight attendees. The applicants representatives explained that they had reached a financial agreement with Provident, the landowner, who has the fiduciary role with the HOA until the HOA is turned over to residents for their management. Again, there was a mixed reaction from attendees with the general reaction from attendees as negative. Concerns were similar to the August neighborhood meeting. Some attendees felt that Provident, in their fiduciary duty which allows them to manage the HOA until turned over to the residents, may not necessarily represent the existing sixteen home owners’ best interests. There was also interest in reviewing the financial agreement.

Prior to the November 12, 2012 City Council meeting, the applicant also met on several occasions with various home owners in meetings without City staff in attendance. At that time, the applicant believed that the majority of home owners were satisfied and would no longer oppose their proposal. However, when homeowners were requested by City staff to express their opinions, there were only seven responses, which were still mixed, and generally not supportive. (Attachment D – June 2012 Emails)



Subsequent to the November 12, 2012, City Council meeting and continued public hearing on this request, the applicant held two neighborhood meetings: December 11, 2012, and January 17, 2013. There were four attendees at the December meeting and ten attendees at the January meeting. At the December meeting there was dialog regarding impacts of a rental project on Home Owners Association assessments, the recreation facility fund fee, voting, etc. The applicant indicated a second neighborhood meeting would be held so the representatives could respond to concerns. At the January meeting, the applicant representatives indicated that they were going to agree to pay full assessments/dues and recreation facility fund fees regardless of the land use (rental or ownership). The applicant also agreed to limit the voting right, if a rental project, to not exceed 35% of currently annexed HOA units so as to not be a “super majority vote” in the HOA. (Attachment E - New Hyland Village HOA Agreement)

At the January 17 meeting, staff observed that most attendees appeared to be satisfied that financial impacts of a rental project were addressed. However, there have been a number of emails since the meeting regarding follow-up questions and clarification of the timing of collection of the recreation facility fund fee. The neighborhood reaction to the potential negative financial impact of the project appears to be improved, with a commitment to equal assessments regardless of land use. (Attachment F - January/February 2013 Emails)

The City Planner who attended these meetings observed that some attendees remain opposed to the proposed land use change. There were residents who believe that a rental project will negatively impact their neighborhood. They would like the City and the property owner to wait for development of a condominium project, if necessary, and not change the intent of the development as originally approved and anticipated by them when they purchased their homes.

#### Homeowners Association (HOA) Information: Recreation Facility Fund Fee

At the Planning Commission, City Council, and neighborhood meetings, there have been concerns and questions from residents regarding impacts of the land use and HOA impacts regarding finances, voting, etc. Staff is not fully knowledgeable or expert in these private agreements and has, therefore, requested that the applicant address specific questions and details with residents. The applicant has also worked closely with Provident, the landowner and entity with the current controlling fiduciary interest in the HOA. The applicant representatives have been working with Provident to amend HOA documents in order to eliminate or reduce financial impact of their land use request.

The recreation facility fund fee, often referred to as the 0.5 % “transfer fee,” is a fee in the amount of one-half of one percent of the Fair Market Value of a residence and is collected at the closing on each transfer of a residence (other than some exempt transfers identified in HOA documents). The fee is paid by the purchaser (unless agreed otherwise per HOA documents). This fee is deposited into a separate Association account and is to be used only for the following:

- Construction, operation, maintenance and repair of the recreation facility for the Community;
- The reimbursement to a developer or other third party for costs they incur in constructing such facility;
- Following construction of such facility the maintenance, improvement and repair of the facility or the construction, operation, repair or replacement of other common amenities in the Community.
- Any other purposes approved by a vote of not less than 2/3 of all of the outstanding votes in the Community.

It appears that the recreation facility fund fee is not a one-time only fee, but also applies at the time of future transfers of residences. Each time a residential unit is sold, and whenever the entire rental project is sold, the fee is collected for use by the HOA. If the multi-family site is developed as a condominium project, each time a condo is sold the recreation facility fund fee is collected. If the multi-family site is developed as a rental project, each time the entire rental project is sold the recreation fund fee is collected.

Municipal Code Criteria***Preliminary Development Plan (PDP) Amendment Application***

Section 11-5-14(A) sets forth the Standards for Approval of Planned Unit Development, Preliminary Development Plans and Amendments to Preliminary Development Plans. Staff is of the opinion that the conditional approval of the proposed amendment to the Hyland Village Preliminary Development Plan meets the following criteria:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies. *This criterion remains unchanged and in effect with the proposed amendment.*
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles. *This criterion remains unchanged and in effect with the proposed amendment.*
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan. *This criterion remains unchanged and in effect with the proposed amendment.*
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area. *A rental project option is compatible within the approved multi-family land use for ownership.*
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development. *This criterion is met with the conditional approval implementing the applicant's agreement regarding keeping the assessments equal between rental units or condo units and implementation of the recreation facility fund fees upon future sale of the rental project. This agreement significantly reduces financial impact on the HOA related to a rental project.*
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area. *This criterion is met with the conditional approval implementing the applicant's agreement regarding keeping assessments equal between rental units or condo units and implementation of the recreation facility fund fees upon future sale of the rental project. This agreement significantly reduces financial impact related to a rental project. (Attachment E explains the agreement).*
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic. *This criterion remains unchanged and in effect with the proposed amendment.*
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City. *This criterion remains unchanged and in effect with the proposed amendment.*
9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans. *This criterion remains unchanged and in effect with the proposed amendment.*
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15. *This criterion remains unchanged and in effect with the proposed amendment.*
11. The applicant is not in default or does not have any outstanding obligations to the City. *The applicant does not have any known default or outstanding obligations to the City.*

Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

***Official Development Plan (ODP) Application***

11-5-15(A) Sets forth the Standards for Approval of Official Development Plans and Amendments to Official Development Plans. Staff is of the opinion that the conditional approval of the proposed amendment to the Hyland Village Official Development Plan satisfies all of the following criteria:

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies. *This criterion remains unchanged and in effect with the proposed amendment.*
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD). *With approval of the amended PDP, this criterion is met.*
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles. *This criterion remains unchanged and in effect with the proposed amendment.*
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan. *This criterion remains unchanged and in effect with the proposed amendment.*
5. The plan is compatible and harmonious with existing public and private development in the surrounding area. *Staff believes that a rental project option is compatible within the approved multi-family land use for ownership.*
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development. *Staff believes that this criterion is met with the conditional approval implementing the applicant's agreement regarding keeping assessments equal between rental units or condo units and implementation of the recreation facility fund fees upon future sale of the rental project. This agreement significantly reduces financial impact on the HOA related to a rental project.*
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area. *Staff believes that this criterion is met with the conditional approval implementing the applicant's agreement regarding keeping assessments equal between rental units or condo units and implementation of the recreation facility fund fees upon future sale of the rental project. This agreement significantly reduces financial impact on the HOA related to a rental project.*
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features. *This criterion remains unchanged and in effect with the proposed amendment.*
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice. *This criterion remains unchanged and in effect with the proposed amendment.*
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials. *This criterion remains unchanged and in effect with the proposed amendment.*
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development. *This criterion remains unchanged and in effect with the proposed amendment.*
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate. *This criterion remains unchanged and in effect with the proposed amendment.*

13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity. *This criterion remains unchanged and in effect with the proposed amendment.*
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic. *This criterion remains unchanged and in effect with the proposed amendment.*
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic. *This criterion remains unchanged and in effect with the proposed amendment.*
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans. *This criterion remains unchanged and in effect with the proposed amendment.*
17. The applicant is not in default or does not have any outstanding obligations to the City. *The applicant does not have any known default or outstanding obligations to the City.*

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

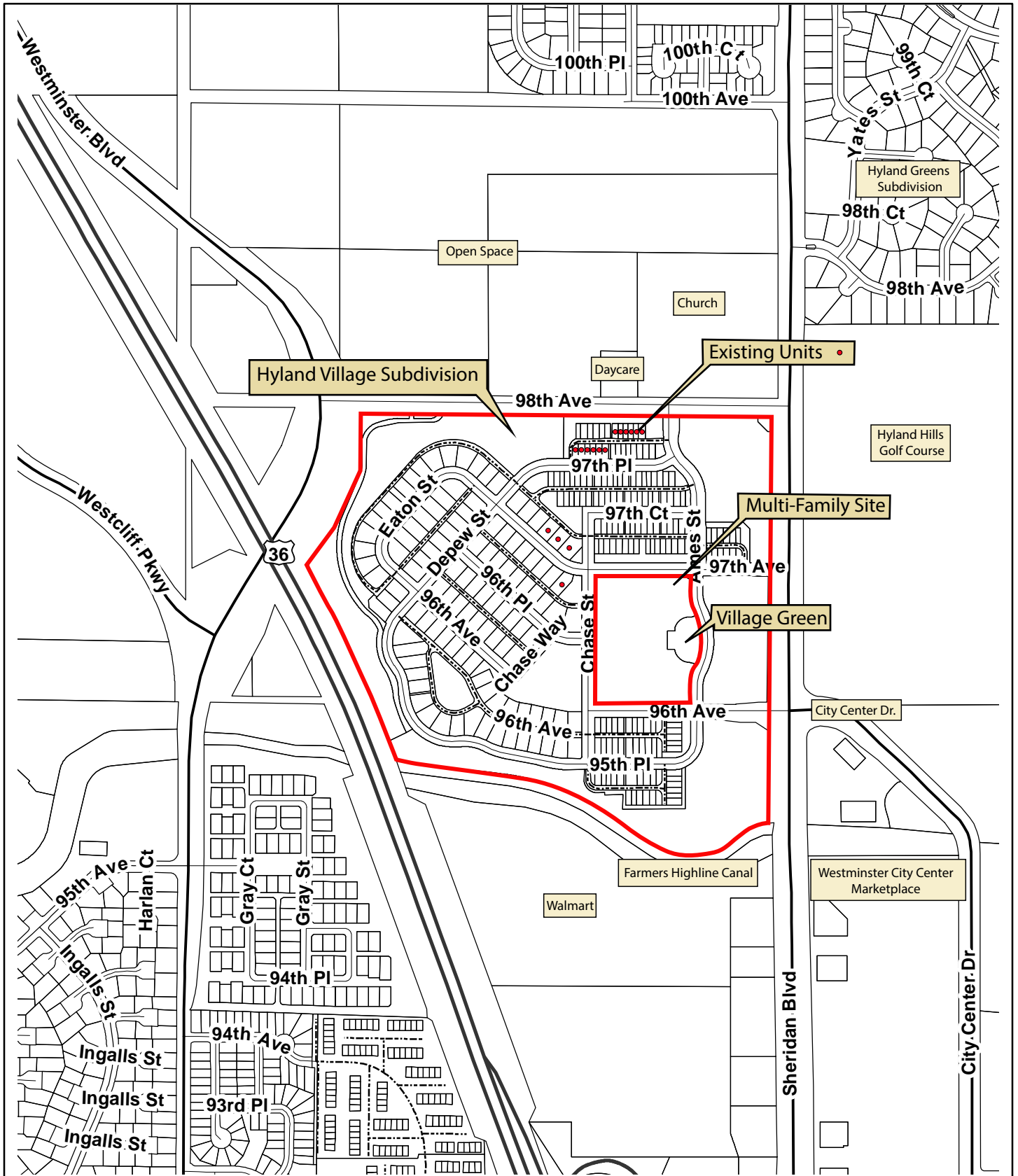
Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Attachment A (Hyland Village Map)
- Attachment B (Ownership Map)
- Attachment C (August 2011 Neighborhood Meeting Notes and Emails)
- Attachment D (June 2012 Emails)
- Attachment E (New Hyland Village HOA Agreement)
- Attachment F (2013 Emails)
- Attachment G (Criteria and Standards for Land Use Applications)
- Attachments H & I (The Hyland Village PDP/ODP – full size plans are available for review in the City Clerk’s Office.)

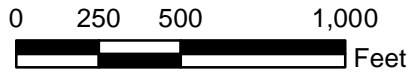
# Hyland Village Map



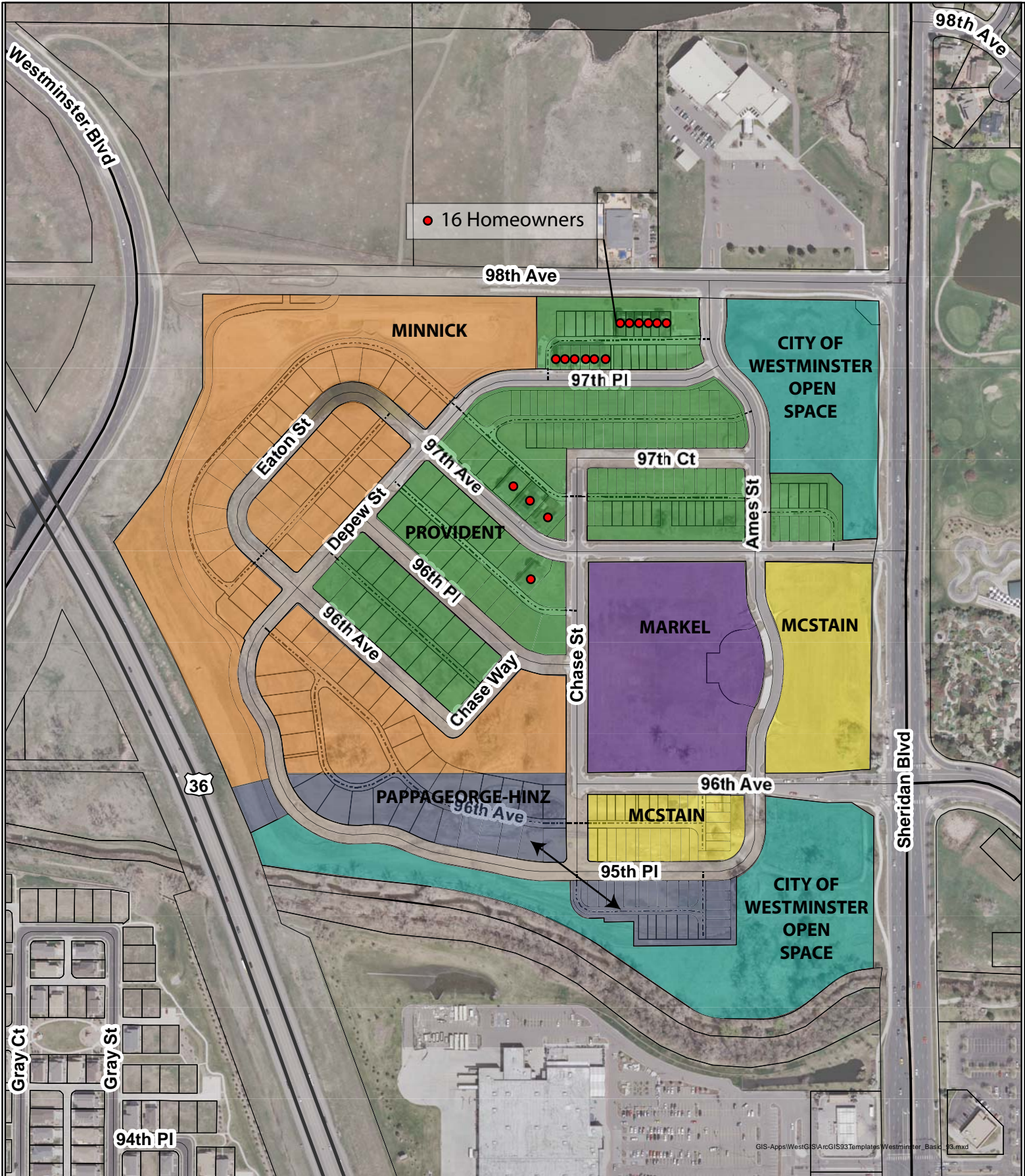
GIS-Apps\WestGIS\ArcGIS93\Templates\Westminster\_Basic\_93.mxd



City of Westminster







City of Westminister



GIS-Apps\WestGIS\ArcGIS33\Templates\Westminister\_Basic\_93.mxd

Meeting Notes Hyland Village Neighborhood meeting 8/8/11, 6:30-8 P.M.

Questions/answers

- How would apartments affect the HOA? (Markel: apartment project might not want to be included in the HOA, not certain.)
- How many apartments are planned to occur with the redevelopment of the Westminster Mall? (Terri: I don't know the answer to that.)
- Will apartments here complete with apartments at the Westminster Mall? (Markel: depends on who builds and owns the project.)
- Can apartments be converted to condos in the future? (Markel: possibly at a later date but would be an up-scale project either way. Terri: unknown, the project developer might have to pre-determine that with building construction.)
- Could these apartments be low-income? (Markel: unlikely to happen with desire to build the higher number of units which would likely result in parking under the building as well as surface parking and also elevators. Markel had done preliminary site planning and thought this would be the probable approach. Terri: City wouldn't regulate the rental price but would be looking at the aesthetics of the project- quality of building materials, landscaping, layout...If the project does involve a level of parking below the units and elevators, and with the four story limit it may result in a higher cost project.)
- Couldn't the developer build fewer and cheaper units? (Markel: Very unlikely to occur given the cost he plans to sell the property for. Terri: Fewer units than 150 could be constructed. The City will be evaluating any project rental or otherwise for a quality development.)
- Concern that property values would be negatively affected by apartments versus condos. (Markel: No interest in condos from a developer. Very hard to finance or he would build a condo project. Apartments would likely be up-scale. Westminster uses criteria in project review that results in quality development.)
- Comment that it's hard to support the change to rental without an actual project as part of the proposal. (Markel: although we have a party that is very interested in purchasing and developing this site we didn't think it was appropriate to show examples of the type of development that may occur because it isn't for certain.)
- Comment that "apartments in Westminster don't wear well." (Terri: That perception is a concern- one we don't want. The City works to get quality development with quality building materials etc.)
- Is this project (Hyland Village) similar to Bradburn? (Terri: Bradburn does have a variety in housing types including a significant number of apartments, townhomes, and single family....the vision for Hyland Village includes a one-sided "Main Street with commercial uses" along Ames Street with the village green on the west side of Ames as part of the MF development, and the variety of residential like Bradburn of single family, townhome and multi-family.)

Hamilton, Terri

---

**From:** Hamilton, Terri  
**Sent:** Monday, August 08, 2011 1:47 PM  
**To:** 'Amy Shoemaker'  
**Subject:** RE: Hyland Village Subdivision

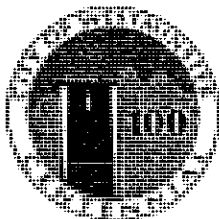
Hi Amy,

I have your email. Thanks for responding. Your comments will be taken into consideration.

I'm sorry to hear of the mis-information you received when you purchased your townhome. Feel free to call me if you ever have questions about what is, or might be going on in the future, in your neighborhood. I'm very familiar with this project/neighborhood.

This project will go to Planning Commission and City Council and if you like, or are available, you are welcome to attend and speak directly to them also. You'll get notice of when these meetings get scheduled. Thanks again for your response!

Terri



*Terri Hamilton, Planner III  
 303-658-2096  
 thamilto@cityofwestminster.us  
 Starting 8/2/10 City Hall new business hours M-Thurs. 7-6 (closed Fridays)*

---

**From:** Amy Shoemaker [mailto:ashoemak@kcoe.com]  
**Sent:** Thursday, August 04, 2011 5:03 PM  
**To:** Hamilton, Terri  
**Subject:** Hyland Village Subdivision

Hi Terri

Thank you for sharing the Development Plan for the Hyland Village Subdivision and for your willingness to hear our feedback.

I bought the last townhouse at 5471 W. 97<sup>th</sup> Place on June 6, 2011. I made an offer on the townhouse on March 11, 2011. When I made the offer, I was told that formal development plans were being revised and were not available for my review. However I was assured that the lot north of our townhome would either be used for the community center or 2 story town homes and that no future construction would block our view of the mountains. I was considering several townhomes and the mountain-view was an important priority in selecting this townhome.



You can imagine my surprise and disappointment to receive the ODP 5 weeks after closing on July 19<sup>th</sup> showing that a 4 story townhome would be built on that property and my mountain-view will now be my neighbors' garage, kitchen, and bathroom. I have heard from several sources that the builder wasn't going to build a lot more townhomes because they cost more to build than they sold for and they made more money from the single-family homes.

I'm trying to offer a win-win solution that would allow the builder to maximize their profitability while still honoring the promise they made to me when I bought the house. I would propose that we move the club house to the area north and west of the current townhomes. It would provide access to a main road if residents want to entertain guests at the club house. It would also free up land where they could build another single-family home or two in the current location – which should be more profitable for them and maintain our mountain-view. They could also use that area for parking for the townhome owners. The residents currently use the parking lots north of our building and south of the other townhouse building for their vehicles and guests. The loss of parking would require the residents to park in the street, which might be in violation of your city ordinances regarding street access for fire trucks.

I also have concerns about offering rental properties in our neighborhood and the impact that would have on the resale value of our homes. We have taken a chance and made an investment in a partially completed subdivision. I hope the builders will respect the trust and faith we put in them when we purchased our homes and collaborate with us to develop a plan that maximizes their profit while maintaining our standard of living.

I'm sorry that I have a conflicting meeting and won't be able to attend the meeting on August 8<sup>th</sup>. I appreciate you reading my feedback and considering it, along with the feedback you receive at the meeting.

Please call or email me if you have questions or wish to discuss any of the items in this email.

Thanks again for your time to read my feedback,  
Amy

 KENNEDY AND COE, LLC

Amy L. Shoemaker, PHR, Certified Master Coach  
Director, People Growth Strategies  
Denver: (303) 993-2364  
Loveland: (970)685-3415

 <http://www.facebook.com/kcoe.careers>

---

----- IRS CIRCULAR 230 NOTICE -----

IRS Circular 230 regulates written tax communications between tax advisors and clients. In compliance with these IRS requirements, we are required to inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties imposed by any governmental taxing authority or agency. If you would like us to provide written tax advice to protect against penalties, please contact us.

In addition, any tax advice contained in this communication (including any attachments) cannot be used for promoting, marketing or recommending to another party any transaction or matter addressed. Any taxpayer who is not the addressee of this letter should seek specific advice based on that taxpayer's particular circumstances from an independent tax advisor.

\*\*\*\*\* Internet Email Confidentiality Notice \*\*\*\*\*

Privileged / Confidential Information may be contained in this message.

If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message (and attachments) and kindly notify the sender by reply email. Please advise immediately if you or your employer do not consent to Internet email for messages of this kind. Opinions, conclusions and other information in this message that do not relate to official business of my firm shall be understood as neither given nor endorsed by it.

Hamilton, Terri

---

**From:** Michael Palmer [remaxmikep@gmail.com]  
**Sent:** Tuesday, August 09, 2011 11:25 AM  
**To:** Hamilton, Terri  
**Subject:** Hyland Village

Hello Terri,

Once again thank you for attending the meeting last night and for all of your great information. I live in one of the 4 single family homes (5533 W 97th Ave). Only 2 of the 4 single family homes were able to participate in the meeting either due to vacation or for work related reasons. I know the other families are very set against apartments vs the original plans of condos and I am sure that they will attend future meetings if they are available. They wanted me to ask a few questions that I am unsure if either you, representing the city, nor the representatives from Markel could answer as they pertain more to the neighborhood itself and/or how this would effect the HOA (i.e. increases in payments, etc). One question they did have that you might have some insight about is regarding the pool and clubhouse. I was unaware that Mcstain had to bond 115% of the project which included the pool and clubhouse. With the original plans, neighborhood development had to be at a total of 60% completion for the pool/clubhouse to be built. My neighbors fears (as well as for my own household) is that we won't see a 60% completion for many, many years (especially without fully understanding how the impact of the potential apartment building will have). When we closed on our house, we had to pay a small percentage fee called the "recreation fee" (which resulted in a few thousand dollars) which we were told was being used to help fund the pool and clubhouse. We are all now anxious how this loss of @ 150 "recreation fees" will play into the development. Do you have any insight as to how the bond payments could be used to speed up the process of building it? With the loss of 150 recreation fees, we are also worried about the original plans of the pool and clubhouse. We are hoping that most of the original plans/ideals for the clubhouse and pool will be upheld as we also do not want something that is just "slapped together" just for the sake of doing so. During previous meetings with the representatives from Mcstain, questions were also asked about building any "pocket parks" or anything of the like. We were told that this probably would not happen as this would be considered a hinderance for any future developers as they would have to work around the parks and/or would have to essentially destroy the park areas during times of construction. Any truth to that statement that you are aware of? Any other insight/opinions would be greatly appreciated.

Best regards,

Michael Palmer

RE/MAX Alliance

office 303.403.2607

cell: 303.995.7253

[www.homesincolorado.com/mpalmer](http://www.homesincolorado.com/mpalmer)

Hamilton, Terri

---

**From:** Hamilton, Terri  
**Sent:** Tuesday, August 09, 2011 12:29 PM  
**To:** 'Michael Palmer'  
**Cc:** 'chad'; Easley, Jana; Cummins, Mac  
**Subject:** RE: Hyland Village

Hi Michael,

Thanks for attending last night and your info/comments below.

I wish I had more concrete info to pass on re the timing of the clubhouse and pool- if there is an obligation to build it sooner if we are able to collect on the bond \$\$....???...there are (complicated) issues that remain to be figured out but we are working on it. To start with we have been primarily focused on how much of the bond \$\$ we might be able to collect- and how long that might take. So, we don't have specific answers yet but I appreciate your info.

I know one of the pocket parks (Single Family area south end of the property) was in a second phase so no bond \$\$ was established for it. The timing of it is not known and would probably be established to occur at the time of housing in that area.

The other pocket park site is located between the rowhouse/townhome area and Single Family on the north end of the site within the original phase I. There may be bond \$\$ for it as my understanding is that Phase I was originally bonded. Again, the timing of the construction isn't known yet. However I certainly understand the interest in having a pocket park amenity available sooner versus later.

The "Village Green" is a tract that I think we would require construction of when the multi-family site is constructed. As you now know, there has been some interest to building apartments which is not currently allowed, but not interest (that we know of) in condos- which is currently allowed.

Thanks for the info about the neighbors unable to attend last night. I hope they can attend future meetings- or send me an email I could provide to Planning Commission and City Council.

Please feel free to contact me periodically to see if I have any updates.

Terri



*Terri Hamilton, Planner III*  
 303-658-2096

[thamilto@cityofwestminster.us](mailto:thamilto@cityofwestminster.us)

*Starting 8/2/10 City Hall new business hours M-Thurs. 7-6 (closed Fridays)*

Hamilton, Terri

---

**From:** Shane Furlong [S.Furlong@cablelabs.com]  
**Sent:** Wednesday, September 14, 2011 4:41 PM  
**To:** Hamilton, Terri  
**Subject:** Hyland Village Subdivision

Hi Terri,

We spoke earlier this week about concerns that I have over the change in the development plan for the Hyland Village subdivision. I am the homeowner at 5543 W. 97<sup>th</sup> Ave in the development. As we spoke about on that call my concern was that in discussing the plan to change the one section from townhomes to apartments with Hammersmith Management, the HOA manager, the idea was floated that the developer was considering removing that section from the HOA. I have several concerns about this and would not be supportive of allowing the change of the plan if this was going to be allowed. If that part of the development is removed from the HOA then the HOA would lose some of the funding for the building of the clubhouse and pool as well as the maintenance of it.

Those of us who purchased the existing homes or condos on that property paid a percentage of the purchase price into an escrow account for that purpose. I am assuming that there would be no payment for the apartments which would make it that much later until we get the pool built. Also if they are not part of the HOA the on-going maintenance of the pool would be more expensive and may entail a higher fee for the homeowners remaining which would not seem fair to me considering that the homes were bought with a certain expectation. As you and I talked about having this pool and clubhouse built is in the interest of the city as well so I think looking into all of this is of concern to you as well. Additionally if the pool is somehow built with the apartments not in the HOA then I envision some real problems developing over access. The apartments will not have their own pool and those of us in the neighborhood will be paying to maintain one in their backyard. I can imagine that the apartment residents will try to use the pool and that conflicts will come up repeatedly.

Lastly I am concerned that the architectural and maintenance standards that we get from the HOA would not apply to the apartments which I don't think is in the best interest of any of the residents or the city of Westminster. I know we all want that neighborhood to look nice and to meet the standards that were originally envisioned. I bought a home there with the assurance that the neighborhood would be maintained to a standard by the HOA and I am not in favor of allowing a portion of it out of those standards and do not think this is fair to the 16 homeowners in the current neighborhood who bought in good faith. I am resigned to the portion of the neighborhood becoming apartments and as I said to you there may be a plus side to this for the neighborhood if it means there is on-site management versus absentee owners but I do believe that the city should insist that the apartments must continue as members of the HOA in order to be permitted.

Thanks,  
Patrick Furlong

*Shane Furlong*

Senior Software Architect

CableLabs®

Direct: 303-661-3802

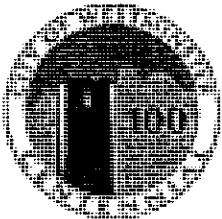
Hamilton, Terri

**From:** Hamilton, Terri  
**Sent:** Thursday, September 15, 2011 8:16 AM  
**To:** 'Shane Furlong'  
**Cc:** Cummins, Mac; Easley, Jana  
**Subject:** RE: Hyland Village Subdivision

Hi Shane,

Thank you for your email. I have requested that the applicant/existing property owner of the multi-family parcel address the questions coming up re HOA membership and he is looking into it. I'll let you know what the response is. Your email will be provided to the Planning Commission and City Council as well.

Terri



*Terri Hamilton, Planner III*  
 303-658-2096  
[thamilto@cityofwestminster.us](mailto:thamilto@cityofwestminster.us)  
 Starting 8/2/10 City Hall new business hours M-Thurs. 7-6 (closed Fridays)

---

**From:** Shane Furlong [<mailto:S.Furlong@cablelabs.com>]  
**Sent:** Wednesday, September 14, 2011 4:41 PM  
**To:** Hamilton, Terri  
**Subject:** Hyland Village Subdivision

Hi Terri,

We spoke earlier this week about concerns that I have over the change in the development plan for the Hyland Village subdivision. I am the homeowner at 5543 W. 97<sup>th</sup> Ave in the development. As we spoke about on that call my concern was that in discussing the plan to change the one section from townhomes to apartments with Hammersmith Management, the HOA manager, the idea was floated that the developer was considering removing that section from the HOA. I have several concerns about this and would not be supportive of allowing the change of the plan if this was going to be allowed. If that part of the development is removed from the HOA then the HOA would lose some of the funding for the building of the clubhouse and pool as well as the maintenance of it.

Those of us who purchased the existing homes or condos on that property paid a percentage of the purchase price into an escrow account for that purpose. I am assuming that there would be no payment for the apartments which would make it that much later until we get the pool built. Also if they are not part of the HOA the on-going maintenance of the pool would be more expensive and may entail a higher fee for the homeowners remaining which would not seem fair to me considering that the homes were bought with a certain expectation. As you and I talked about having this pool and clubhouse built is in the interest of the city as well so I think looking into all of this is of concern to you as well.

Additionally if the pool is somehow built with the apartments not in the HOA then I envision some real problems developing over access. The apartments will not have their own pool and those of us in the neighborhood will be paying to maintain one in their backyard. I can imagine that the apartment residents will try to use the pool and that conflicts will come up repeatedly.

Lastly I am concerned that the architectural and maintenance standards that we get from the HOA would not apply to the apartments which I don't think is in the best interest of any of the residents or the city of Westminster. I know we all want that neighborhood to look nice and to meet the standards that were originally envisioned. I bought a home there with the assurance that the neighborhood would be maintained to a standard by the HOA and I am not in favor of allowing a portion of it out of those standards and do not think this is fair to the 16 homeowners in the current neighborhood who bought in good faith. I am resigned to the portion of the neighborhood becoming apartments and as I said to you there may be a plus side to this for the neighborhood if it means there is on-site management versus absentee owners but I do believe that the city should insist that the apartments must continue as members of the HOA in order to be permitted.

Thanks,  
Patrick Furlong

*Shane Furlong*

Senior Software Architect

**CableLabs®**

Direct: 303-661-3802

Cell: 303-887-8916

[s.furlong@cablelabs.com](mailto:s.furlong@cablelabs.com)

WEST-HY HOLDINGS, LLC  
5400 LBJ FREEWAY, SUITE 975  
DALLAS, TEXAS 75240  
972-239-8500

September 27, 2011

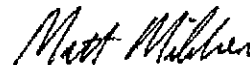
Mr. Mac Cummins  
Planning Manager  
City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, CO 80031  
*Sent via email*

Dear Mac,

West-Hy Holdings, LLC is the owner of 141 developed and/or platted lots within the Hyland Village Subdivision Planned Unit Development. Our property is adjacent to Lot 1 of Block 9 that was originally approved to be developed into a multi-family for-sale product. We have received notice that the owner of this tract is requesting an amendment to the Development Plan to allow for a change in use of the product to a *for-rent* program. Due to the current market conditions, we believe that the change in use would be beneficial to the project. We are concerned with how this change in use will affect the homeowners association and this tract's ability to pay for its pro-rata portion of the common area maintenance for the Hyland Village Subdivision. However, we believe that this issue can be resolved amongst the parties involved at a later date. This letter shall serve as our support to allow for the use of multi-family residential on Lot 1 of Block 9 as a development marketed to individual buyers or as a *rental project*.

Feel free to contact me with any questions or comments.

Sincerely,



Matt Mildren  
Vice President

Cc: Michael Markel  
Davis Reinhart

**Losasso, Betty**

---

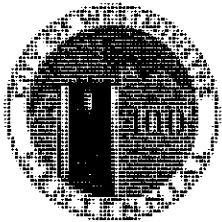
**From:** Hamilton, Terri  
**Sent:** Tuesday, September 27, 2011 3:14 PM  
**To:** David Ware  
**Cc:** Cummins, Mac; chad; Losasso, Betty  
**Subject:** RE: Hyland Village Planning Commission

Hi David,

We will provide this email to the Planning Commission tonight. It will suffice in your absence.

Thanks!

Terri



*Terri Hamilton, Planner III*  
 303-658-2096  
[thamilto@cityofwestminster.us](mailto:thamilto@cityofwestminster.us)  
 Starting 8/2/10 City Hall new business hours M-Thurs. 7-6 (closed Fridays)

---

**From:** David Ware [<mailto:dbw@mcstain.com>]  
**Sent:** Tuesday, September 27, 2011 2:56 PM  
**To:** Hamilton, Terri  
**Cc:** Tom Hoyt; [michael@markelhomes.com](mailto:michael@markelhomes.com)  
**Subject:** Hyland Village Planning Commission  
**Importance:** High

Terri,

I am not going to be able to attend tonight's planning commission hearing at 7:00pm to consider the 8th Amended Official Development Plan for the Hyland Village Subdivision which proposes to allow the use of the multi-family residential on Lot 1 Block 9 as a development marketed to individual buyers or as a rental project. Can you or someone from Staff provide or state this email at tonight's hearing? Please let me know if this is adequate in our absence.

"McStain Neighborhoods, a property owner at the Hyland Village Subdivision, hereby supports the 8th Amended ODP to develop Lot 1 Block 9 as a rental project. We feel introducing a rental component into the neighborhood will bring much need life and activity to the project. This activity will in turn support and leverage the remaining for-sale components.

Our support is conditional upon the rental project participating in whole or in part within the existing structure of the Hyland Village Homeowner's Association. The project provides common, general amenities for all residential owners (for-sale and rental). Rental owners have the ability to use these amenities as the community develops; without current restrictions.

Furthermore, a portion of the on-site public and private infrastructure (i.e. detention pond, under drain system, and other improvements) have been installed to facilitate the construction of this parcel. These elements require HOA maintenance and thus create a cost burden. Again, McStain supports the rental housing request proposed by Markel Homes with this condition".



**Hamilton, Terri**

---

**From:** chad [chad@markelhomes.com]  
**Sent:** Tuesday, May 22, 2012 9:51 AM  
**To:** Steve Gruber; Donna M. Ellinger, OD; Amy Shoemaker; Michael Palmer; jblack@scf.com; Denise Atencio; aberle777@gmail.com; David & Luis; Kevin Hunt  
**Cc:** Catherine Hawkins; michael; Hamilton, Terri  
**Subject:** Westy Potential Junk: RE: Homeowners Meeting - Follow Up

*Hi Everyone:*

*Thanks for meeting last week to discuss Hyland Village with us. It was nice to see everyone in a more informal setting. I'm sorry to trouble you with this, but the City of Westminster requested that I contact you and get a quick email response on a couple items, since they were not in attendance at the last meeting.*

*I'm working with Terri Hamilton (cc:ed above) at the City of Westminster to setup the next City Council hearing. She was hoping to get a response or positive acknowledgement to the questions below. Based on our last meeting, I felt there was neighborhood support on both of the items below.*

*Are you comfortable that the proposed land use change will not adversely affect the viability of the Hyland Village HOA?*

*Are you comfortable with the land use change?*

*Please respond to this email and cc: [THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us) with a yes or an explanation by the end of the week. Thanks again for your support and timely response on this matter.*

*Regards,*

**Chad Kipfer**

Project Manager  
**Markel Homes Construction Company**  
5723 Arapahoe Ave. #2B  
Boulder, CO 80303  
303-339-6116 Direct  
303-444-2798 Fax

**Hamilton, Terri**

---

**From:** Donna M. Ellinger, OD [donnaellinger@gmail.com]  
**Sent:** Wednesday, May 23, 2012 10:47 AM  
**To:** chad  
**Cc:** Hamilton, Terri  
**Subject:** Westy Potential Junk: Re: Homeowners Meeting - Follow Up

Hi, Chad!

I'm okay with it.

Donna Ellinger  
5471 W 97th Place, Unit A

On Tue, May 22, 2012 at 9:50 AM, chad <[chad@markelhomes.com](mailto:chad@markelhomes.com)> wrote:

*Hi Everyone:*

*Thanks for meeting last week to discuss Hyland Village with us. It was nice to see everyone in a more informal setting. I'm sorry to trouble you with this, but the City of Westminster requested that I contact you and get a quick email response on a couple items, since they were not in attendance at the last meeting.*

*I'm working with Terri Hamilton (cc:ed above) at the City of Westminster to setup the next City Council hearing. She was hoping to get a response or positive acknowledgement to the questions below. Based on our last meeting, I felt there was neighborhood support on both of the items below.*

*Are you comfortable that the proposed land use change will not adversely affect the viability of the Hyland Village HOA?*

*Are you comfortable with the land use change?*

*Please respond to this email and cc: [THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us) with a yes or an explanation by the end of the week. Thanks again for your support and timely response on this matter.*

*Regards,*

**Chad Kipfer**

**Hamilton, Terri**

**From:** Steve Gruber [steve@neugeborenlaw.com]  
**Sent:** Thursday, May 24, 2012 3:15 PM  
**To:** chad  
**Cc:** Hamilton, Terri  
**Subject:** Westy Potential Junk: RE: Homeowners Meeting - Follow Up

Chad,

Thank you for speaking with the homeowners last week and for the delicious food. I'm sorry that more people did not turn out. My answers are as follows:

*Are you comfortable that the proposed land use change will not adversely affect the viability of the Hyland Village HOA?*  
 Yes.

*Are you comfortable with the land use change?*

No. I do not feel that the apartments are necessary or will add value to Hyland Village. I also do not think that leaving that space vacant until financing for condos returns will detriment Hyland Village. The only thing holding back Hyland Village is the bond issue.

Stephen S. Gruber  
 Patent Attorney  
 NEUGEBOREN O'DOWD PC  
 1227 Spruce St., Suite 200  
 Boulder, CO 80302  
 720 536 4908 (direct)  
[steve@neugeborenlaw.com](mailto:steve@neugeborenlaw.com)

---

**From:** chad [<mailto:chad@markelhomes.com>]  
**Sent:** Tuesday, May 22, 2012 9:51 AM  
**To:** Steve Gruber; Donna M. Ellinger, OD; Amy Shoemaker; Michael Palmer; [jblack@scf.com](mailto:jblack@scf.com); Denise Atencio; [aberle777@gmail.com](mailto:aberle777@gmail.com); David & Luis; Kevin Hunt  
**Cc:** Catherine Hawkins; michael; [THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us)  
**Subject:** RE: Homeowners Meeting - Follow Up

*Hi Everyone:*

*Thanks for meeting last week to discuss Hyland Village with us. It was nice to see everyone in a more informal setting. I'm sorry to trouble you with this, but the City of Westminster requested that I contact you and get a quick email response on a couple items, since they were not in attendance at the last meeting.*

*I'm working with Terri Hamilton (cc:ed above) at the City of Westminster to setup the next City Council hearing. She was hoping to get a response or positive acknowledgement to the questions below. Based on our last meeting, I felt there was neighborhood support on both of the items below.*

*Are you comfortable that the proposed land use change will not adversely affect the viability of the Hyland Village HOA?*

*Are you comfortable with the land use change?*

*Please respond to this email and cc: [THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us) with a yes or an explanation by the end of the week. Thanks again for your support and timely response on this matter.*

Regards,

**Chad Kipfer**  
 Project Manager

**Hamilton, Terri**

---

**From:** Amy Shoemaker [ashoemak@kcoe.com]  
**Sent:** Monday, June 04, 2012 2:54 PM  
**To:** 'chad'; Hamilton, Terri  
**Subject:** Westy Potential Junk: RE: Homeowners Meeting - Follow Up Reminder

Hi Chad and Terri

I attended the meeting where we discussed and agreed that the multifamily site's monetary contributions would benefit the HOA and all the homeowners present expressed being comfortable with the change in land use for the multifamily site, as long as they are high-end apartments that would help maintain the value of the properties currently in the area.

Thanks, Amy

---

**From:** chad [mailto:chad@markelhomes.com]  
**Sent:** Monday, June 04, 2012 11:59 AM  
**To:** Steve Gruber; Donna M. Ellinger, OD; Amy Shoemaker; Michael Palmer; jblack@scf.com; Denise Atencio; aberle777@gmail.com; David & Luis; Kevin Hunt  
**Cc:** Catherine Hawkins; michael; THamilto@CityofWestminster.us  
**Subject:** RE: Homeowners Meeting - Follow Up Reminder

Hi Everyone:

I only received a few email responses in acknowledgement of our last informal meeting on 15 May 2012. The City of Westminster needs to hear from you, explaining how our meeting went, since they didn't have a representative present. Please email Terri Hamilton at [THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us) and cc me with your support and understanding of the last meeting.

We felt the meeting went well; with an understanding of how the multifamily site's monetary contributions would benefit the HOA and a comfort level with the land use change. Please email a response soon, so the City of Westminster can understand the meeting from your perspective.

Thanks,

**Chad Kipfer**  
 Project Manager  
 Markel Homes Construction Company  
 5723 Arapahoe Ave. #2B  
 Boulder, CO 80303  
 303-339-6116 Direct  
 303-444-2798 Fax

---

----- IRS CIRCULAR 230 NOTICE -----

IRS Circular 230 regulates written tax communications between tax advisors and clients. In compliance with these IRS requirements, we are required to inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties imposed by any governmental taxing authority or agency. If you would like us to provide written tax advice to protect against penalties, please contact us.

In addition, any tax advice contained in this communication (including any attachments) cannot be used for promoting, marketing or recommending to another party any transaction or matter addressed. Any taxpayer who is not the addressee of this letter should seek specific advice based on that taxpayer's particular circumstances from an independent tax advisor.

\*\*\*\*\* Internet Email Confidentiality Notice \*\*\*\*\*

**Hamilton, Terri**

---

**From:** Denise Atencio [denise.atencio@gmail.com]  
**Sent:** Tuesday, May 29, 2012 10:51 AM  
**To:** Hamilton, Terri  
**Subject:** Hyland Village

Terri, I am not convinced that the proposed land use change will not adversely affect the viability of the Hyland Village HOA. I am not comfortable with the land use change.

--

*Denise Atencio, Proud Resident of  
5520 W 97th Ave  
Westminster, CO 80020*

**Hamilton, Terri**

---

**From:** LUIS LORENZO [lhylmdco@msn.com]  
**Sent:** Tuesday, June 12, 2012 12:24 PM  
**To:** Hamilton, Terri  
**Cc:** chad@markelhomes.com  
**Subject:** Westy Potential Junk: FW: Homeowners Meeting - Follow Up Reminder

Teri,

Per Chad's request, I'm sending you this email to acknowledge that David Twitchell and I were at the meeting on May 15, 2012. Among things discussed, we heard proposal about the prospective buyer of the multifamily site contributing money to the HOA to offset their impact for not being part of the HOA.

The meeting was cordial and there were many questions asked and answered but at the end of the day both David and I still feel strongly against the proposed land use change.

Sincerely,

Luis Lorenzo  
 5411-F W.97th PL

---

**To:** [lhylmdco@msn.com](mailto:lhylmdco@msn.com)  
**Subject:** Fwd: Homeowners Meeting - Follow Up Reminder  
**From:** [twitch1900@aol.com](mailto:twitch1900@aol.com)  
**Date:** Tue, 5 Jun 2012 18:56:54 -0400

-----Original Message-----

**From:** chad <[chad@markelhomes.com](mailto:chad@markelhomes.com)>  
**To:** Steve Gruber <[steve@neugeborenlaw.com](mailto:steve@neugeborenlaw.com)>; Donna M. Ellinger, OD <[donnaellinger@gmail.com](mailto:donnaellinger@gmail.com)>; Amy Shoemaker <[ashoemak@kcoe.com](mailto:ashoemak@kcoe.com)>; Michael Palmer <[remaxmikep@gmail.com](mailto:remaxmikep@gmail.com)>; jblack <[jblack@scf.com](mailto:jblack@scf.com)>; Denise Atencio <[denise.atencio@gmail.com](mailto:denise.atencio@gmail.com)>; aberle777 <[aberle777@gmail.com](mailto:aberle777@gmail.com)>; David & Luis <[twitch1900@aol.com](mailto:twitch1900@aol.com)>; Kevin Hunt <[kevinalanhunt@gmail.com](mailto:kevinalanhunt@gmail.com)>  
**Cc:** Catherine Hawkins <[CHawkins@e-hammersmith.com](mailto:CHawkins@e-hammersmith.com)>; michael <[michael@markelhomes.com](mailto:michael@markelhomes.com)>; THamilto <[THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us)>  
**Sent:** Mon, Jun 4, 2012 12:00 pm  
**Subject:** RE: Homeowners Meeting - Follow Up Reminder

Hi Everyone:

I only received a few email responses in acknowledgement of our last informal meeting on 15 May 2012. The City of Westminster needs to hear from you, explaining how our meeting went, since they didn't have a representative present. Please email Terri Hamilton at [THamilto@CityofWestminster.us](mailto:THamilto@CityofWestminster.us) and cc me with your support and understanding of the last meeting.

We felt the meeting went well; with an understanding of how the multifamily site's monetary contributions would benefit the HOA and a comfort level with the land use change. Please email a response soon, so the City of Westminster can understand the meeting from your perspective.

Thanks,

**Chad Kipfer**  
 Project Manager  
 Markel Homes Construction Company  
 5723 Arapahoe Ave. #2B

Hamilton, Terri

---

**From:** Jim Black [jblack@frii.com]  
**Sent:** Tuesday, June 12, 2012 9:28 PM  
**To:** Hamilton, Terri  
**Subject:** Hyland Village Development Comments

Hello Terri,

Jim Black@5520 97th Ave of Hyland Village.

I think the financial deal that Markel has struck with the HOA has been put forth in good faith. The plan is adequate for the HOA needs going forward.

The process and discussions have educated me on our rights and privileges as home owners under the circumstances we face as a community.

To me, McStain presented a vision for this community that made it special, unique and almost magic. No matter how the development is implemented, I want to see the special nature of Hyland Village perpetuated for the generations to come who will call Hyland Village home. I hope someday photographs and commentary of the founding of Hyland Village will be displayed in City Hall with the same pride that we display the heritage of our Westminster founders now.

Although many words of reassurance have been made, there really is no guarantee how the Hyland Village community will turn out based on the desire to "kick start development." I hope the City will "kick start" long term, forward thinking guidance for Hyland Village. I see hope within us evidenced by the vision for Westminster Mall. I feel like we are moving too quick at Hyland Village with the sole purpose "to get out of jam."

Thank you for all the work you, the planning commission, City Council and the staff at City Hall have done for us.

Sincerely,

Jim



Markel Homes Construction Company  
5723 Arapahoe Avenue, #2B  
Boulder, CO 80303  
303-449-8689 (office)  
303-444-2798 (fax)

5 February 2013

City Council Members  
City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, CO 80031

**Via email: THamilto@CityofWestminster.us**  
**BLoSasso@CityofWestminster.us**

RE: HYLAND VILLAGE – 8<sup>th</sup> ODP & 2<sup>nd</sup> PDP AMENDMENT  
RENTAL RESTRICTION LOT 1 BLK 9 AND TRACT SS

Dear City Council Members:

We are the owners of Lot 1 Blk 9 and Tract SS, of the Hyland Village subdivision and the applicant requesting removal of the rental restriction on the property. At the hearing on November 12, 2012 we were tabled to a date certain, 25 February 2013 so that we could further discuss our HOA agreement and land use application with the Hyland Village association and the residents. We conducted meetings with the HOA and residents on December 11<sup>th</sup>, 2012 and Jan. 17<sup>th</sup> 2013 and addressed follow up questions through email and phone calls. Though our existing agreement was fair and provided substantial funds to the association, we decided that the only way to fully address the financial concerns of our agreement and land use application was to instead ensure our property joined the HOA regardless of land use and pay full dues and fees like the other members at Hyland Village. A brief summary of this proposal was presented on January 17<sup>th</sup> and is enclosed for your review. A new agreement based on this proposal is in process with the attorneys and we anticipate an agreement to be executed before the February hearing.

Since our property is not currently assured membership in the HOA as a condo or rental project, this new agreement will secure our acceptance in the association and the terms for its annexation in the form of a supplemental declaration. Our agreement proposes different scenarios of annexation into the association based on for-sale or for-rent and the common use



of the Village Green (Tract SS). Each supplemental declaration is described below for these different options in more detail than the enclosed summary.

#### **Tract SS Village Green**

- Tract SS is meant to be a “Village Green” per the OPD and accessible to all residents of Hyland Village and was intended to be owned by the association. Tract SS will be annexed into the HOA.
- The property will be landscaped and developed with the construction of our property and then annexed and maintained by the master association.
- The previous HOA agreement had this same provision

#### **Rental Project**

- A rental project will be assured annexation into the association after the certificate of occupancy is received for each building.
- Each rental unit will pay the same master association dues as any other unit or lot at Hyland Village. The rental ownership or a sub association would pay these dues.
- A rental project will pay a recreation fee per the declaration when the building sells.
- Tenants and residents will have the same use of common areas, pool and club house as any other member at Hyland Village.
- To accommodate voting concerns we limited the voting rights of a rental project so there is not a “super majority vote”. Hyland Village is planned for 426 total units and our property’s 150 units are 35% of the community. A rental project’s voting rights would be limited to 35% of the current membership total in the association at any given time. This provision provides a fair concession to the residents and assures one rental property ownership cannot control the voting.
- Since we originally purchased the property as a builder, we will have the same designated builder rights in the association.
- Since the association documents did not address rentals, there would be language to address the mechanics of allowing rentals in the declaration.

#### **For Sale Project**

- A for sale project will be assured annexation into the association after the certificate of occupancy is received for each building.
- A condo project would have its own sub association that pays the master association dues.
- Since we originally purchased the property as a builder, we will have the same designated builder rights in the association.

In order to help you make your decision we would like to highlight some of the more salient points pertaining to land use and our proposed HOA agreement:

**Land Use**

- The current design and density are congruent with apartments
- Apartments address housing needs in the new economy
- Vacant land diminishes adjacent property values
- Positive economics (Fee potential and Improved Tax Base)
- Quality apartments are good for housing diversity
- TMUND zoning and apartments are compatible (i.e Bradburn)
- Apartments are still subject to the city's ODP process
- Joining the association would help the HOA be financially self sufficient

Should you have any questions about the points we made above we will be presenting a detailed proposal at the city council meeting on the 25<sup>th</sup> and would be happy to address your concerns then. We believe our requested land use change and membership in the association could be just the catalyst needed to jump start this project and we look forward to your approval this evening.

Sincerely,



Michael Markel – President

Cc: Mr. Mac Cummins (via email)

Attachment – Jan. 2013 Neighborhood Meeting Handout

### **New Hyland Village HOA Agreement with 1225 Prospect LLC**

We want to change our current agreement so that the multifamily site joins the Master Association (HOA) no matter what the land use approval and pay full dues and transfer fee.

The supplemental declaration language for each annexation scenario is listed as an exhibit to the agreement.

- Tract SS – Village Green
  - Annexed into HOA
  - Included in previous agreement
  
- Rental Project
  - Annexed into HOA
  - Pay full dues and transfer fee
  - Voting right is set to always be 35% of currently annexed units –
    - “No super majority vote”
  - Designated builder rights
  - Addresses mechanics of allowing rentals in declaration
  
- For Sale Project
  - Annexed into HOA
  - Pay full dues and transfer fee
  - Designated builder rights

**New Hyland Village HOA Agreement with 1225 Prospect LLC**

We want to change our current agreement so that the multifamily site joins the Master Association (HOA) no matter what the land use approval and pay full dues and transfer fee.

The supplemental declaration language for each annexation scenario is listed as an exhibit to the agreement.

- Tract SS – Village Green
  - Annexed into HOA
  - Included in previous agreement
  
- Rental Project
  - Annexed into HOA
  - Pay full dues and transfer fee
  - Voting right is set to always be 35% of currently annexed units –
    - “No super majority vote”
  - Designated builder rights
  - Addresses mechanics of allowing rentals in declaration
  
- For Sale Project
  - Annexed into HOA
  - Pay full dues and transfer fee
  - Designated builder rights

**Hamilton, Terri**

---

**From:** aubrey [aubrey@markelhomes.com]  
**Sent:** Friday, January 18, 2013 12:32 PM  
**To:** CHawkins@ehammersmith.com; stevegruber05@gmail.com; remaxmikep@gmail.com; phalpern@gmail.com; MMildren@providentrealty.net; Hamilton, Terri; chad; michael  
**Subject:** Follow Up to FHA Question

Hello -

The purpose of this email is to address the question brought up by Catherine at last night's Hyland Village neighborhood meeting. Catherine had questioned whether rental units would have an impact on the neighborhoods ability to qualify for FHA financing. This morning I spoke with both the regional HUD Denver office and the FHA Resource Center to find out what the impact would be. Here is what I found out.

**Multifamily:**

Any project legally classified as condominiums whether they be traditional condos or townhomes being sold under a condominium ownership structure requires prior FHA approval to be available for FHA financing. This is a rigorous process involving multi-stage inspections and certifications in order to obtain FHA's blessing. Once a project is approved there are various additional requirements which must be met one of which is owner occupancy restrictions. These restrictions only affect the units within said approval and our rental project would not be part of this approval process.

**Single Family:**

Single family units are approved for FHA financing availability on an individual basis pursuant to section 49.05.1 Chapter 2 of the HUD handbook(referenced in the email below). The rental units would not have an impact on a single family home's eligibility.

If you have any questions please feel free to contact me. We appreciated your taking the time to share your comments with us last night.

Sincerely,

Aubrey

Aubrey Kiilsgaard Additon  
Markel Homes Construction Company  
5723 Arapahoe Ave. #2B  
Boulder, CO 80303

(303) 339-6123 direct  
(303) 444-2798 fax  
[aubrey@markelhomes.com](mailto:aubrey@markelhomes.com)

Sent: Friday, January 18, 2013 8:44 AM  
To: aubrey  
Subject: SR Number 2013-6878477

Thank you for contacting the FHA Resource Center, a response to your inquiry is provided below. If the information does not fully address your question, please forward this email (do not reply) to [answers@hud.gov](mailto:answers@hud.gov), and provide additional information so that we may better serve you. You may also speak directly to a customer service representative by calling 1-800-CALL-

FHA (1-800-225-5342) or visit our online knowledge base at [www.hud.gov/answers](http://www.hud.gov/answers), 24 hours/7 days a week.

Q: What are the general acceptability criteria for properties to be insured with FHA loans?

To be eligible for FHA financing, a property must be in a condition and location that are free of all known hazards and adverse conditions that affect the health and safety of occupants, the structural soundness of the improvements, or impair the use and enjoyment of the property.

Handbooks 4905.1, Chapter 2 is available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/hshg/4905.1](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hshg/4905.1)

Q: Where can I find information about HUD's multifamily (5 or more units) housing programs?

HUD's Office of Multifamily Housing Programs is responsible for the overall management, development, direction and administration of HUD's Multifamily Housing Programs.

For more information about HUD's multifamily programs go to the following HUD website at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/hsgmfbus](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/hsgmfbus) or call the Multifamily Housing Clearinghouse at 1-800-685-8470. The line is staffed Monday through Friday from 9:00 a.m. to 5:00 p.m. Eastern Time.

DISCLAIMER: All policy information contained in this knowledge base article is based upon the referenced HUD policy document. Any lending or insuring decisions should adhere to the specific information contained in that underlying policy document.

**Hamilton, Terri**

---

**From:** chad [chad@markelhomes.com]  
**Sent:** Wednesday, January 30, 2013 10:52 AM  
**To:** Hamilton, Terri; aberlee777@gmail.com; jblack@scf.com; d.g.mooney@comcast.net; kevinlanhunt@gmail.com; phalpern@gmail.com; donnaellinger@gmail.com; thejap@netzero.net; twitch1900@aol.com; Steve Gruber; Michael Palmer; Amy Shoemaker; jbrozo@gmail.com; Shane Furlong; steve@neugeborenlaw.com; Davis Reinhart; secretary@hylandgreenshoa.org; keystone88@hotmail.com; denise.atencio@gmail.com; CHawkins@ehammersmith.com; lhylmdco@msn.com; jbalck@frii.com  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

*Hello:*

*I'm writing to see if anyone has any new questions that might have come up since our last meeting. Please let me know if you need additional information or would like to meet again.*

*Regards,*

**Chad Kipfer**

Project Manager  
**Markel Homes Construction Company**  
5723 Arapahoe Ave. #2B  
Boulder, CO 80303  
303-339-6116 Direct  
303-444-2798 Fax

**Hamilton, Terri**

---

**From:** Steve Gruber [steve@nodiplaw.com]  
**Sent:** Wednesday, January 30, 2013 12:03 PM  
**To:** chad; Hamilton, Terri; aberlee777@gmail.com; jblack@scf.com; d.g.mooney@comcast.net; kevinalanhunt@gmail.com; phalpern@gmail.com; donnaellinger@gmail.com; thejap@netzero.net; twitch1900@aol.com; Steve Gruber; Michael Palmer; Amy Shoemaker; jbrozo@gmail.com; Shane Furlong; Davis Reinhart; secretary@hylandgreenshoa.org; keystone88@hotmail.com; denise.atencio@gmail.com; CHawkins@ehammersmith.com; lhylmdco@msn.com; jbalck@frii.com  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

Chad:

Pursuant to our first meeting, some residents would like to see a written description of the Markel proposal including details regarding HOA membership, voting rights, inflation-adjustments to the Markel contribution to the HOA, the monthly contribution, whether or not an equivalent of the .5% recreation fee (applied to the value of the entire apartment facility) is to be collected, and any other details.

For Provident and the Board of the HOA:

Assuming Markel is not to contribute to the .5% recreation fee, does the HOA Board feel that the Recreation Fee serves a purpose? If the Recreation Fee is not necessary, then does the HOA plan to refund current homeowners their recreation fees and any interest that the HOA has accrued on this money?

Stephen S. Gruber  
 Patent Attorney  
 NEUGEBOREN O'DOWD PC  
 1227 Spruce St., Suite 200  
 Boulder, CO 80302  
 720 536 4908 (direct)  
[steve@neugeborenlaw.com](mailto:steve@neugeborenlaw.com)

This communication is for use by the intended recipient(s) only and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying hereof is strictly prohibited. If you have received this communication in error, please notify me by reply e-mail, permanently delete this communication from your system, and destroy any hard-copies you may have printed. This communication is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521

---

**From:** chad [<mailto:chad@markelhomes.com>]  
**Sent:** Wednesday, January 30, 2013 10:52 AM  
**To:** Hamilton, Terri; aberlee777@gmail.com; jblack@scf.com; d.g.mooney@comcast.net; kevinalanhunt@gmail.com; phalpern@gmail.com; donnaellinger@gmail.com; thejap@netzero.net; twitch1900@aol.com; Steve Gruber; Michael Palmer; Amy Shoemaker; jbrozo@gmail.com; Shane Furlong; Steve Gruber; Davis Reinhart; secretary@hylandgreenshoa.org; keystone88@hotmail.com; denise.atencio@gmail.com; CHawkins@ehammersmith.com; lhylmdco@msn.com; jbalck@frii.com  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

Hello:



*I'm writing to see if anyone has any new questions that might have come up since our last meeting. Please let me know if you need additional information or would like to meet again.*

*Regards,*

**Chad Kipfer**

Project Manager

**Markel Homes Construction Company**

5723 Arapahoe Ave. #2B

Boulder, CO 80303

303-339-6116 Direct

303-444-2798 Fax

**Hamilton, Terri**

---

**From:** chad [chad@markelhomes.com]  
**Sent:** Wednesday, January 30, 2013 2:42 PM  
**To:** stevegruber05@gmail.com; steve@neugeborenlaw.com  
**Cc:** michael; Hamilton, Terri; chawkins@eHammersmith.com; dreinhart@edificecm.com  
**Subject:** RE: Hyland Village meeting follow up  
**Attachments:** New Hyland HOA Agreement Summary.pdf

*Hi Steve:*

*At the second meeting we proposed to join the HOA and handed out the attached written summary. I emailed you and Michael Palmer this information on January 17<sup>th</sup>. This proposal addresses your questions about voting, rec. fee and dues.*

*The proposal has our property joining the HOA and paying the same dues as the master association and recreation fee per the declaration. Voting rights are addressed and limited to not have a super majority vote. We are currently working to formalize an agreement per the attached summary.*

*We feel this is a good proposal for all parties. Let me know if you want to meet in person or discuss this on the phone.*

*Regards,*

**Chad Kipfer**

Project Manager  
**Markel Homes Construction Company**  
 5723 Arapahoe Ave. #2B  
 Boulder, CO 80303  
 303-339-6116 Direct  
 303-444-2798 Fax

---

**From:** Steve Gruber [mailto:steve@nodiplaw.com]  
**Sent:** Wednesday, January 30, 2013 12:03 PM  
**To:** chad; Hamilton, Terri; [aberlee777@gmail.com](mailto:aberlee777@gmail.com); [jblack@scf.com](mailto:jblack@scf.com); [d.g.mooney@comcast.net](mailto:d.g.mooney@comcast.net); [kevinlanhunt@gmail.com](mailto:kevinlanhunt@gmail.com); [phalpern@gmail.com](mailto:phalpern@gmail.com); [donnaellinger@gmail.com](mailto:donnaellinger@gmail.com); [thejap@netzero.net](mailto:thejap@netzero.net); [twitch1900@aol.com](mailto:twitch1900@aol.com); Steve Gruber; Michael Palmer; Amy Shoemaker; [jbrozo@gmail.com](mailto:jbrozo@gmail.com); Shane Furlong; Davis Reinhart; [secretary@hylandgreenshoa.org](mailto:secretary@hylandgreenshoa.org); [keystone88@hotmail.com](mailto:keystone88@hotmail.com); [denise.atencio@gmail.com](mailto:denise.atencio@gmail.com); [CHawkins@ehammersmith.com](mailto:CHawkins@ehammersmith.com); [lhyldmco@msn.com](mailto:lhyldmco@msn.com); [jbalck@frii.com](mailto:jbalck@frii.com)  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

Chad:

Pursuant to our first meeting, some residents would like to see a written description of the Markel proposal including details regarding HOA membership, voting rights, inflation-adjustments to the Markel contribution to the HOA, the monthly contribution, whether or not an equivalent of the .5% recreation fee (applied to the value of the entire apartment facility) is to be collected, and any other details.

For Provident and the Board of the HOA:

Assuming Markel is not to contribute to the .5% recreation fee, does the HOA Board feel that the Recreation Fee serves a purpose? If the Recreation Fee is not necessary, then does the HOA plan to refund current homeowners their recreation fees and any interest that the HOA has accrued on this money?

Stephen S. Gruber

Patent Attorney  
NEUGEBOREN O'DOWD PC  
1227 Spruce St., Suite 200  
Boulder, CO 80302  
720 536 4908 (direct)  
[steve@neugeborenlaw.com](mailto:steve@neugeborenlaw.com)

This communication is for use by the intended recipient(s) only and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying hereof is strictly prohibited. If you have received this communication in error, please notify me by reply e-mail, permanently delete this communication from your system, and destroy any hard-copies you may have printed. This communication is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521

---

**From:** chad [<mailto:chad@markelhomes.com>]  
**Sent:** Wednesday, January 30, 2013 10:52 AM  
**To:** Hamilton, Terri; [aberlee777@gmail.com](mailto:aberlee777@gmail.com); [jblack@scf.com](mailto:jblack@scf.com); [d.g.mooney@comcast.net](mailto:d.g.mooney@comcast.net); [kevinalanhunt@gmail.com](mailto:kevinalanhunt@gmail.com); [phalpern@gmail.com](mailto:phalpern@gmail.com); [donnaellinger@gmail.com](mailto:donnaellinger@gmail.com); [thejap@netzero.net](mailto:thejap@netzero.net); [twitch1900@aol.com](mailto:twitch1900@aol.com); Steve Gruber; Michael Palmer; Amy Shoemaker; [jbrozo@gmail.com](mailto:jbrozo@gmail.com); Shane Furlong; Steve Gruber; Davis Reinhart; [secretary@hylandgreenshoa.org](mailto:secretary@hylandgreenshoa.org); [keystone88@hotmail.com](mailto:keystone88@hotmail.com); [denise.atencio@gmail.com](mailto:denise.atencio@gmail.com); [CHawkins@ehammersmith.com](mailto:CHawkins@ehammersmith.com); [lhylmdco@msn.com](mailto:lhylmdco@msn.com); [jbalck@frii.com](mailto:jbalck@frii.com)  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

*Hello:*

*I'm writing to see if anyone has any new questions that might have come up since our last meeting. Please let me know if you need additional information or would like to meet again.*

*Regards,*

**Chad Kipfer**  
Project Manager  
**Markel Homes Construction Company**  
5723 Arapahoe Ave. #2B  
Boulder, CO 80303  
303-339-6116 Direct  
303-444-2798 Fax

**Hamilton, Terri**

---

**From:** Steve Gruber [steve@nodiplaw.com]  
**Sent:** Thursday, January 31, 2013 8:43 AM  
**To:** chad  
**Cc:** michael; Hamilton, Terri; chawkins@eHammersmith.com; dreinhart@edificecm.com  
**Subject:** RE: Hyland Village meeting follow up

Chad,

I tried calling this morning but could not reach you or voicemail.

I appreciate you resending the bullet points that I already had in hand. I was hoping that there would be more details at this point. So, I will await your detailed proposal.

On another note, when you have the detailed proposal, could you present it to all the homeowners? At the first public meeting you said that you would provide the detailed proposal to Catherine so that she could distribute the proposal to all the residents via e-mail. In the end, I had to send you a request for those details, which were then provided in bullet form, and did not include very much detail. Further, you then provided them a mere 48 hours before the meeting. You also dictated the meeting time to the residents rather than trying to find a time when the greatest number of residents could attend—there are only 16 homes. Now, perhaps I did not hear you correctly at the first meeting or perhaps my expectations are too high, but either way, I was hoping for better communication between our parties.

Regards,  
 Stephen S. Gruber  
 Patent Attorney  
 NEUGEBOREN O'DOWD PC  
 1227 Spruce St., Suite 200  
 Boulder, CO 80302  
 720 536 4908 (direct)  
 steve@neugeborenlaw.com

This communication is for use by the intended recipient(s) only and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying hereof is strictly prohibited. If you have received this communication in error, please notify me by reply e-mail, permanently delete this communication from your system, and destroy any hard-copies you may have printed. This communication is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521

---

**From:** chad [mailto:chad@markelhomes.com]  
**Sent:** Wednesday, January 30, 2013 2:42 PM  
**To:** stevegruber05@gmail.com; Steve Gruber  
**Cc:** michael; THamilton@CityofWestminster.us; chawkins@eHammersmith.com; dreinhart@edificecm.com  
**Subject:** RE: Hyland Village meeting follow up

*Hi Steve:*

*At the second meeting we proposed to join the HOA and handed out the attached written summary. I emailed you and Michael Palmer this information on January 17<sup>th</sup>. This proposal addresses your questions about voting, rec. fee and dues.*

*The proposal has our property joining the HOA and paying the same dues as the master association and recreation fee per the declaration. Voting rights are addressed and limited to not have a super majority vote. We are currently working to formalize an agreement per the attached summary.*

We feel this is a good proposal for all parties. Let me know if you want to meet in person or discuss this on the phone.

Regards,

**Chad Kipfer**

Project Manager  
**Markel Homes Construction Company**  
 5723 Arapahoe Ave. #2B  
 Boulder, CO 80303  
 303-339-6116 Direct  
 303-444-2798 Fax

---

**From:** Steve Gruber [mailto:steve@nodiaplav.com]  
**Sent:** Wednesday, January 30, 2013 12:03 PM  
**To:** chad; Hamilton, Terri; [aberlee777@gmail.com](mailto:aberlee777@gmail.com); [jblack@scf.com](mailto:jblack@scf.com); [d.g.mooney@comcast.net](mailto:d.g.mooney@comcast.net); [kevinlanhunt@gmail.com](mailto:kevinlanhunt@gmail.com); [phalpern@gmail.com](mailto:phalpern@gmail.com); [donnaellinger@gmail.com](mailto:donnaellinger@gmail.com); [thejap@netzero.net](mailto:thejap@netzero.net); [twitch1900@aol.com](mailto:twitch1900@aol.com); Steve Gruber; Michael Palmer; Amy Shoemaker; [jbrozo@gmail.com](mailto:jbrozo@gmail.com); Shane Furlong; Davis Reinhart; [secretary@hylandgreenshoa.org](mailto:secretary@hylandgreenshoa.org); [keystone88@hotmail.com](mailto:keystone88@hotmail.com); [denise.atencio@gmail.com](mailto:denise.atencio@gmail.com); [CHawkins@ehammersmith.com](mailto:CHawkins@ehammersmith.com); [lhylmdco@msn.com](mailto:lhylmdco@msn.com); [jbalck@frii.com](mailto:jbalck@frii.com)  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

Chad:

Pursuant to our first meeting, some residents would like to see a written description of the Markel proposal including details regarding HOA membership, voting rights, inflation-adjustments to the Markel contribution to the HOA, the monthly contribution, whether or not an equivalent of the .5% recreation fee (applied to the value of the entire apartment facility) is to be collected, and any other details.

For Provident and the Board of the HOA:

Assuming Markel is not to contribute to the .5% recreation fee, does the HOA Board feel that the Recreation Fee serves a purpose? If the Recreation Fee is not necessary, then does the HOA plan to refund current homeowners their recreation fees and any interest that the HOA has accrued on this money?

Stephen S. Gruber  
 Patent Attorney  
 NEUGEBOREN O'DOWD PC  
 1227 Spruce St., Suite 200  
 Boulder, CO 80302  
 720 536 4908 (direct)  
[steve@neugeborenlaw.com](mailto:steve@neugeborenlaw.com)

This communication is for use by the intended recipient(s) only and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying hereof is strictly prohibited. If you have received this communication in error, please notify me by reply e-mail, permanently delete this communication from your system, and destroy any hard-copies you may have printed. This communication is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521

---

**From:** chad [mailto:chad@markelhomes.com]  
**Sent:** Wednesday, January 30, 2013 10:52 AM  
**To:** Hamilton, Terri; [aberlee777@gmail.com](mailto:aberlee777@gmail.com); [jblack@scf.com](mailto:jblack@scf.com); [d.g.mooney@comcast.net](mailto:d.g.mooney@comcast.net); [kevinlanhunt@gmail.com](mailto:kevinlanhunt@gmail.com);

[phalpern@gmail.com](mailto:phalpern@gmail.com); [donnaellinger@gmail.com](mailto:donnaellinger@gmail.com); [thejap@netzero.net](mailto:thejap@netzero.net); [twitch1900@aol.com](mailto:twitch1900@aol.com); Steve Gruber; Michael Palmer; Amy Shoemaker; [jbrozo@gmail.com](mailto:jbrozo@gmail.com); Shane Furlong; Steve Gruber; Davis Reinhart; [secretary@hylandgreenshoa.org](mailto:secretary@hylandgreenshoa.org); [keystone88@hotmail.com](mailto:keystone88@hotmail.com); [denise.atencio@gmail.com](mailto:denise.atencio@gmail.com); [CHawkins@ehammersmith.com](mailto:CHawkins@ehammersmith.com); [lhylmdco@msn.com](mailto:lhylmdco@msn.com); [jbalck@frii.com](mailto:jbalck@frii.com)

**Cc:** michael

**Subject:** RE: Hyland Village meeting follow up

*Hello:*

*I'm writing to see if anyone has any new questions that might have come up since our last meeting. Please let me know if you need additional information or would like to meet again.*

*Regards,*

**Chad Kipfer**

Project Manager

**Markel Homes Construction Company**

5723 Arapahoe Ave. #2B

Boulder, CO 80303

303-339-6116 Direct

303-444-2798 Fax

**New Hyland Village HOA Agreement with 1225 Prospect LLC**

We want to change our current agreement so that the multifamily site joins the Master Association (HOA) no matter what the land use approval and pay full dues and transfer fee.

The supplemental declaration language for each annexation scenario is listed as an exhibit to the agreement.

- Tract SS – Village Green
  - Annexed into HOA
  - Included in previous agreement
  
- Rental Project
  - Annexed into HOA
  - Pay full dues and transfer fee
  - Voting right is set to always be 35% of currently annexed units –
    - “No super majority vote”
  - Designated builder rights
  - Addresses mechanics of allowing rentals in declaration
  
- For Sale Project
  - Annexed into HOA
  - Pay full dues and transfer fee
  - Designated builder rights

**Hamilton, Terri**

---

**From:** Catherine Hawkins [CHawkins@ehammersmith.com]  
**Sent:** Thursday, January 31, 2013 9:22 AM  
**To:** 'Steve Gruber'; chad; Hamilton, Terri; aberlee777@gmail.com; jblack@scf.com; d.g.mooney@comcast.net; kevinanhunt@gmail.com; phalpern@gmail.com; donnaellinger@gmail.com; thejap@netzero.net; twitch1900@aol.com; Steve Gruber; Michael Palmer; Amy Shoemaker; jbrozo@gmail.com; Shane Furlong; Davis Reinhart; secretary@hylandgreenshoa.org; keystone88@hotmail.com; denise.atencio@gmail.com; lhylmdco@msn.com; jbalck@frii.com  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

To answer your question to the HOA,

The Markel property will be required to pay the 0.5% recreational fee. It will be paid under both scenarios, as a for sale product and a rental. Under the for sale scenario, the recreational fee will be collected each time a unit sells just as all of the other property currently in the HOA. If the property is re-zoned to a for rent product, the recreational fee will be collected when and if the project is sold. For example, if the project is a for rent product and sells for \$10,000,000 then the recreational fee will be 0.5% of \$10,000,000 or \$50,000.

The recreational fee is in place to help fund capital improvements or expenses on the facilities that will be owned and maintained by the HOA.

Catherine Hawkins, CMCA® , AMS®  
 Community Manager  
 Hammersmith Management Inc., AAMC®  
 P: 303-980-0700  
 F: 303-980-0576  
 E: CHawkins@ehammersmith.com




---

**From:** Steve Gruber [mailto:steve@nodiplaw.com]  
**Sent:** Wednesday, January 30, 2013 12:03 PM  
**To:** chad; Hamilton, Terri; aberlee777@gmail.com; jblack@scf.com; d.g.mooney@comcast.net; kevinanhunt@gmail.com; phalpern@gmail.com; donnaellinger@gmail.com; thejap@netzero.net; twitch1900@aol.com; Steve Gruber; Michael Palmer; Amy Shoemaker; jbrozo@gmail.com; Shane Furlong; Davis Reinhart; secretary@hylandgreenshoa.org; keystone88@hotmail.com; denise.atencio@gmail.com; Catherine Hawkins; lhylmdco@msn.com; jbalck@frii.com  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

Chad:

Pursuant to our first meeting, some residents would like to see a written description of the Markel proposal including details regarding HOA membership, voting rights, inflation-adjustments to the Markel contribution to the HOA, the



monthly contribution, whether or not an equivalent of the .5% recreation fee (applied to the value of the entire apartment facility) is to be collected, and any other details.

For Provident and the Board of the HOA:

Assuming Markel is not to contribute to the .5% recreation fee, does the HOA Board feel that the Recreation Fee serves a purpose? If the Recreation Fee is not necessary, then does the HOA plan to refund current homeowners their recreation fees and any interest that the HOA has accrued on this money?

Stephen S. Gruber  
 Patent Attorney  
 NEUGEBOREN O'DOWD PC  
 1227 Spruce St., Suite 200  
 Boulder, CO 80302  
 720 536 4908 (direct)  
 steve@neugeborenlaw.com

This communication is for use by the intended recipient(s) only and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient of this communication, you are hereby notified that any dissemination, distribution or copying hereof is strictly prohibited. If you have received this communication in error, please notify me by reply e-mail, permanently delete this communication from your system, and destroy any hard-copies you may have printed. This communication is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521

---

**From:** chad [mailto:chad@markelhomes.com]  
**Sent:** Wednesday, January 30, 2013 10:52 AM  
**To:** Hamilton, Terri; aberlee777@gmail.com; jblack@scf.com; d.g.mooney@comcast.net; kevinanhunt@gmail.com; phalpern@gmail.com; donnaellinger@gmail.com; thejap@netzero.net; twitch1900@aol.com; Steve Gruber; Michael Palmer; Amy Shoemaker; jbrozo@gmail.com; Shane Furlong; Steve Gruber; Davis Reinhart; secretary@hylandgreenshoa.org; keystone88@hotmail.com; denise.atencio@gmail.com; CHawkins@ehammersmith.com; lhylmdco@msn.com; jbalck@frii.com  
**Cc:** michael  
**Subject:** RE: Hyland Village meeting follow up

Hello:

*I'm writing to see if anyone has any new questions that might have come up since our last meeting. Please let me know if you need additional information or would like to meet again.*

Regards,

**Chad Kipfer**  
 Project Manager  
**Markel Homes Construction Company**  
 5723 Arapahoe Ave. #2B  
 Boulder, CO 80303  
 303-339-6116 Direct  
 303-444-2798 Fax

CONFIDENTIALITY NOTICE - This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain information that is confidential or legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that you must not read or play this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender by telephone or return e-mail and delete the original transmission and its attachments without reading or saving in any manner. Thank you.

## Criteria and Standards for Land Use Applications

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.
9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

***Official Development Plan (ODP) Application***

**11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)**

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.

15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

**NAMES AND ADDRESSES:**

**OWNERS OF RECORD**  
1225 PROSPECT, LLC  
5723 ARAPAHOE AVE #2B  
BOULDER, CO 80303  
CONTACT: MICHAEL MARKEL, MANAGER  
PHONE: 303-449-8689

**DEVELOPER/APPLICANT**  
1225 PROSPECT, LLC  
5723 ARAPAHOE AVE #2B  
BOULDER, CO 80303  
CONTACT: CHAD KIPFER  
PHONE: 303-339-6116

**PLANNER**  
PESSIN STUDIOS  
1633 18TH STREET  
BOULDER, CO.  
CONTACT: SCOTT PESSIN  
PHONE: 303-718-2730

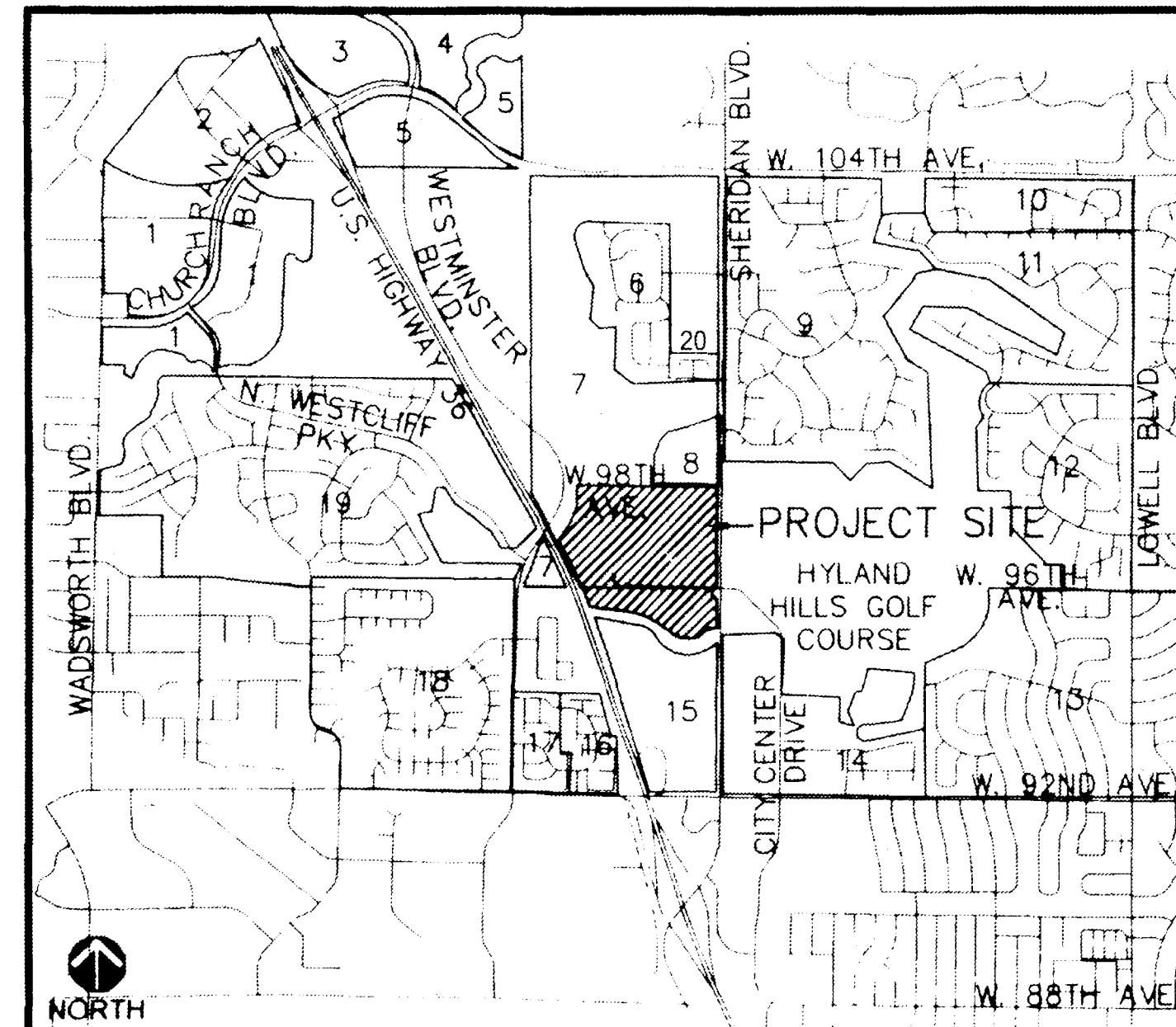
**2ND AMENDED PRELIMINARY DEVELOPMENT PLAN  
HYLAND VILLAGE SUBDIVISION  
A PLANNED UNIT DEVELOPMENT IN THE CITY OF WESTMINSTER  
COUNTY OF JEFFERSON, STATE OF COLORADO  
SHEET 1 OF 1**

**SHEET INDEX:**

- 1 COVER SHEET

**CITY OF WESTMINSTER STANDARD NOTES**

- 1. FULL FORCE AND EFFECT: ALL PROVISIONS OF THE ORIGINAL PDP RECORDED AT RECEPTION NO. 2007019119 AND SUBSEQUENT PDP AMENDMENTS SHALL REMAIN IN FULL FORCE AND EFFECT, EXCEPT AS NOTED HEREIN.
- 2. PLAN DURATION: IN THE EVENT THE DATE OF APPROVAL OF A PROPERTY'S PDP OR LATEST PDP AMENDMENT IS MORE THAN FIVE (5) YEARS OLD AND AN ODP HAS NOT BEEN APPROVED, THE PDP OR AMENDED PDP SHALL BE REQUIRED TO BE SUBMITTED FOR REVIEW AND RECONSIDERATION IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 11-5-13 OF THE WESTMINSTER MUNICIPAL CODE, AND ALL APPLICABLE STANDARDS PURSUANT TO CHAPTER 5 OF TITLE XI, W.M.C.
- 3. DEVELOPMENT TIMING AND PHASING HAS BEEN ESTABLISHED WITH THE EXISTING OFFICIAL DEVELOPMENT PLAN AND MAY BE REVISED IN SCOPE AND TIMING SUBJECT TO FURTHER REVIEW OF AMENDED ODP'S.



VICINITY MAP

SCALE: 1"=2000'

- SUBDIVISION NAMES:**
1. CHURCH RANCH HOME PLACE
  2. MANDALAY TOWN CENTER
  3. WESTMINSTER PROMENADE
  4. WESTMINSTER PROMENADE EAST
  5. NORTH POINT CENTER
  6. WAVERLY ACRES
  7. SEMPER GARDENS
  8. AXTELL
  9. HYLAND GREENS
  10. THE WINDINGS
  11. HYLAND GREENS EAST
  12. SKYLAND VILLAGE
  13. SUNSET RIDGE
  14. WESTMINSTER CITY CENTER
  15. WESTFIELD
  16. MADISON HILL
  17. FRANKLIN SQUARE
  18. TRENDWOOD
  19. WESTCLIFF
  20. HYLAND MEADOWS
- 0' 1000' 2000' 4000'  
SCALE: 1" = 2000'

**LEGAL DESCRIPTION**

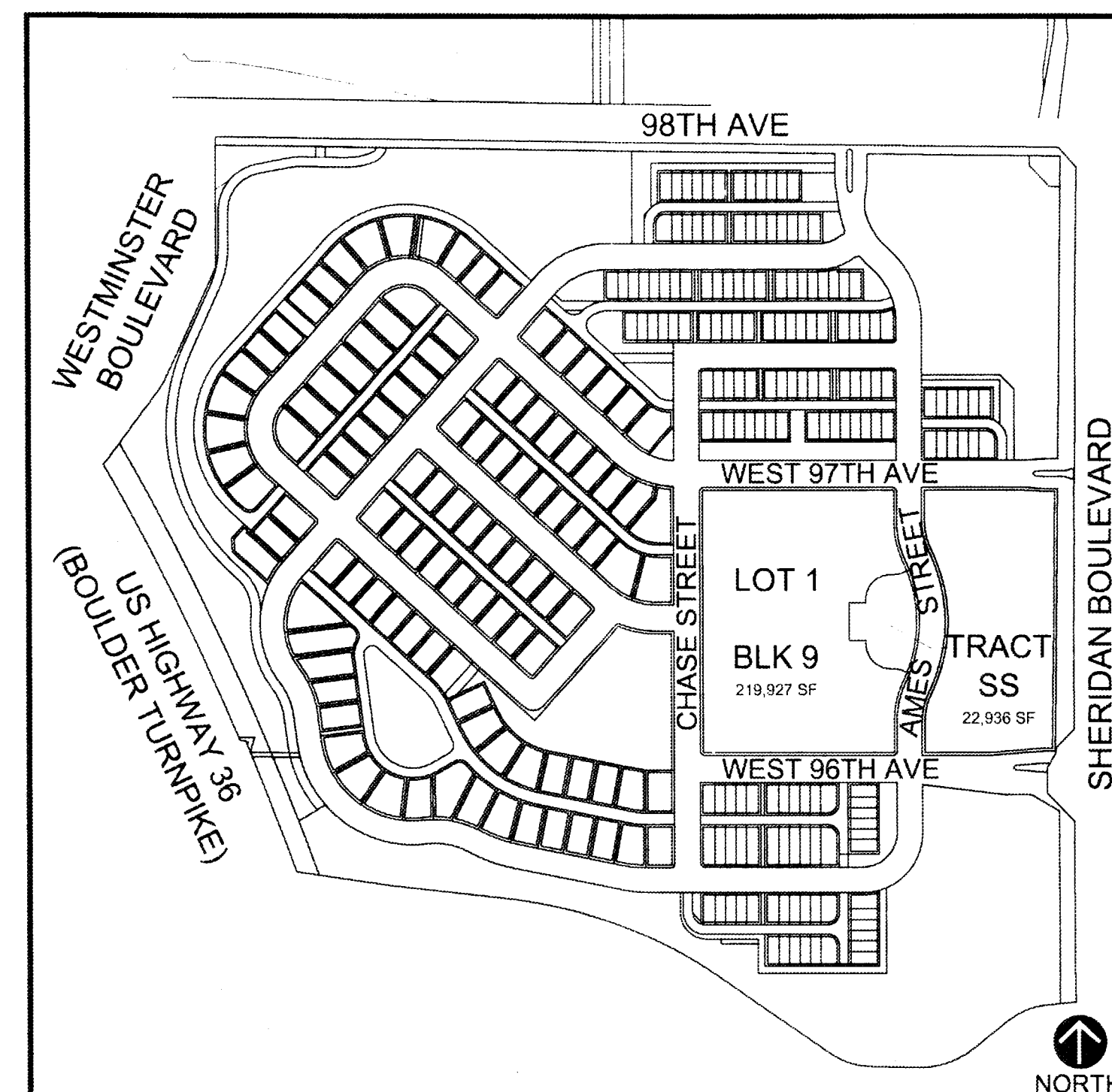
FINAL PLAT FOR HYLAND VILLAGE SUBDIVISION, LOT 1, BLOCK 9 AND TRACT SS, RECEPTION NO. 2007123402, DATED NOVEMBER 2, 2007, COUNTY OF JEFFERSON, STATE OF COLORADO.

**EXISTING ZONING**

PLANNED UNIT DEVELOPMENT FOR A TRADITIONAL MIXED USE NEIGHBORHOOD. DESIGNATION OF THIS AREA IS AS A MULTI-FAMILY RESIDENTIAL USE AND VILLAGE GREEN WITH THE RESIDENTIAL USE DESIGNED TO BE MARKETED TO INDIVIDUAL BUYERS.

**PROPOSED USES**

ALL PROPOSED USES WILL BE DEVELOPED IN CONFORMANCE WITH THE "DESIGN GUIDELINES FOR TRADITIONAL MIXED USE NEIGHBORHOOD DEVELOPMENTS" AND CITY OF WESTMINSTER DEVELOPMENT REQUIREMENTS. OWNER OCCUPIED OR RENTAL PROJECTS ARE ALLOWED ON LOT 1 BLOCK 9 HYLAND VILLAGE SUBDIVISION.



SITE PLAN

0' 150' 300' 600'  
SCALE: 1" = 300'

**PURPOSE OF THE 2ND AMENDED PRELIMINARY DEVELOPMENT PLAN**

THE PURPOSE OF THE 2ND AMENDED PDP IS TO ALLOW THE USE OF MULTI-FAMILY RESIDENTIAL ON LOT 1 BLOCK 9 AS A DEVELOPMENT MARKETED TO INDIVIDUAL BUYERS OR AS A RENTAL PROJECT. TEXT ON THE ORIGINAL PDP REFERRING TO "CONDOMINIUMS" MAY ALSO BE INTERPRETED TO REFER TO "APARTMENTS." THE PROPOSED DEVELOPMENT OF A "VILLAGE GREEN" AS INDICATED BY THE ORIGINAL PRELIMINARY DEVELOPMENT PLAN FOR HYLAND VILLAGE SUBDIVISION IS NOT PROPOSED TO BE ALTERED.

**LAND USE TABLE**

| LAND USE                 | TOTAL AC    | % OF PROPERTY | ESTIMATED NO. DU | DU/AC             |
|--------------------------|-------------|---------------|------------------|-------------------|
| LOT 1 BLOCK 9            | 5.05        | 91%           | 150 +/-          | 29.7 DU/AC        |
| TRACT SS (VILLAGE GREEN) | .53         | 9%            | 0                | 0                 |
| <b>TOTAL</b>             | <b>5.58</b> | <b>100%</b>   | <b>150 +/-</b>   | <b>26.8 DU/AC</b> |

MAXIMUM NUMBER OF DWELLING UNITS IS UP TO 483 FOR THE ENTIRE HYLAND VILLAGE SUBDIVISION UNLESS A GREATER NUMBER IS APPROVED WITHOUT EXCEEDING THE SERVICE COMMITMENTS AWARDED.

**SIGNATURES:**

APPROVED BY THE PLANNING COMMISSION OF THE CITY OF WESTMINSTER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

CHAIRMAN \_\_\_\_\_

ACCEPTED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

MAYOR \_\_\_\_\_

ATTEST: CITY CLERK \_\_\_\_\_

**CLERK AND RECORDER'S CERTIFICATE:**

RECEPTION NO. \_\_\_\_\_

ACCEPTED FOR FILING IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF JEFFERSON COUNTY AT GOLDEN, COLORADO ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011. AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_.

JEFFERSON COUNTY CLERK AND RECORDER \_\_\_\_\_

BY: DEPUTY CLERK \_\_\_\_\_ (SEAL)

**OWNERS**

I, MICHAEL MARKEL AS MANAGING MEMBER OF 1225 PROSPECT LLC A COLORADO LIMITED LIABILITY COMPANY, PROPERTY OWNER, DO SO APPROVE THIS PDP FOR REVIEW AND APPROVAL BY THE CITY OF WESTMINSTER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

(SIGNATURE) \_\_\_\_\_

|            |              |
|------------|--------------|
| ISSUED:    | AUG 25, 2011 |
| REVISIONS: |              |
|            |              |
|            |              |



**NAMES AND ADDRESSES:**

**OWNERS OF RECORD**

1225 PROSPECT, LLC  
 5723 ARAPAHOE AVE #2B  
 BOULDER, CO 80303  
 CONTACT: MICHAEL MARKEL, MANAGER  
 PHONE: 303-449-8689

**DEVELOPER/APPLICANT**

1225 PROSPECT, LLC  
 5723 ARAPAHOE AVE #2B  
 BOULDER, CO 80303  
 CONTACT: CHAD KIPFER  
 PHONE: 303-339-6116

**PLANNER**

PESSIN STUDIOS  
 1633 18TH STREET  
 BOULDER, CO  
 CONTACT: SCOTT PESSIN  
 PHONE: 303-718-2730

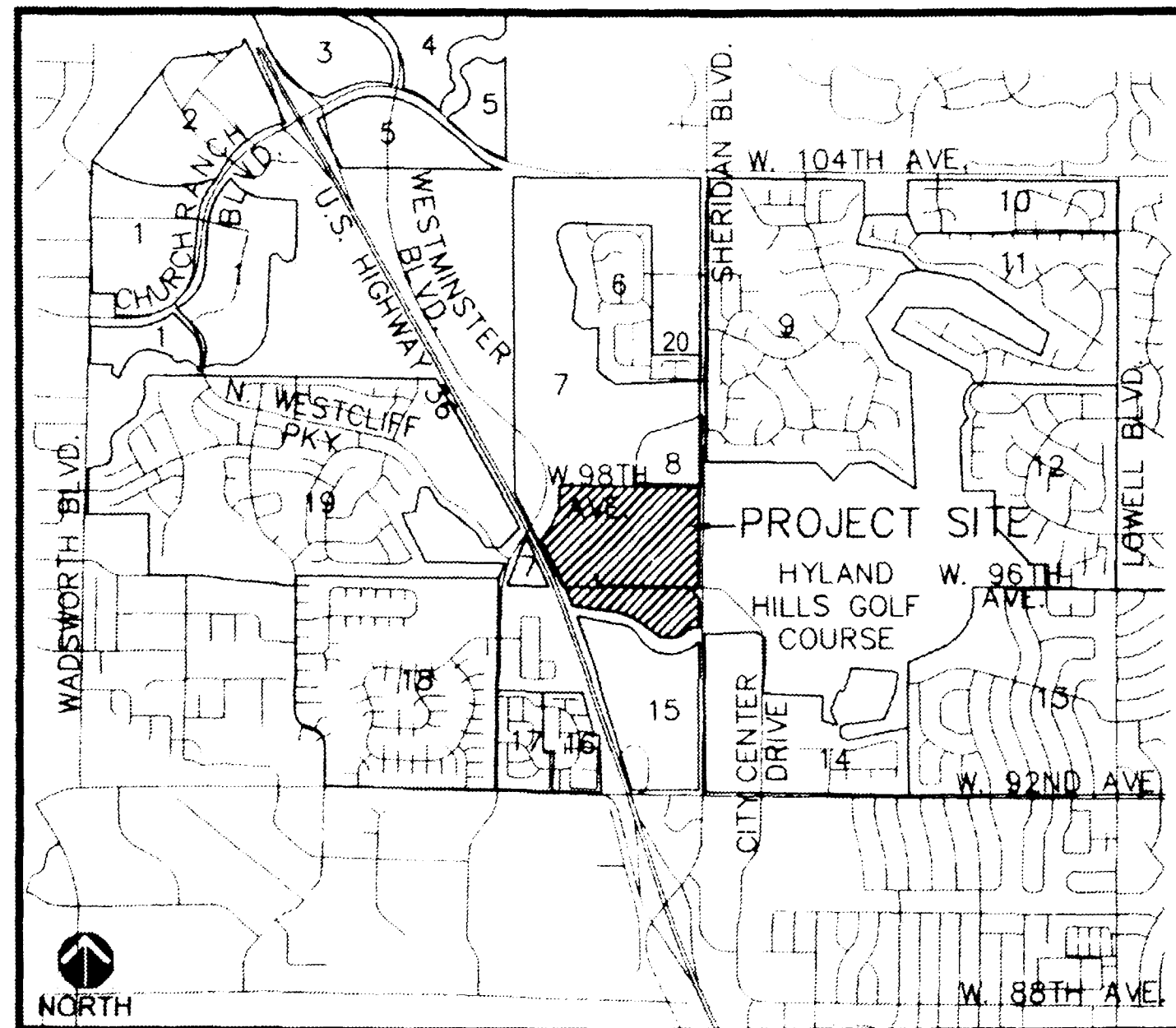
**SHEET INDEX:**

- 1 COVER SHEET

**CITY OF WESTMINSTER STANDARD NOTES**

1. FULL FORCE AND EFFECT: ALL PROVISIONS OF THE ORIGINAL ODP RECORDED AT RECEPTION NO. 2007019120 AND SUBSEQUENT ODP AMENDMENTS SHALL REMAIN IN FULL FORCE AND EFFECT, EXCEPT AS NOTED HEREIN.
2. PLAN DURATION: IN THE EVENT THE DATE OF APPROVAL OF A PROPERTY'S ODP OR LATEST ODP AMENDMENT IS MORE THAN THREE (3) YEARS OLD AND NO BUILDING PERMIT HAS BEEN ISSUED, THE ODP OR AMENDED ODP SHALL BE REQUIRED TO BE SUBMITTED FOR REVIEW AND RECONSIDERATION IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 11-5-13 OF THE WESTMINSTER MUNICIPAL CODE, AND ALL APPLICABLE STANDARDS PURSUANT TO CHAPTER 5 OF TITLE XI, W.M.C.
3. DEVELOPMENT TIMING AND PHASING HAS BEEN ESTABLISHED WITH THE EXISTING OFFICIAL DEVELOPMENT PLAN AND MAY BE REVISED IN SCOPE AND TIMING SUBJECT TO FURTHER REVIEW OF AMENDED ODP'S.
4. IT IS EXPRESSLY UNDERSTOOD AND AGREED TO BY THE OWNER THAT THE INSTALLATION AND/OR MAINTENANCE OF ANY AND ALL DRAINAGE IMPROVEMENTS NEEDED TO SERVE THIS SITE, INCLUDING BUT NOT LIMITED TO OFFSITE STORM DRAINAGE DETENTION FACILITIES IS AND REMAINS FOREVER THE RESPONSIBILITY OF THE OWNER, ITS HEIRS, SUCCESSORS, AND ASSIGNS AND WILL NOT BECOME THE PROPERTY OR MAINTENANCE RESPONSIBILITY OF THE CITY OF WESTMINSTER.
5. UTILITY BOXES ARE TO BE INSTALLED IN THE LOCATION/S SHOWN ON THE ODP. ANY PROPOSED REVISIONS TO THE LOCATION/S SHOWN ON THE ODP SHALL REQUIRE AN AMENDMENT PRIOR TO THE INSTALLATION OF THE BOXES, AND THE CITY'S APPROVAL OF SUCH AN AMENDMENT MAY BE CONDITIONAL UPON THE PROVISION OF ADDITIONAL SCREENING (E.G. MASONRY WALL AND/OR LANDSCAPING). FAILURE TO COMPLY MAY RESULT IN THE WITHHOLDING OF A BUILDING PERMIT OR OCCUPANCY CERTIFICATE.

**8TH AMENDED OFFICIAL DEVELOPMENT PLAN  
 HYLAND VILLAGE SUBDIVISION  
 A PLANNED UNIT DEVELOPMENT IN THE CITY OF WESTMINSTER  
 COUNTY OF JEFFERSON, STATE OF COLORADO  
 SHEET 1 OF 1**



**VICINITY MAP**

SCALE: 1"=2000'

**LEGAL DESCRIPTION**

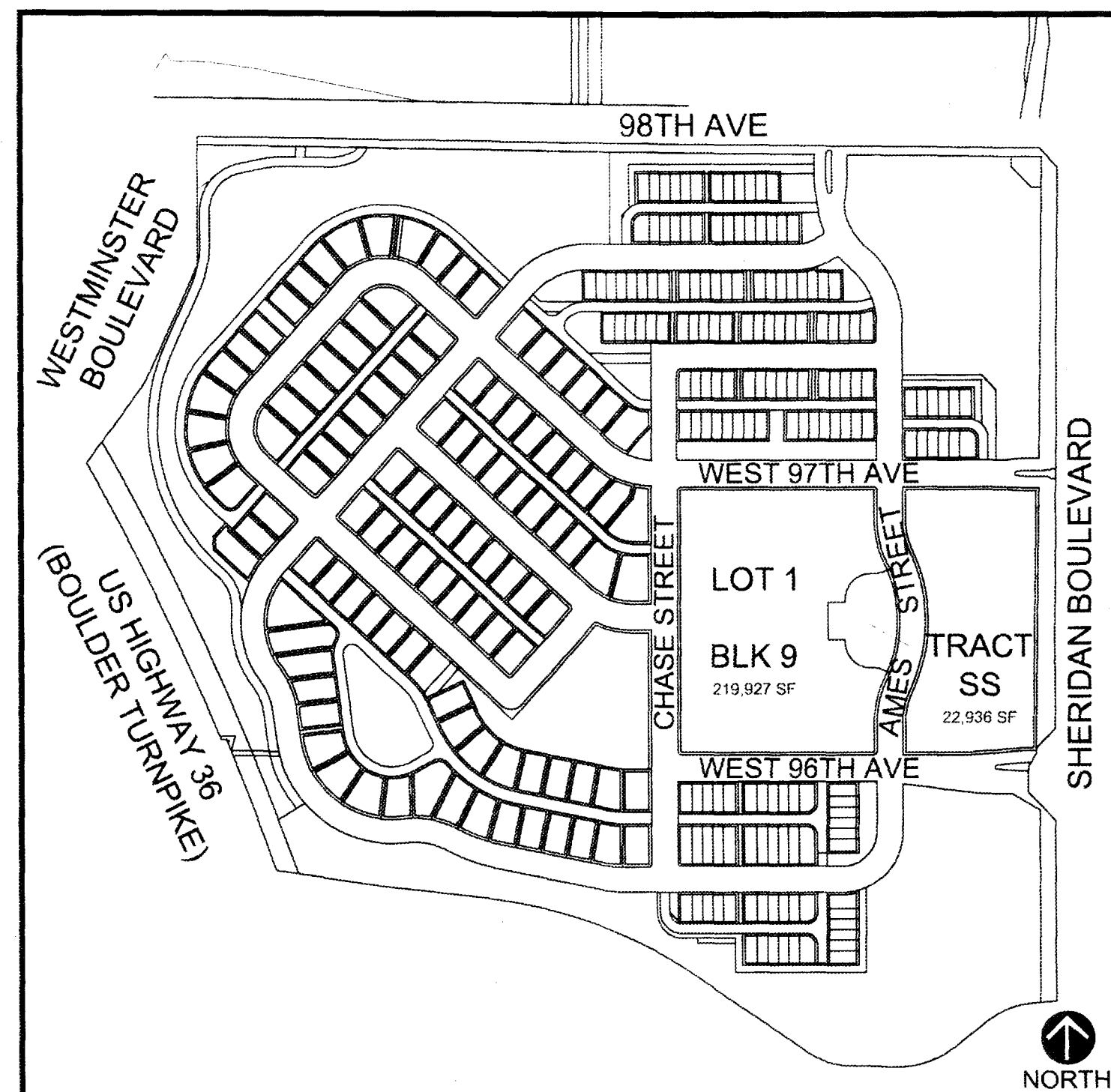
FINAL PLAT FOR HYLAND VILLAGE SUBDIVISION, LOT 1, BLOCK 9 AND TRACT SS, RECEPTION NO. 2007123402, DATED NOVEMBER 2, 2007, COUNTY OF JEFFERSON, STATE OF COLORADO.

**EXISTING ZONING**

PLANNED UNIT DEVELOPMENT FOR A TRADITIONAL MIXED USE NEIGHBORHOOD. DESIGNATION OF THIS AREA IS AS A MULTI-FAMILY RESIDENTIAL USE AND VILLAGE GREEN WITH THE RESIDENTIAL USE DESIGNED TO BE MARKETED TO INDIVIDUAL BUYERS.

**PROPOSED USES**

ALL PROPOSED USES WILL BE DEVELOPED IN CONFORMANCE WITH THE "DESIGN GUIDELINES FOR TRADITIONAL MIXED USE NEIGHBORHOOD DEVELOPMENTS" AND CITY OF WESTMINSTER DEVELOPMENT REQUIREMENTS. OWNER OCCUPIED OR RENTAL PROJECTS ARE ALLOWED ON LOT 1 BLOCK 9 HYLAND VILLAGE SUBDIVISION.

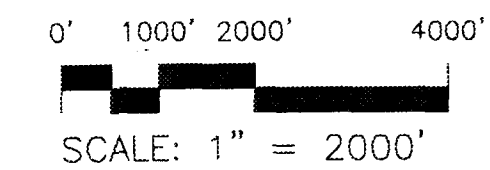


**SITE PLAN**

0' 150' 300' 600'  
 SCALE: 1" = 300'

**SUBDIVISION NAMES:**

1. CHURCH RANCH HOME PLACE
2. MANDALAY TOWN CENTER
3. WESTMINSTER PROMENADE
4. WESTMINSTER PROMENADE EAST
5. NORTH POINT CENTER
6. WAVERLY ACRES
7. SEMPER GARDENS
8. AXTELL
9. HYLAND GREENS
10. THE WINDINGS
11. HYLAND GREENS EAST
12. SKYLAND VILLAGE
13. SUNSET RIDGE
14. WESTMINSTER CITY CENTER
15. WESTFILED
16. MADISON HILL
17. FRANKLIN SQUARE
18. TRENDWOOD
19. WESTCLIFF
20. HYLAND MEADOWS



**PURPOSE AND INTENT OF 8TH AMENDED OFFICIAL DEVELOPMENT PLAN**

THE PURPOSE OF THE 8TH AMENDED ODP IS TO ALLOW THE USE OF MULTI-FAMILY RESIDENTIAL ON LOT 1 BLOCK 9 AS A DEVELOPMENT MARKETED TO INDIVIDUAL BUYERS OR AS A RENTAL PROJECT. TEXT ON THE ORIGINAL ODP REFERRING TO "CONDOMINIUMS" MAY ALSO BE INTERPRETED TO REFER TO "APARTMENTS." THE PROPOSED DEVELOPMENT OF A "VILLAGE GREEN" AS INDICATED BY THE ORIGINAL OFFICIAL DEVELOPMENT PLAN FOR HYLAND VILLAGE SUBDIVISION IS NOT PROPOSED TO BE ALTERED.

| LAND USE TABLE           |             |               |                  |                   |
|--------------------------|-------------|---------------|------------------|-------------------|
| LAND USE                 | TOTAL AC    | % OF PROPERTY | ESTIMATED NO. DU | DU/AC             |
| LOT 1 BLOCK 9            | 5.05        | 91%           | 150 +/-          | 29.7 DU/AC        |
| TRACT SS (VILLAGE GREEN) | .53         | 9%            | 0                | 0                 |
| <b>TOTAL</b>             | <b>5.58</b> | <b>100%</b>   | <b>150 +/-</b>   | <b>26.8 DU/AC</b> |

MAXIMUM NUMBER OF DWELLING UNITS IS UP TO 483 FOR THE ENTIRE HYLAND VILLAGE SUBDIVISION UNLESS A GREATER NUMBER IS APPROVED WITHOUT EXCEEDING THE SERVICE COMMITMENTS AWARDED.

**ZONING**

SUBJECT PROPERTY  
 APPROVED ODP -- PLANNED UNIT DEVELOPMENT FOR A TRADITIONAL MIXED USE NEIGHBORHOOD DEVELOPMENT

SURROUNDING ZONING  
 NORTH: 01, P.U.D.; SOUTH: P.U.D.; WEST: 01, P.U.D.; EAST: 01, P.U.D.

SURROUNDING COMPREHENSIVE PLAN LAND USE DESIGNATION  
 NORTH: CITY OWNED OPEN SPACE, PUBLIC/QUASI-PUBLIC  
 EAST: GOLF COURSE, OFFICE/RESIDENTIAL  
 SOUTH: CITY OWNED OPEN SPACE, RETAIL/COMMERCIAL  
 WEST: CITY OWNED OPEN SPACE, R-18 RESIDENTIAL

**SIGNATURES:**

APPROVED BY THE PLANNING COMMISSION OF THE CITY OF WESTMINSTER THIS \_\_\_\_ DAY OF \_\_\_\_ 2011.

CHAIRMAN \_\_\_\_\_

ACCEPTED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THIS \_\_\_\_ DAY OF \_\_\_\_ 2011.

MAYOR \_\_\_\_\_

ATTEST: CITY CLERK \_\_\_\_\_

**CLERK AND RECORDER'S CERTIFICATE:**

RECEPTION NO. \_\_\_\_\_

ACCEPTED FOR FILING IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF JEFFERSON COUNTY AT GOLDEN, COLORADO ON THIS \_\_\_\_ DAY OF \_\_\_\_ 2011. AT \_\_\_\_ O'CLOCK \_\_\_\_.

JEFFERSON COUNTY CLERK AND RECORDER \_\_\_\_\_

BY: DEPUTY CLERK \_\_\_\_\_ (SEAL)

**OWNERS**

I, MICHAEL MARKEL AS MANAGING MEMBER OF 1225 PROSPECT LLC A COLORADO LIMITED LIABILITY COMPANY, PROPERTY OWNER, DO SO APPROVE THIS ODP FOR REVIEW AND APPROVAL BY THE CITY OF WESTMINSTER THIS \_\_\_\_ DAY OF \_\_\_\_ 2011.

(SIGNATURE) \_\_\_\_\_

|            |              |
|------------|--------------|
| ISSUED:    | AUG 25, 2011 |
| REVISIONS: |              |
|            |              |
|            |              |

# **AGENDA**

## **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING**

**MONDAY, February 25, 2013**

**AT 7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (December 10, 2012)
- 3. Purpose of Special WEDA Meeting is to consider**
  - A. Public Hearing regarding a Budget Amendment for WEDA
  - B. Resolution No. 148 regarding a Supplemental Appropriation to the 2012 WEDA Budget
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY  
MONDAY, DECEMBER 10, 2012, AT 7:22 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Winter, and Board Members Briggs, Kaiser, Lindsey, and Major. Board Member Atchison was absent. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney, and Linda Yeager, Secretary.

APPROVAL OF MINUTES

Board Member Briggs moved, seconded by Kaiser, to approve the minutes of the meeting of October 8, 2012, as written. The motion carried unanimously.

WESTMINSTER CENTER URBAN REINVESTMENT PROJECT CONSULTANT CONTRACTS

Vice Chairperson Winter moved, seconded by Kaiser, to authorize the Executive Director to enter into one-year agreements with the Laramie Company and John M Mullins and Associates, Inc. to provide consultant services regarding the redevelopment of the Westminster Mall property. The motion carried unanimously.

WESTMINSTER CENTER URBAN REINVESTMENT PROJECT SPECIAL LEGAL COUNSEL

It was moved by Briggs, seconded by Major, to authorize the Executive Director to enter into an agreement with Murray Dahl Kuechenmeister & Renaud, LLP for legal representation related to the Westminster Center Urban Reinvestment Project and general urban renewal and eminent domain matters in an amount not to exceed \$125,000. The motion carried unanimously.

ADJOURNMENT

There was no further business for the Authority's consideration, and it was moved by Kaiser, seconded by Major, to adjourn. The motion passed and the meeting adjourned at 7:25 p.m.

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary



# WEDA Agenda Item 3 A&B

## Agenda Memorandum

Westminster Economic Development Authority Meeting  
February 25, 2013



**SUBJECT:** Public Hearing and Resolution No. 148 re Westminster Economic Development Authority 4<sup>th</sup> Qtr 2012 Supplemental Appropriation

**Prepared By:** Karen Creager, Special Districts Accountant

### Recommended Board Action

1. Hold a Public Hearing on the budget amendment for the Westminster Economic Development Authority.
2. Adopt Resolution No. 148 authorizing a supplemental appropriation to the 2012 Westminster Economic Development Authority budget.

### Summary Statement

- When necessary, City Staff prepares a resolution to appropriate unanticipated revenues and adjust the budget side of transactions that occur during the year. Typically supplemental appropriations are prepared on a quarterly basis for Westminster Economic Development Authority (WEDA) to simplify administrative procedures and reduce paper work.
- This is the fourth quarter supplemental appropriation for WEDA for 2012.
- 2012 Amendments:
  - \$7,420,000 loan refinancing proceeds
- A public hearing is required pursuant to Section 29-1-108 of the Colorado Revised Statutes.

**Expenditure Required:** \$7,420,000

**Source of Funds:** Refinancing Proceeds

**Policy Issue**

Should the WEDA Board appropriate funds as set forth in the attached Resolutions?

**Alternative**

The Board could decide not to appropriate funds. This is not recommended because the revenues requested to be appropriated have been earmarked for the refinancing of the 2009 South Sheridan Loan that was previously authorized by the Board. Approval of the appropriation of these various funds will bring WEDA's books in line with the Board's previous actions.

**Background Information**

*Loan proceeds*

On September 10, 2012, the Board approved refinancing of the 2009 WEDA Vectra Bank Loan (South Sheridan URA) not to exceed \$7.420 million. The refinancing of the loan settled on September 13, 2012. The attached resolution includes appropriation of the new loan funds used to pay off the old loan and reallocation of budget to pay costs related to the refinancing.

The amendments listed in the attached resolution will bring WEDA's accounting records up-to-date to reflect the various detailed transactions.

The action requested in this agenda memorandum relates to Council's Strategic Plan goals of "Financially Sustainable City Government Providing Exceptional Services" and "Balanced, Sustainable Local Economy." These goals are met by ensuring a balanced budget where revenues are appropriated to expenditure accounts so the funds can be utilized as intended. In this case, the funds are intended to assist with refinancing existing debt to better manage future interest costs.

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachment – Resolution

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **148**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2013

**2012 WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY  
BUDGET SUPPLEMENTAL APPROPRIATION**

WHEREAS, the Westminster Economic Development Authority (WEDA) initially adopted the 2012 budget on October 11, 2010 and

WHEREAS, proper notice for this amendment was published on February 21, 2013, pursuant to the requirements of Section 29-1-106 Colorado Revised Statutes; and

WHEREAS, a public hearing for this amendment was held on February 25, 2013, pursuant to the requirements of Section 29-1-108 Colorado Revised Statutes; and

WHEREAS, as necessary a resolution to make adjustments to the budget is presented to the Board; and

WHEREAS, there are adjustments to be made to the 2012 budget; and

WHEREAS, the revenue adjustments consist of an increase of \$7,420,000; and

WHEREAS, the expense adjustments consist of an increase of \$7,420,000.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Economic Development Authority:

Section 1. The \$7,420,000 increase shall be allocated to WEDA Revenue and Expenditure accounts as described below:

REVENUES

| Description                   | Account Number  | Current Budget | Amendment          | Revised Budget |
|-------------------------------|-----------------|----------------|--------------------|----------------|
| Other Financing Source - Loan | 6800.42510.0190 | \$0            | <u>\$7,420,000</u> | \$7,420,000    |
| Total Change to Revenues      |                 |                | <u>\$7,420,000</u> |                |

EXPENDITURES

| Description              | Account Number      | Current Budget | Amendment          | Revised Budget |
|--------------------------|---------------------|----------------|--------------------|----------------|
| Contractual Svcs         | 68010900.67800.0190 | \$1,200,000    | \$(3,525)          | \$1,196,475    |
| Interest                 | 68010900.78400.0190 | 366,290        | (72,144)           | 294,146        |
| Paying Agent Fees        | 68010900.78600.0190 | 7,122          | (2,656)            | 4,466          |
| Other Financing Use      | 68010900.78800.0190 | 6,172          | 7,498,325          | 7,504,497      |
| Total Change to Expenses |                     |                | <u>\$7,420,000</u> |                |

Section 2. The resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED 25<sup>th</sup> day of February, 2013.

ATTEST:

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary