



CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) 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 Meeting
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
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 2011
 - B. Reschedule First Regular City Council Meeting in March
 - C. Light Duty Vehicles from State Bid
 - D. Foothills Animal Shelter Annual Assessment
 - E. Reclaimed Water System Cross Connection Testing Project – Phase II
 - F. Purchase of Variable Frequency Drives for Semper Water Treatment Facility
 - G. Second Reading of Councillor's Bill No. 6 re EDA Addendum with Scottrade, Inc.
 - H. Second Reading of Councillor's Bill No. 7 re EDA Amendment with The Bedrin Organization for Murdoch's

9. Appointments and Resignations

10. Public Hearings and Other New Business

- A. Resolution No. 6 re Year-End 2010 General Fund Contingency Transfer
- B. Resolution No. 7 re Standley Lake and Golf Course Fees for 2011
- C. Resolution No. 8 re Great Outdoors Colorado Grant for the Westminster Hills Open Space Acquisition
- D. Councillor's Bill No. 8 re Westminster Hills Open Space Acquisition Grant Supplemental Appropriation
- E. Councillor's Bill No. 9 re Debt Obligation by the Water and Wastewater Utility Enterprise
- F. Councillor's Bill No. 10 re Amend the Economic Development Incentive Agreement with Church Ranch Hotel Co.

11. Old Business and Passage of Ordinances on Second Reading

12. Miscellaneous Business and Executive Session

- A. City Council
- B. Executive Session – Consultation with the City's legal counsel concerning status of the *Westminster Mall Company* litigation and settlement discussions, pursuant to WMC 1-30-3(B), 1-11-3(C)(3), (C)(7) and (C)(8) and CRS 24-6-402(4)(b) and (e)

13. Adjournment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (separate agenda)



GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

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

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, FEBRUARY 14, 2011 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Winter, to approve the minutes of the regular meeting of January 24, 2011, as written. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that City Hall would be closed and there would be no City Council meeting or study session on Monday, February 21, in observance of Presidents' Day.

After tonight's meeting, the Board of Directors of the Westminster Economic Development Authority and of the Westminster Housing Authority would conduct special meetings. Following adjournment of those meetings, City Council would relocate to the Council Board Room where they would conduct a post-meeting to discuss study session items; an executive session of City Council to provide direction regarding proposed amendments to the Economic Development Incentive Agreement with Church Ranch Hotel Companies pursuant to Westminster Municipal Code Sections 1-11-3(C)(4) and (7) and Colorado Revised Statutes §24-6-402(4)(e); and an executive session of the Westminster Economic Development Authority to discuss strategy and progress on potential acquisition of certain real property by the Westminster Economic Development Authority for the Westminster Center Urban Reinvestment Project pursuant to Colorado Revised Statutes §24-6-402(4)(a) and (e).

COUNCIL REPORTS

Councillor Winter invited citizens to attend the Mayor and Council Dessert on Tuesday, February 22, to be held at the Butterfly Pavilion beginning at 7:00 P.M. Everyone was encouraged to bring their questions or concerns for discussion with Council.

Councillor Briggs reported that the second lecture series associated with the City's Centennial Celebration would be held from 10 A.M. to noon on Saturday, February 19, at The MAC. The topic of this lecture would be City Halls and Libraries.

Mayor McNally reported having been a judge at the District 50 Spelling Bee where it had taken 22 rounds to determine the winner of the elementary school competition. The event had been inspiring and emotional.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: accept the 4th Quarter 2010 Insurance Claims Report; authorize the purchase of one replacement ambulance from Front Range Fire Apparatus in the amount of \$120,600 for one Ford MEDTEC ambulance; find that the US General Services Administration pricing meets City Charter bidding requirements and authorize staff to proceed with 2011 purchases of replacement phone systems for Fire Stations 1-6, Mature Adult Center, Northwest Treatment Center, Brauch Property, Countryside Recreation Center, Westview Recreation Center, and the Public Safety Center, as well as license changes for City Hall through Axess Communications in an amount not to exceed \$167,000; find that the Western

States Contracting Alliance pricing meets City Charter bidding requirements and authorize Staff to proceed with 2011 purchases of desktop PCs, laptop PCs, storage hardware, computer servers, printers and software through Dell Computer Corporation in an amount not to exceed \$334,000; find that the Western States Contracting Alliance pricing meets City Charter bidding requirements and authorize Staff to proceed with 2011 purchases of network switches, transceivers, maintenance and consulting through 24/7 Networks, Incorporated in an amount not to exceed \$80,000; award the bid for eight 2012 Police Department patrol vehicles to Sil-Ter Har Motors in the amount of \$179,088; determine that the public interest would be best served by approving Fleet Maintenance cumulative purchases in 2011 with Chief Petroleum, Gray Oil and Hill Petroleum for total fuel purchases not to exceed \$916,680 among the three vendors; authorize the purchase of an approximately 2.24-acre portion of the Westminster Reformed Presbyterian Church property located at 4455 West 112th Avenue for open space for \$160,760 plus closing costs not to exceed \$5,000, and authorize the City Manager to execute all documents required to close on the purchase of the property; based on the City Manager's recommendation, determine that the public interest would best be served by authorizing the City Manager to execute a \$55,610 contract with KG Clean Inc. to provide custodial services at City Park Recreation Center for the remaining ten months of 2011; based on the City Manager's recommendation, find that the public interest would best be served by authorizing the City Manager to execute an amendment to the design/build contract with Garney Companies, Inc. for the Northwest Water Treatment Facility Membrane Expansion project to modify the original scope of work to include the replacement of the ammonia storage tank for an additional amount not to exceed \$65,000; based on the City Manager's recommendation, find that the public interest would best be served by authorizing the City Manager to execute a \$53,977 contract amendment with Carollo Engineers, Inc. to provide additional services for Task 1 of the Water Tanks Major Repair and Replacement Project; authorize the Mayor to sign an Intergovernmental Agreement with the Cities of Northglenn and Thornton for sharing of costs related to Standley Lake and Clear Creek water quality issues effective 2011 through 2015; authorize the City Manager to enter into a Transition Agreement with Steiner Real Estate Services, LLC in substantially the same form as the agreement included in the agenda packet; and final passage on second reading of Councillor's Bill No. 3 authorizing the City Manager to execute and implement an Economic Development Agreement with Drury Development Corporation.

There was no request to remove an item for individual consideration, and Mayor Pro Tem Dittman moved, seconded by Councillor Major, to approve the consent agenda as presented. The motion carried.

PUBLIC HEARING TO AMEND PDP FOR SHERIDAN GREEN PUD LOT 1

At 7:08 P.M. the Mayor opened a public hearing to consider amending the Preliminary Development Plan (PDP) in the Sheridan Green Commercial Center Planned Unit Development (PUD) to add an allowed use for Lot 1 retail consignment and/or thrift store with a maximum area of 5,000 square feet per such tenant. The property was located at 112th Avenue and Sheridan Boulevard. Mac Cummins, Planning Manager, entered into the record the public notice, property posting, notification to property owners within 300 feet, and the agenda memorandum with its attachments. The requested use would be limited to 5,000 square feet that would function like a retail store. There would be no outdoor collection or donation bins. Staff favored approval of the requested amendment.

The Mayor opened the hearing for public comment. Rich Loveman of Sheridan Green Venture I, LLC, owner of the property, requested Council's approval. The requested amendment would provide a good use of the property, be good for the shopping center and would generate tax revenues. No others wished to speak, and Mr. Cummins added that the Planning Commission had considered this request on January 25 and had voted to recommend approval. Councillors had no questions, and the Mayor closed the hearing at 7:13 P.M.

SHERIDAN GREEN PUD LOT 1 PDP AMENDMENT TO ADD AN ALLOWED USE

Councillor Briggs moved to approve an amendment to the Preliminary Development Plan in the Sheridan Green Commercial Center Planned Unit Development to add as an allowed use "for Lot 1 retail consignment and/or thrift store with a maximum area of 5,000 square feet per such tenant," based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code had been met. The motion was seconded by Councillor Kaiser and carried with all Council members voting in favor.

RESOLUTION NO. 4 ESTABLISHING RECOVERY CONTRACT INTEREST RATE FOR 2011

Upon a motion by Mayor Pro Tem Dittman, seconded by Councillor Lindsey, the Council voted unanimously on roll call vote to adopt Resolution No. 4 establishing the 2011 interest rate for non-City funded public improvement recovery contracts at 5.25 percent and of 5.08 percent for City-funded public improvements.

RESOLUTION NO. 5 REVISING CITY COUNCIL'S RULES AND REGULATIONS

It was moved by Councillor Major and seconded by Mayor Pro Tem Dittman to adopt Resolution No. 5 amending portions of the Order of Business and Agenda Procedures set forth in Part II of the City Council's Rules and Regulations. On roll call vote, the motion passed unanimously.

COUNCILLOR'S BILL NO. 4 AMENDING SECTION 4-1-17, W.M.C. REGARDING TAX REFUNDS

Councillor Winter moved to pass as an emergency ordinance Councillor's Bill No. 4 amending Section 4-1-17 of the Westminster Municipal Code concerning the procedure for obtaining refunds of trust taxes. Councillor Kaiser seconded the motion and it carried unanimously on roll call vote.

COUNCILLOR'S BILL NO. 5 CORRECTING AMENDMENTS TO TITLE V, W.M.C. – LICENSING

Mayor Pro Tem Dittman moved, seconded by Councillor Major, to pass as an emergency ordinance Councillor's Bill No. 5 correcting amendments to Chapters 1 and 2 of Title V of the Westminster Municipal Code concerning licensing procedures. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 6 AUTHORIZING EDA ADDENDUM WITH SCOTTRADE, INC.

Councillor Lindsey moved to pass on first reading Councillor's Bill No. 6 authorizing the City Manager to execute and implement an Economic Development Agreement Addendum with Scottrade, Inc. for the purpose of clarifying sales and use tax rebates on furniture and equipment purchases. The motion was seconded by Councillor Kaiser and passed unanimously at roll call.

COUNCILLOR'S BILL NO. 7 AUTHORIZING AMENDED EDA WITH BEDRIN ORGANIZATION

Upon a motion by Councillor Lindsey, seconded by Councillor Major, the Council voted unanimously on roll call vote to pass on first reading Councillor's Bill No. 7 authorizing the City Manager to execute and implement the Amended Economic Development Agreement with The Bedrin Organization for the "Murdoch's" store.

ADJOURNMENT

There being no further business to come before the City Council, it was moved by Dittman and seconded by Kaiser to adjourn. The motion carried and the meeting adjourned at 7:18 P.M.

ATTEST:

City Clerk

Mayor



Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Financial Report for January 2011
Prepared By: Tammy Hitchens, Finance Director

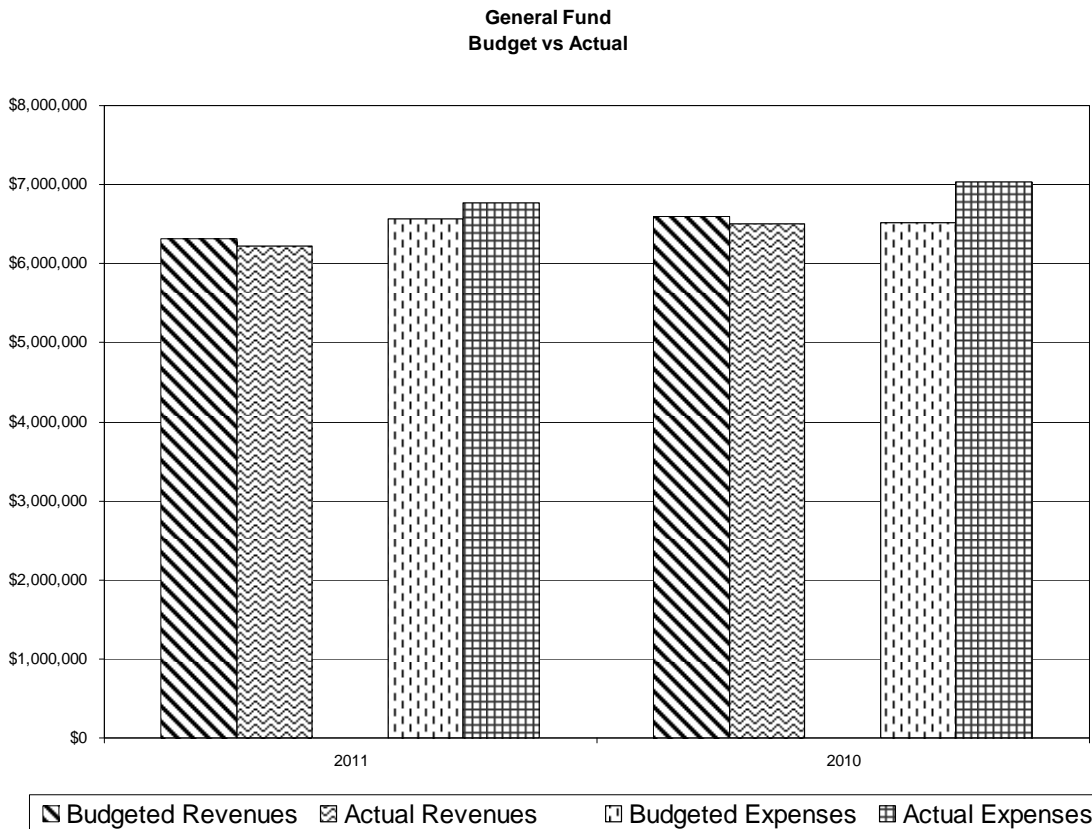
Recommended City Council Action

Accept the Financial Report for January as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 9-year historical averages. A third payroll is reflected in the January expenses, causing actual expenses to exceed budgeted expenses in several areas.

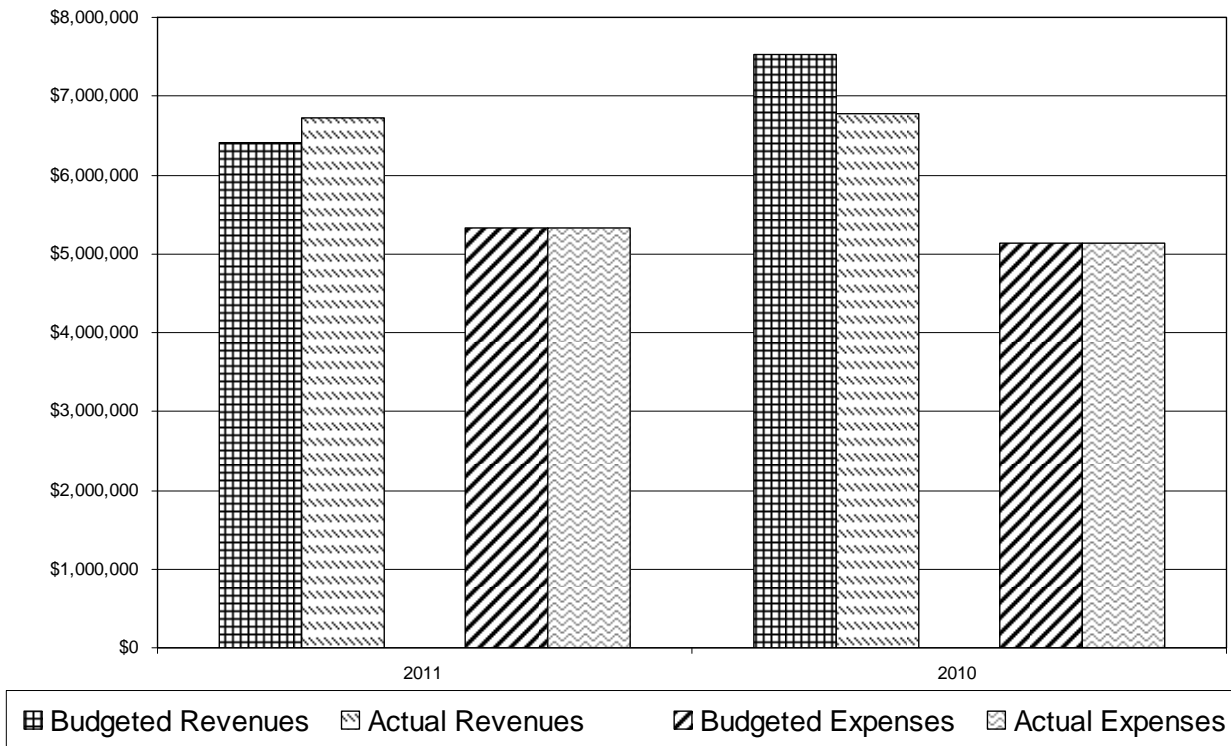
The General Fund expenditures exceed revenues by \$538,253. The following graph represents Budget vs. Actual for 2010-2011.



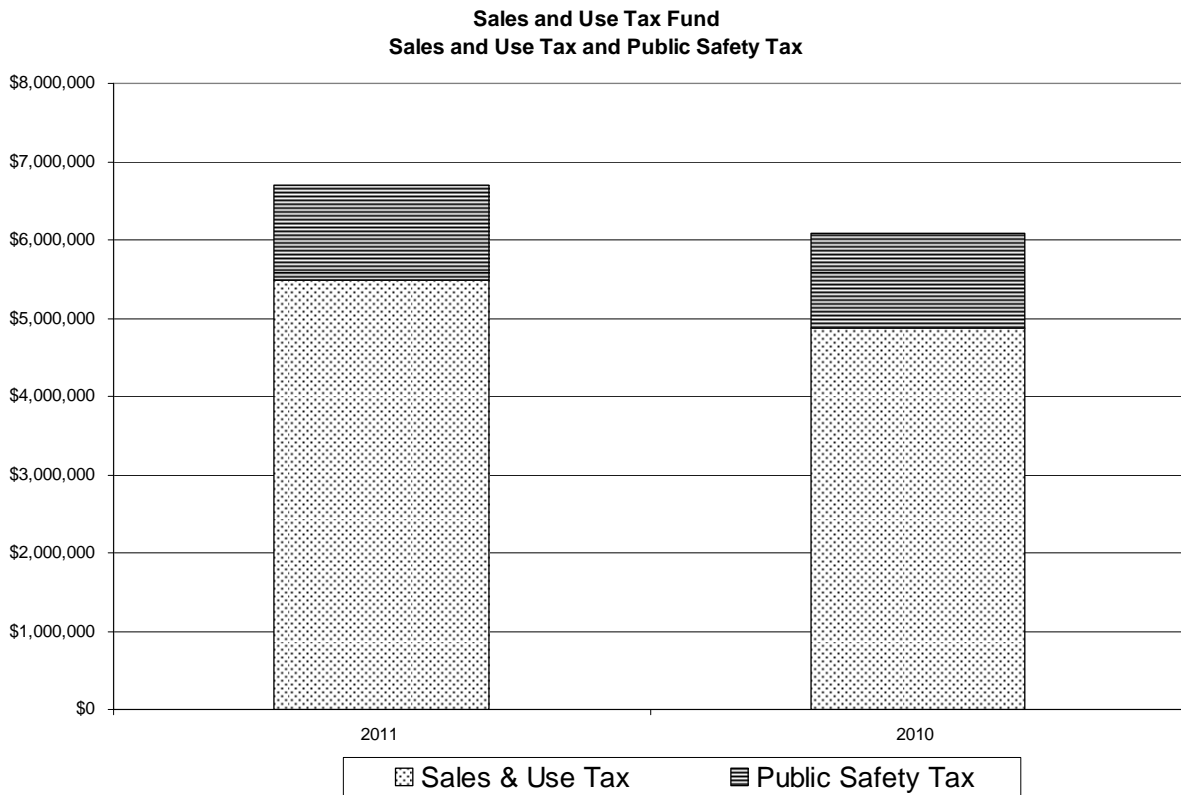
The Sales and Use Tax Fund revenues exceed expenditures by \$1,413,082.

- On a year-to-date cash basis, sales and use tax returns are up 12.9% from 2010.
- On a year-to-date basis, across the top 25 shopping centers before including urban renewal area adjustments, total sales and use tax receipts are down 0.9% from the prior year. With the urban renewal area adjustments, sales and use tax receipts are up 19.8%.
- Sales and use tax receipts from the top 50 Sales Taxpayers, representing about 62% of all collections, are up 7.8% after urban renewal area adjustments.
- Urban renewal areas make up 42.6% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 18.0% of this money is available for General Fund use.
- The Westminster Mall is down 21.0% on a year-to-date basis.
- Building use tax is up 2.0% year-to-date from 2010.

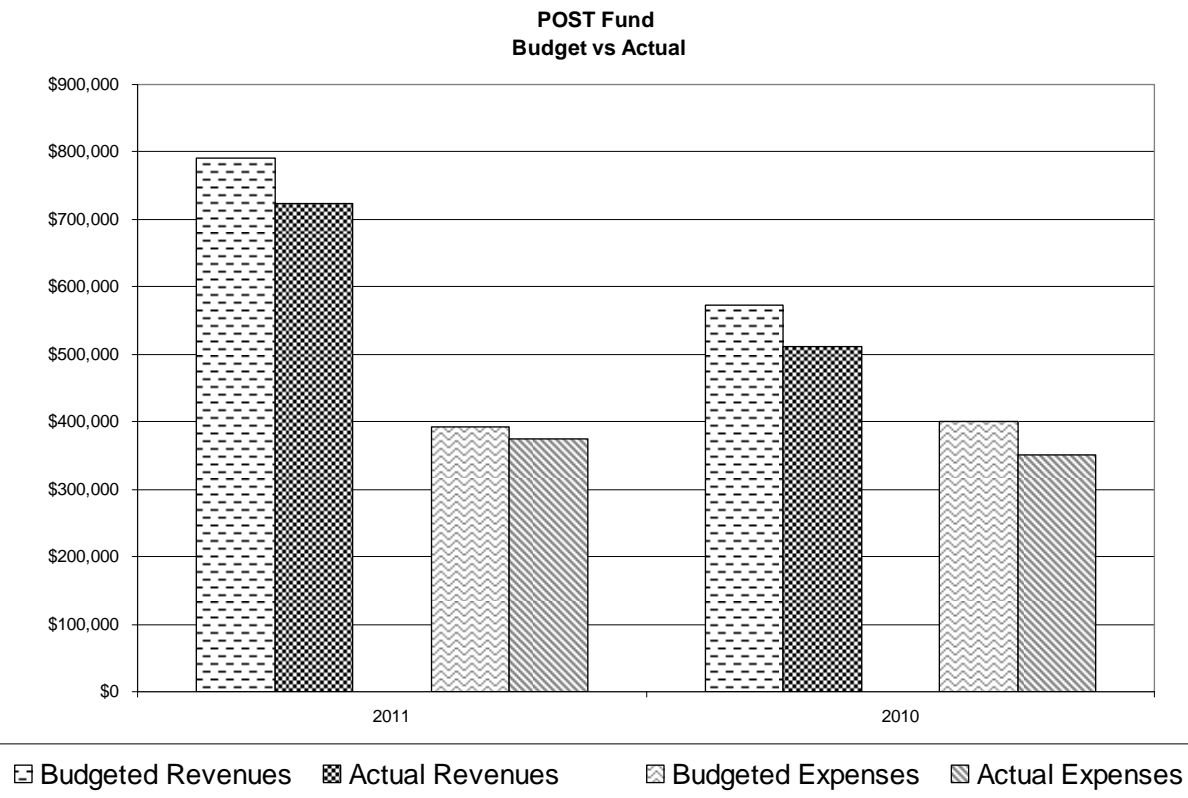
**Sales & Use Tax Fund
Budget vs Actual**



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

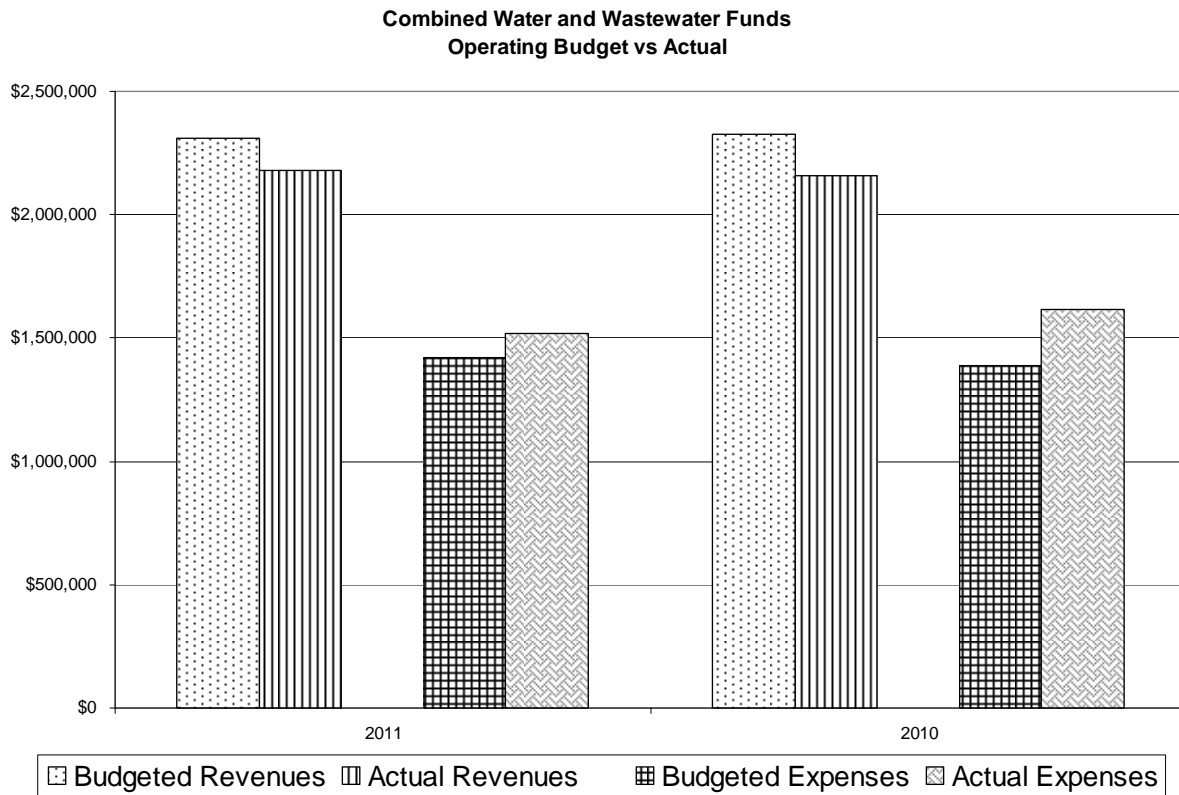


The Parks Open Space and Trails Fund revenues exceed expenditures by \$349,411.

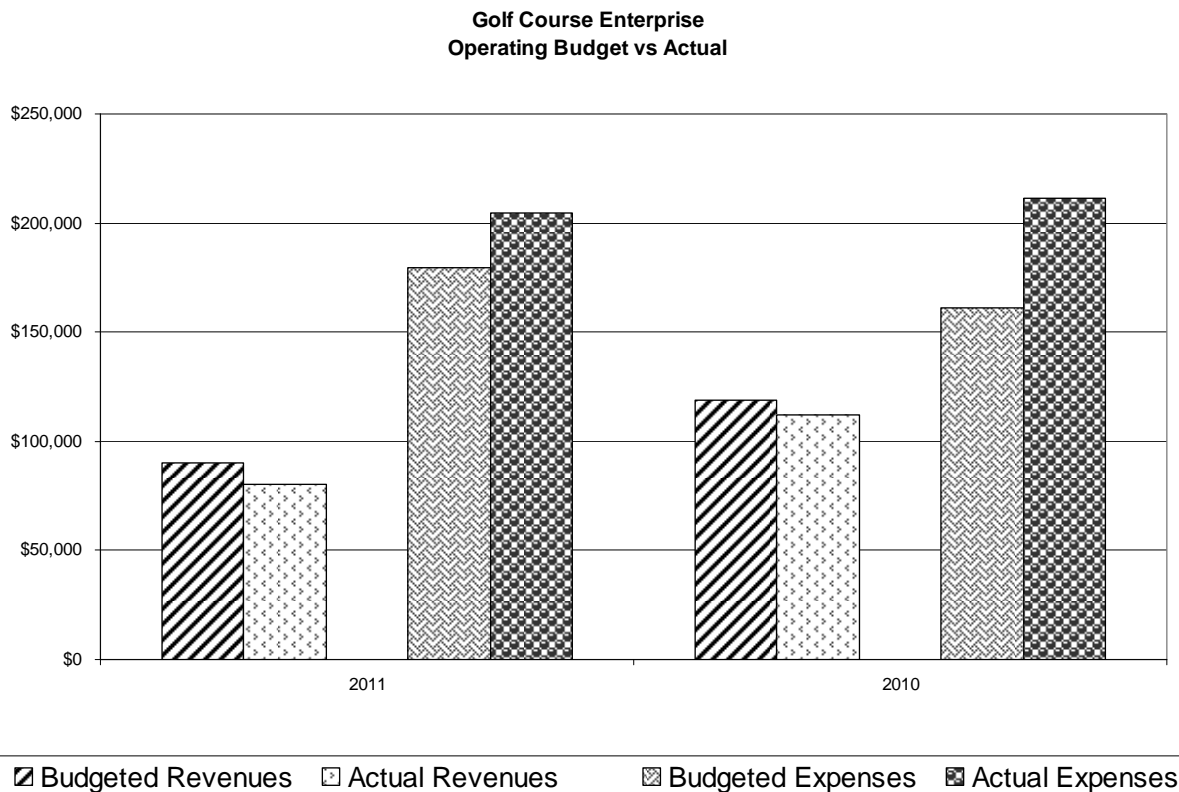


Revenues increased in 2011 compared to 2010 due to the timing of a transfer payment from the General Capital Improvement Fund for reimbursement of prior year right of way purchases.

The combined Water & Wastewater Fund revenues exceed expenses by \$1,069,800. Operating revenues exceed expenses by \$662,067. \$11,752,000 is budgeted for capital projects and reserves.



The combined Golf Course Fund expenses exceed revenues by \$124,141.



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.

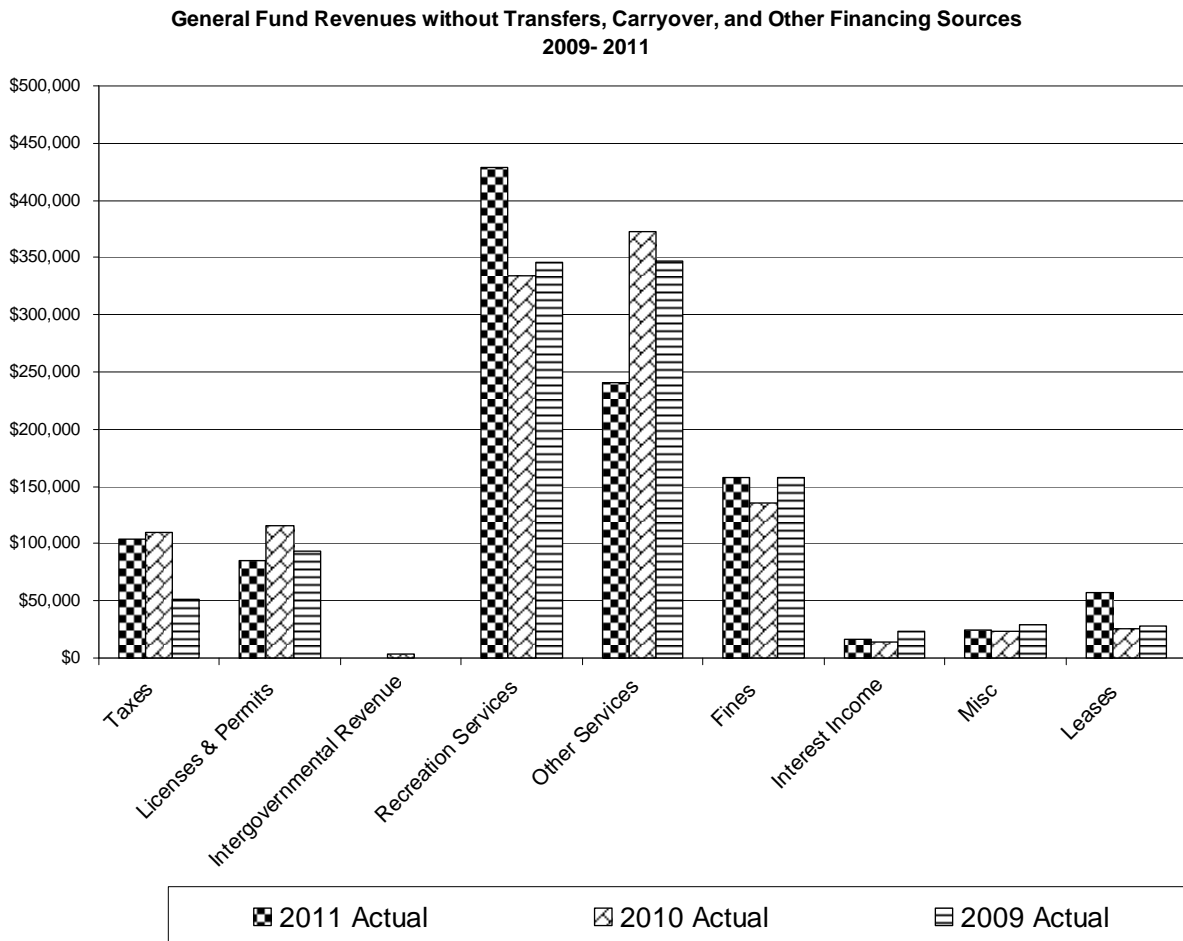
Background Information

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.

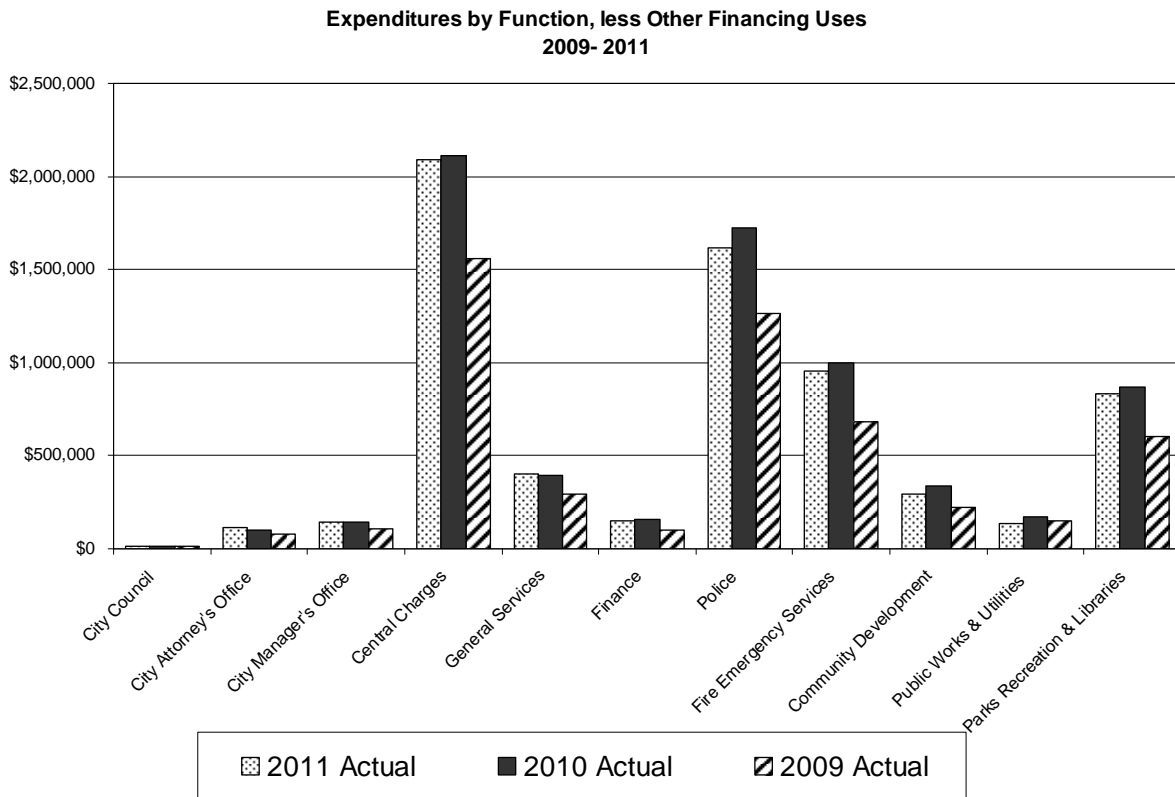
The following chart represents the trend in actual revenues from 2009-2011 year-to-date.



Significant differences between years in General Fund revenue categories are explained as follows:

- The increase in Recreation Services is primarily due to pass, admission and recreation program fees.
- Other Services is down due to a timing difference in the recording of EMS service fees.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2009 –2011.

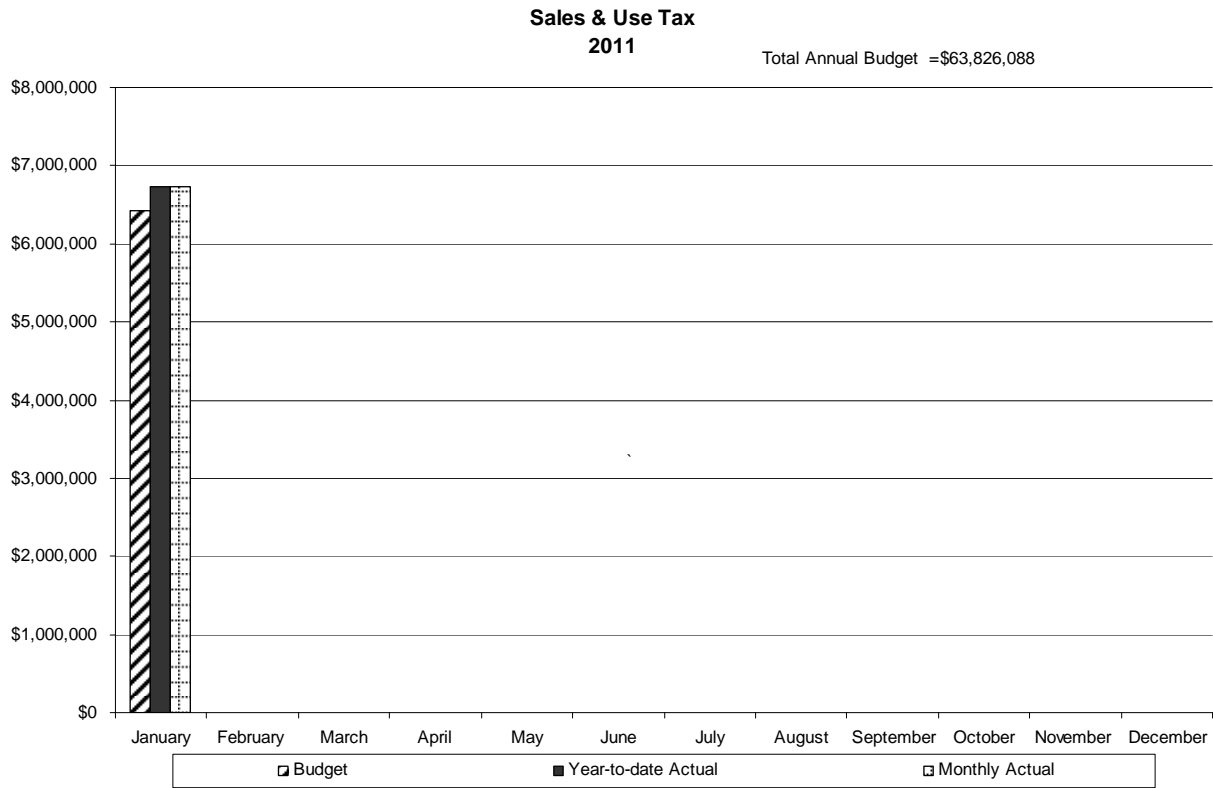


2011 and 2010 exceed 2009 expenditures primarily due to a third payroll being charged to the month of January. The increases are partially offset by a proration of the first payroll being charged back to the preceding year. This variance will smooth out as the year progresses.

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

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the General Capital Improvement Fund, 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, 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.

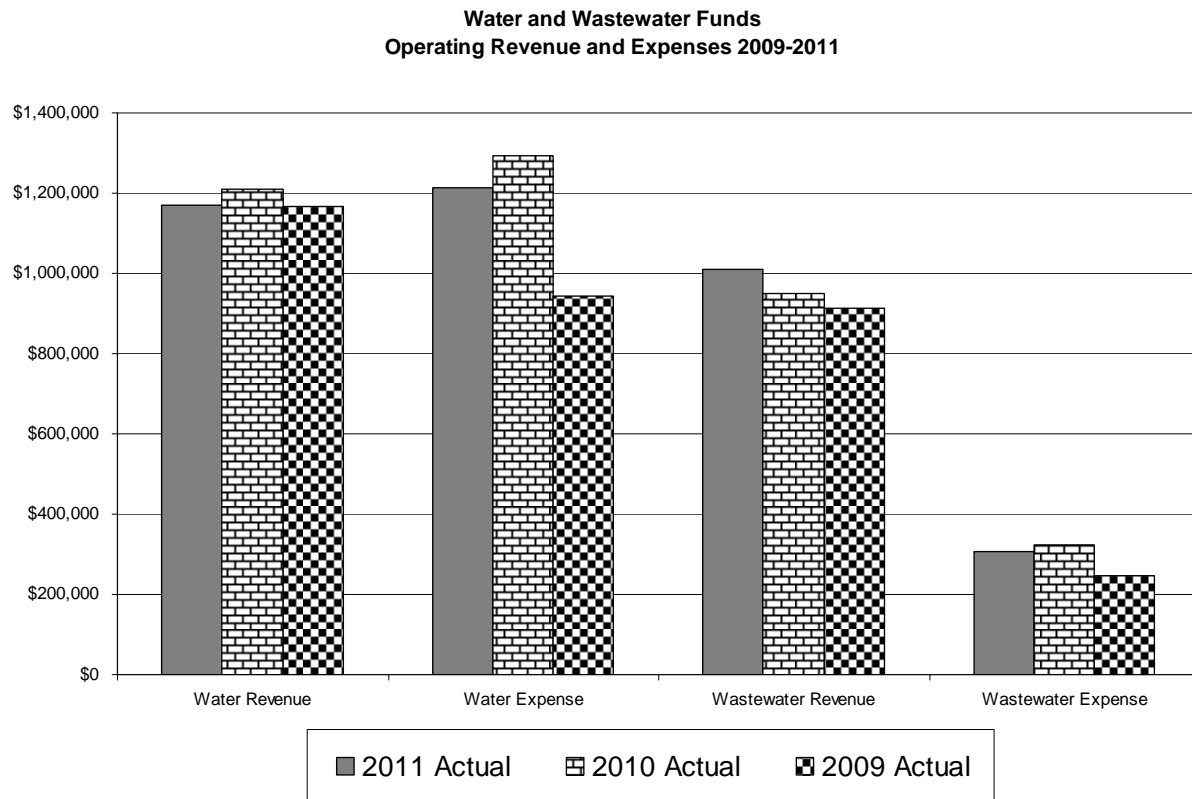
This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Parks, Open Space, and Trails Sales & Use Tax.



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

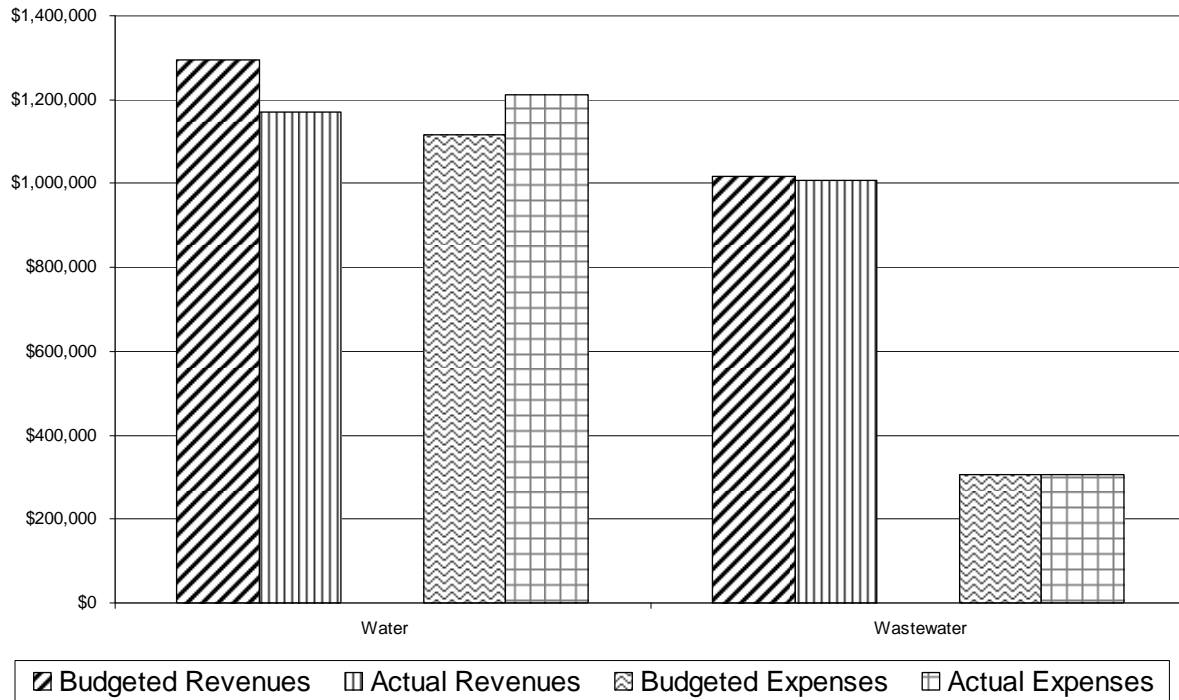
This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects and reserves.

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



2011 and 2010 expenditures exceed 2009 primarily due to a third payroll being charged to the month of January. The increases are partially offset by a proration of the first payroll being charged back to the preceding year. This variance will smooth out as the year progresses.

**Water and Wastewater Funds
2011 Operating Budget vs Actual**

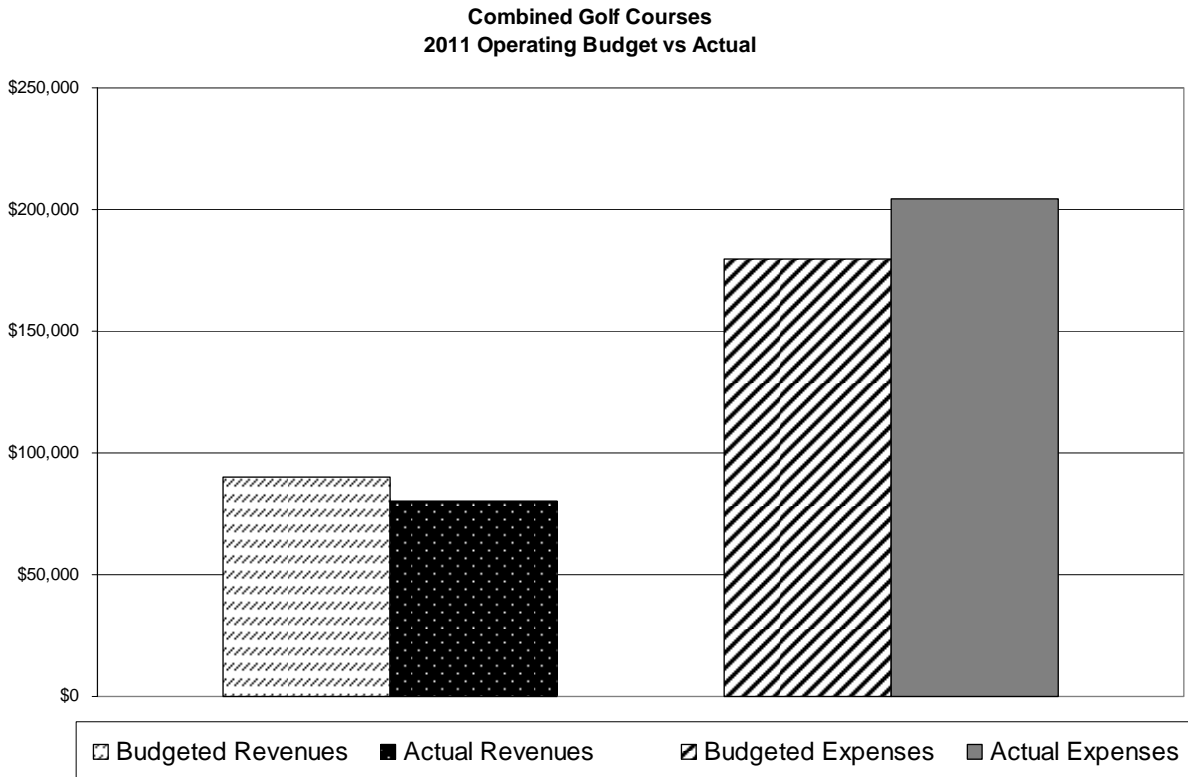


The water revenue budget to actual variance is due to the effect of climatic variations on water consumption. Miscellaneous revenue, which includes temporary water usage and the bio-solids farm, is irregular and consequently budget variances are common.

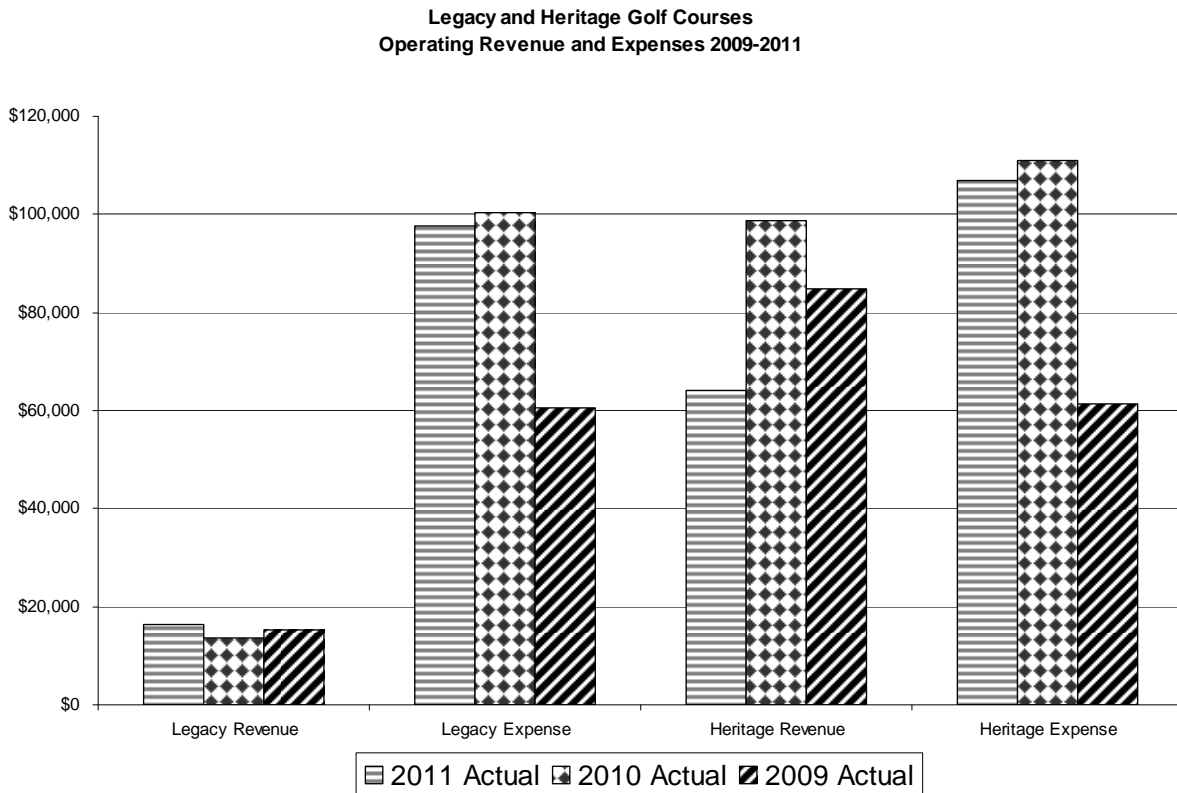
The budget to actual expenditures variance in the Water Fund is primarily due to a third payroll being charged to the month of January. The increase is partially offset by a proration of the first payroll being charged back to the preceding year. This variance will smooth out as the year progresses.

Golf Course Enterprise (Legacy and Heritage Golf Courses)

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

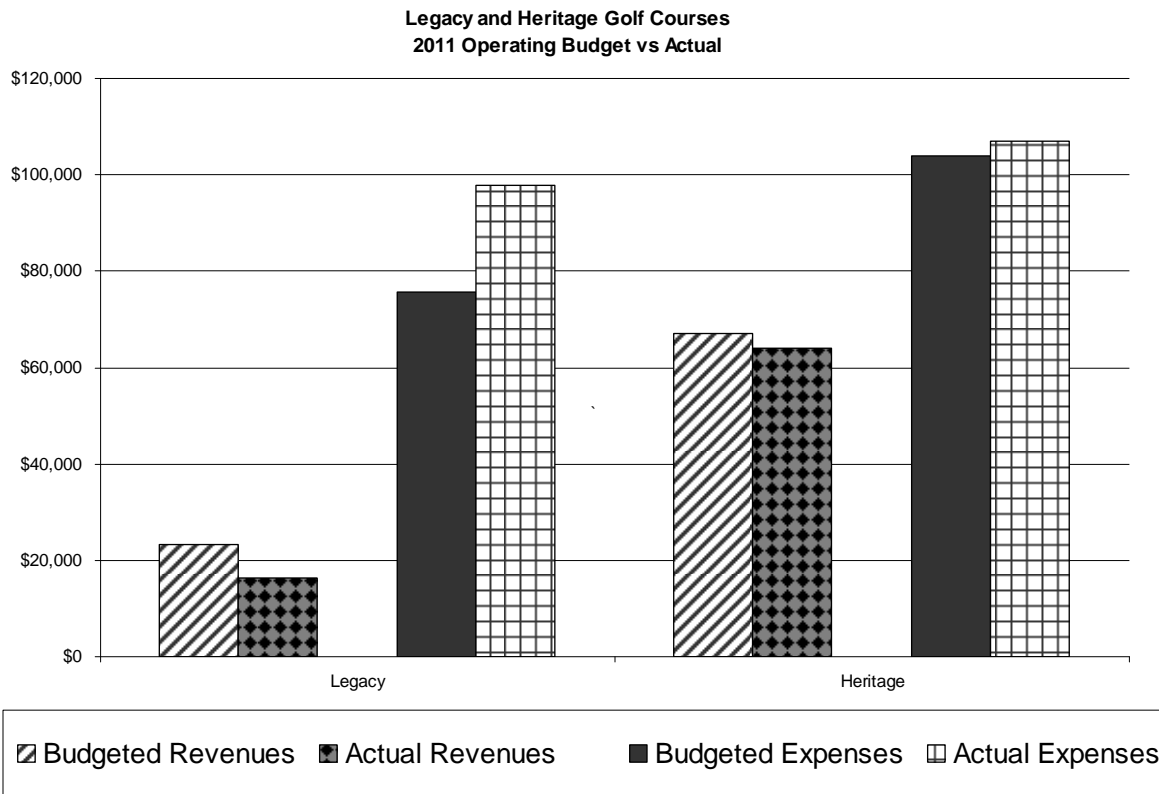


The following graphs represent the information for each of the golf courses.



Heritage revenue is down from prior years due to a decrease in budgeted transfers and a reduction in merchandise sales, green fees, and cart rentals.

2011 and 2010 exceed 2009 expenditures primarily due to a third payroll being charged to the month of January. In both cases, the increase is partially offset by a proration of the first payroll being charged back to the preceding year. This variance will smooth out as the year progresses.



Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Taxes	5,631,761	62,774		103,527	40,753	164.9%
Licenses & Permits	1,336,000	99,592		84,898	(14,694)	85.2%
Intergovernmental Revenue	4,899,429	34,490		0	(34,490)	
Charges for Services						
Recreation Services	6,232,983	358,998		429,166	70,168	119.5%
Other Services	9,458,827	347,133		240,170	(106,963)	69.2%
Fines	2,334,000	184,027		158,008	(26,019)	85.9%
Interest Income	292,900	22,187		16,200	(5,987)	73.0%
Misc	1,717,873	34,654		24,688	(9,966)	71.2%
Leases	369,181	57,399		57,399	0	100.0%
Interfund Transfers	61,335,994	5,111,333		5,111,333	0	100.0%
Revenues	<u>93,608,948</u>	<u>6,312,587</u>		<u>6,225,389</u>	<u>(87,198)</u>	98.6%
Expenditures						
City Council	240,119	17,166		13,594	(3,572)	79.2%
City Attorney's Office	1,166,119	90,790		115,961	25,171	127.7%
City Manager's Office	1,441,705	113,989		143,466	29,477	125.9%
Central Charges	25,950,457	1,982,993		2,093,417	110,424	105.6%
General Services	5,685,635	402,835		403,784	949	100.2%
Finance	1,943,482	149,356		152,761	3,405	102.3%
Police	19,909,917	1,554,034		1,619,523	65,489	104.2%
Fire Emergency Services	11,528,773	942,099		957,136	15,037	101.6%
Community Development	4,003,662	291,932		291,748	(184)	99.9%
Public Works & Utilities	7,560,378	171,860		139,820	(32,040)	81.4%
Parks, Recreation & Libraries	14,178,701	847,391		832,432	(14,959)	98.2%
Total Expenditures	<u>93,608,948</u>	<u>6,564,445</u>		<u>6,763,642</u>	<u>199,197</u>	103.0%
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>(251,858)</u>		<u>(538,253)</u>	<u>(286,395)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues and Carryover						
Sales Tax						
Sales Tax Returns	43,674,740	4,534,998		4,974,530	439,532	109.7%
Sales Tx Audit Revenues	714,000	65,022		41,135	(23,887)	63.3%
S-T Rev. STX	<u>44,388,740</u>	<u>4,600,020</u>		<u>5,015,665</u>	<u>415,645</u>	109.0%
Use Tax						
Use Tax Returns	6,647,234	383,161		463,732	80,571	121.0%
Use Tax Audit Revenues	785,000	142,870		9,293	(133,577)	6.5%
S-T Rev. UTX	<u>7,432,234</u>	<u>526,031</u>		<u>473,025</u>	<u>(53,006)</u>	89.9%
Total STX and UTX	<u><u>51,820,974</u></u>	<u><u>5,126,051</u></u>		<u><u>5,488,690</u></u>	<u><u>362,639</u></u>	107.1%
Public Safety Tax						
PST Tax Returns	11,374,614	1,256,822		1,208,534	(48,288)	96.2%
PST Audit Revenues	305,500	8,515		10,082	1,567	118.4%
Total Rev. PST	<u>11,680,114</u>	<u>1,265,337</u>		<u>1,218,616</u>	<u>(46,721)</u>	96.3%
Interest Income	122,000	10,167		7,700	(2,467)	75.7%
Interfund Transfers	203,000	16,917		16,917	0	
Total Revenues and Carryover	<u><u>63,826,088</u></u>	<u><u>6,418,472</u></u>		<u><u>6,731,923</u></u>	<u><u>313,451</u></u>	104.9%
Expenditures						
Central Charges	<u>63,826,088</u>	<u>5,318,841</u>		<u>5,318,841</u>	<u>0</u>	100.0%
Revenues Over(Under) Expenditures	<u><u>0</u></u>	<u><u>1,099,631</u></u>		<u><u>1,413,082</u></u>	<u><u>313,451</u></u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
POST Fund						
Revenues						
Sales & Use Tax	4,929,147	562,876		507,626	(55,250)	90.2%
Interest Income	45,000	3,750		(1,500)	(5,250)	-40.0%
Miscellaneous	92,337	7,695		780	(6,915)	10.1%
Interfund Transfers	230,000	216,250		216,250	0	100.0%
Total Revenues	<u>5,296,484</u>	<u>790,571</u>		<u>723,156</u>	<u>(67,415)</u>	91.5%
Expenditures						
Central Charges	4,968,248	366,141		368,327	2,186	100.6%
Park Services	328,236	26,844		5,418	(21,426)	20.2%
	<u>5,296,484</u>	<u>392,984</u>		<u>373,745</u>	<u>(19,240)</u>	95.1%
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>397,587</u>		<u>349,411</u>	<u>(48,175)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Funds - Combined						
Operating Revenues						
License & Permits	75,000	6,250		6,360	110	101.8%
Rates and Charges	43,593,344	2,269,999		2,167,395	(102,604)	95.5%
Miscellaneous	425,000	35,416		5,800	(29,616)	16.4%
Total Operating Revenues	<u>44,093,344</u>	<u>2,311,665</u>		<u>2,179,555</u>	<u>(132,110)</u>	94.3%
Operating Expenses						
Central Charges	5,947,788	494,248		580,477	86,229	117.4%
Finance	654,410	53,662		70,918	17,256	132.2%
Public Works & Utilities	19,790,642	665,253		626,241	(39,012)	94.1%
Parks, Recreation & Libraries	132,272	3,307		2,054	(1,253)	62.1%
Information Technology	2,704,158	205,516		237,798	32,282	115.7%
Total Operating Expenses	<u>29,229,270</u>	<u>1,421,986</u>		<u>1,517,488</u>	<u>95,502</u>	106.7%
Operating Income (Loss)	<u>14,864,074</u>	<u>889,679</u>		<u>662,067</u>	<u>(227,612)</u>	
Other Revenue and Expenses						
Tap Fees	3,700,000	240,500		421,882	181,382	175.4%
Interest Income	1,015,000	84,583		36,267	(48,316)	42.9%
Debt Service	(7,222,079)	0		0	0	
Reserve Transfer	(604,995)	(50,416)		(50,416)	0	100.0%
Total Other Revenue (Expenses)	<u>(3,112,074)</u>	<u>274,667</u>		<u>407,733</u>	<u>133,066</u>	148.4%
Increase (Decrease) in Net Assets	<u>11,752,000</u>	<u>1,164,346</u>		<u>1,069,800</u>	<u>(94,546)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	6,250		6,360	110	101.8%
Rates and Charges	31,044,728	1,253,561		1,158,883	(94,678)	92.4%
Miscellaneous	415,000	34,583		5,575	(29,008)	16.1%
Total Operating Revenues	<u>31,534,728</u>	<u>1,294,394</u>		<u>1,170,818</u>	<u>(123,576)</u>	90.5%
Operating Expenses						
Central Charges	4,204,923	349,009		422,489	73,480	121.1%
Finance	654,410	53,662		70,918	17,256	132.2%
Public Works & Utilities	13,909,049	503,506		478,726	(24,780)	95.1%
PR&L Standley Lake	132,272	3,307		2,054	(1,253)	62.1%
Information Technology	2,704,158	205,516		237,798	32,282	115.7%
Total Operating Expenses	<u>21,604,812</u>	<u>1,115,000</u>		<u>1,211,985</u>	<u>96,985</u>	108.7%
Operating Income (Loss)	<u>9,929,916</u>	<u>179,394</u>		<u>(41,167)</u>	<u>(220,561)</u>	
Other Revenue and Expenses						
Tap Fees	3,000,000	200,700		379,197	178,497	188.9%
Interest Income	870,000	72,500		25,067	(47,433)	34.6%
Debt Service	(5,717,453)	0		0	0	
Reserve Transfer	(218,463)	(18,205)		(18,205)	0	100.0%
Total Other Revenues (Expenses)	<u>(2,065,916)</u>	<u>254,995</u>		<u>386,059</u>	<u>131,064</u>	151.4%
Increase (Decrease) in Net Assets	<u>7,864,000</u>	<u>434,389</u>		<u>344,892</u>	<u>(89,497)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	12,548,616	1,016,438		1,008,512	(7,926)	99.2%
Miscellaneous	10,000	833		225	(608)	27.0%
Total Operating Revenues	<u>12,558,616</u>	<u>1,017,271</u>		<u>1,008,737</u>	<u>(8,534)</u>	99.2%
Operating Expenses						
Central Charges	1,742,865	145,239		157,988	12,749	108.8%
Public Works & Utilities	5,881,593	161,747		147,515	(14,232)	91.2%
Total Operating Expenses	<u>7,624,458</u>	<u>306,986</u>		<u>305,503</u>	<u>(1,483)</u>	99.5%
Operating Income (Loss)	<u>4,934,158</u>	<u>710,285</u>		<u>703,234</u>	<u>(7,051)</u>	
Other Revenue and Expenses						
Tap Fees	700,000	39,800		42,685	2,885	107.2%
Interest Income	145,000	12,083		11,200	(883)	92.7%
Debt Service	(1,504,626)	0		0	0	
Reserve Transfer	(386,532)	(32,211)		(32,211)	0	100.0%
Total Other Revenues (Expenses)	<u>(1,046,158)</u>	<u>19,672</u>		<u>21,674</u>	<u>2,002</u>	110.2%
Increase (Decrease) in Net Assets	<u>3,888,000</u>	<u>729,957</u>		<u>724,908</u>	<u>(5,049)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues						
Charges for Services	2,047,000	170,583		165,012	(5,571)	96.7%
Interest Income	81,000	6,750		5,400	(1,350)	80.0%
Miscellaneous	0	0		2	2	
Total Revenues	<u>2,128,000</u>	<u>177,333</u>		<u>170,414</u>	<u>(6,919)</u>	96.1%
Expenses						
General Services	92,000	0		0	0	
Community Development	161,000	11,914		12,822	908	107.6%
PR&L Park Services	200,000	4,600		1,525	(3,075)	33.2%
Public Works & Utilities	323,000	194		184	(10)	94.8%
Total Expenses	<u>776,000</u>	<u>16,708</u>		<u>14,531</u>	<u>(2,177)</u>	87.0%
Increase (Decrease) in Net Assets	<u>1,352,000</u>	<u>160,625</u>		<u>155,883</u>	<u>(4,742)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Course Funds - Combined						
Operating Revenues						
Charges for Services	2,949,625	49,837		39,949	(9,888)	80.2%
Interfund Transfers	485,794	40,483		40,483	0	100.0%
Total Revenues and Carryover	<u>3,435,419</u>	<u>90,320</u>		<u>80,432</u>	<u>(9,888)</u>	89.1%
Operating Expenses						
Central Charges	239,008	18,316		22,974	4,658	125.4%
Recreation Facilities	2,698,321	134,341		181,599	47,258	135.2%
Total Operating Expenses	<u>2,937,329</u>	<u>152,657</u>		<u>204,573</u>	<u>51,916</u>	134.0%
Increase (Decrease) in Net Assets	<u>0</u>	<u>(560,427)</u>		<u>(124,141)</u>	<u>436,286</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund						
Operating Revenues						
Charges for Services	1,551,299	23,269		16,429	(6,840)	70.6%
Total Operating Revenues	<u>1,551,299</u>	<u>23,269</u>		<u>16,429</u>	<u>(6,840)</u>	70.6%
Operating Expenses						
Central Charges	130,269	10,161		14,093	3,932	138.7%
Recreation Facilities	1,421,030	65,367		83,603	18,236	127.9%
Total Operating Expenses	<u>1,551,299</u>	<u>75,528</u>		<u>97,696</u>	<u>22,168</u>	129.4%
Increase (Decrease) in Net Assets	<u>0</u>	<u>(52,259)</u>		<u>(81,267)</u>	<u>(29,008)</u>	

**City of Westminster
Financial Report
For One Month Ending January 31, 2011**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Operating Revenues						
Charges for Services	1,398,326	26,568		23,520	(3,048)	88.5%
Interfund Transfers	485,794	40,483		40,483	0	100.0%
Total Revenues and Carryover	<u>1,884,120</u>	<u>67,051</u>		<u>64,003</u>	<u>(3,048)</u>	95.5%
Operating Expenses						
Central Charges	108,739	8,155		8,881	726	108.9%
Recreation Facilities	1,277,291	68,974		97,996	29,022	142.1%
Total Operating Expenses	<u>1,386,030</u>	<u>77,129</u>		<u>106,877</u>	<u>29,748</u>	138.6%
Operating Income	<u>498,090</u>	<u>(10,078)</u>		<u>(42,874)</u>	<u>(32,796)</u>	425.4%
Other Revenues and Expenses						
Debt Service	(498,090)	(498,090)		0	(498,090)	
Increase (Decrease) in Net Assets	<u>0</u>	<u>(508,168)</u>		<u>(42,874)</u>	<u>465,294</u>	

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH AND YEAR-TO-DATE JANUARY 2011

Center Location Major Tenant	/-----/ 2011 -----/	/-----/ 2010 -----/	/--- %Change ---/						
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	587,528	26,701	614,230	536,437	21,136	557,573	10	26	10
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	491,147	2,686	493,833	539,252	1,602	540,854	-9	68	-9
SHOPS AT WALNUT CREEK 104TH & REED TARGET	320,244	3,256	323,500	323,262	1,934	325,196	-1	68	-1
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	242,738	571	243,308	241,365	370	241,735	1	54	1
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	235,258	746	236,005	243,848	505	244,352	-4	48	-3
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	227,721	1,440	229,162	286,560	1,727	288,287	-21	-17	-21
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	217,219	1,900	219,119	213,057	1,201	214,258	2	58	2
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	216,892	1,153	218,045	200,432	788	201,219	8	46	8
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	216,773	517	217,290	300,382	377	300,759	-28	37	-28
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	182,019	1,095	183,115	172,178	1,169	173,347	6	-6	6
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	181,057	7,565	188,623	184,316	1,176	185,491	-2	544	2
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	148,908	41,408	190,317	127,979	22,706	150,685	16	82	26
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	147,065	129	147,194	152,891	254	153,144	-4	-49	-4
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	140,956	604	141,560	127,636	180	127,815	10	236	11
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	76,163	359	76,522	104,687	710	105,397	-27	-49	-27

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH AND YEAR-TO-DATE JANUARY 2011

Center Location Major Tenant	2011			2010			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	62,857	629	63,485	60,359	67	60,426	4	838	5
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	55,124	262	55,386	49,662	10,908	60,571	11	-98	-9
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	43,482	222	43,704	41,776	507	42,283	4	-56	3
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	37,602	486	38,088	36,113	597	36,711	4	-19	4
WILLOW RUN 128TH & ZUNI SAFEWAY	34,714	508	35,222	36,706	249	36,955	-5	104	-5
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	31,427	621	32,048	21,300	795	22,095	48	-22	45
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	30,345	91	30,437	28,042	110	28,151	8	-17	8
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	30,329	0	30,329	36,265	0	36,265	-16	*****	-16
BROOKHILL IV E SIDE WADS 90TH-92ND HANCOCK FABRICS	29,992	10,843	40,835	14,916	488	15,404	101	2121	165
CHURCH RANCH CORPORATE CENTER CHURCH RANCH BOULEVARD LA QUINTA	28,592	8,306	36,898	7,180	8,046	15,226	298	3	142
	<u>4,016,153</u>	<u>112,099</u>	<u>4,128,252</u>	<u>4,086,600</u>	<u>77,601</u>	<u>4,164,201</u>	-2	44	-1



Agenda Item 8 B

Agenda Memorandum

City Council Meeting
February 28, 2011

SUBJECT: Reschedule First Regular 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 14 to March 21.

Summary Statement

- City Council normally conducts regular meetings on the second and fourth Mondays of each month. During the week of March 14, several members of City Council will attend the National League of Cities Conference in Washington, D.C. To avoid the potential for lack of a quorum on March 14, Staff recommends that the meeting normally held on the second Monday be rescheduled to the third Monday of March.

- If approved, City Council will conduct a study session on March 7 and regular meetings on March 21 and 28.

Expenditure Required: \$0

Source of Funds: N/A



Policy Issue

None identified

Alternative

Council could decide to leave the March meeting schedule unchanged.

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. This year the first meeting in March conflicts with the National League of Cities Conference in Washington, D.C. and several members of City Council will be attending the conference. To avoid a potential lack of quorum, it is suggested that the March 14 meeting be rescheduled to March 21.

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 28, 2011



SUBJECT: Light Duty Vehicles from State Bid

Prepared By: Jeffery H. Bowman, Fleet Manager

Recommended City Council Action

Based on the results of the State of Colorado light duty vehicle bid, award the bid for one Toyota Prius hybrid totaling \$24,501 to Stevenson Toyota, the bid for eight Chevrolet light vehicles for \$240,045 to Dellenbach Chevrolet and the bid for six light duty Chevrolet vehicles for \$133,815 to Mike Shaw Chevrolet.

Summary Statement

- City Council action is requested to award fifteen light duty vehicle purchases based on the State of Colorado bid. These vehicles were previously approved and are within the amount authorized by City Council in the 2011 Utility and General Capital Outlay Replacement Fund budgets as outlined below:
 - General Capital Outlay Replacement Fund
 - One vehicle for the Department of Community Development
 - One vehicle for the Fire Department
 - Two vehicles for the Department of General Services
 - Three vehicles for the Department of Parks, Recreation and Libraries
 - One vehicle for the Police Department
 - Two vehicles for the Department of Public Works
 - Utility Fund
 - Five vehicles for the Department of Public Works and Utilities

- The City saves considerable dollars by purchasing vehicles through the State of Colorado vehicle bid process.

Expenditure Required: \$398,361

Source of Funds:	\$262,909	General Capital Outlay Replacement Fund
	\$135,452	Utility Fund



Policy Issue

Should the City approve the use of the State of Colorado bid for the purchase of replacement light duty vehicles outlined in this agenda memorandum?

Alternatives

1. Reject the State of Colorado bids and instruct Staff to re-bid these replacement vehicles. This alternative is not recommended because the State bid reflects the purchasing power of all the political subdivisions in Colorado.
2. Do not purchase some or all of the proposed replacement vehicles in 2011. This alternative is not recommended because all of these vehicles have a maintenance history that makes it impractical to keep them in regular service.

Background Information

As part of the 2011 Utility and General Capital Outlay Replacement Fund budgets, City Council approved the purchase of replacement vehicles for fifteen light duty vehicles within the Departments of Community Development, Fire, General Services, Parks Recreation and Libraries, Police and Public Works and Utilities. All approved replacement vehicles identified in the table below have reached a point where it is no longer economically reasonable to maintain them in service. Please note, the life-to-date vehicle maintenance costs in the table do not include accident repairs or fuel cost. All vehicles are used to transport crews, tools and material to job sites around the City.

DEPARTMENT	OLD UNIT #	YEAR	REPLACEMENT MAKE/MODEL	MILES	LIFE-TO-DATE VEHICLE MAINTENANCE COST	NEW VEHICLE MAKE/MODEL	PRICE	STATE BIDDER AWARDED
General Capital Outlay Replacement Fund								
Community Development	2337	2001	Chevrolet S-10	94,906	\$7,228	Chevrolet Colorado	\$18,523	Dellenbach Chevrolet
Fire	5000	2000	Chevrolet S-10 Blazer	100,220	\$17,416	Chevrolet Equinox	\$21,491	Mike Shaw Chevrolet
General Services	1176	1992	Dodge Caravan	61,385	\$8,257	Chevrolet Equinox	\$20,157	Mike Shaw Chevrolet
General Services	1003	1997	Chevrolet Malibu	83,261	\$8,576	Toyota Prius Hybrid	\$24,501	Stevenson Toyota
Parks, Recreation and Libraries	7722	2003	Chevrolet 2500	103,285	\$17,178	Chevrolet Colorado Crew Cab	\$23,901	Dellenbach Chevrolet
Parks, Recreation and Libraries	7075	2000	Chevrolet 2500	91,168	\$14,363	Chevrolet 2500 2WD	\$21,780	Dellenbach Chevrolet
Parks, Recreation and Libraries	7079	2000	Chevrolet 3500	93,785	\$13,784	Chevrolet Silverado	\$26,547	Dellenbach Chevrolet
Police	8105	1999	Honda Accord LX	102,831	\$8,176	Chevrolet Equinox	\$21,491	Mike Shaw Chevrolet
Public Works and Utilities	6122	2000	Chevrolet Dump/Plow	48,564	\$19,991	Chevrolet Silverado W/Plow	\$56,612	Dellenbach Chevrolet
Public Works and Utilities	6009	1997	GMC 1500	80,408	\$23,055	Chevrolet Silverado W/Plow	\$27,906	Dellenbach Chevrolet

Utility Fund								
Public Works and Utilities	9719	1998	Chevrolet 3500	82,964	\$19,852	Chevrolet Silverado W/Plow	\$32,388	Dellenbach Chevrolet
Public Works and Utilities	9253	1994	GMC 2500	53,830	\$10,708	Chevrolet Silverado W/Plow	\$32,388	Dellenbach Chevrolet
Public Works and Utilities	9300	1996	Chevrolet S-10	63,586	\$6,703	Chevrolet Canyon	\$15,371	Mike Shaw Chevrolet
Public Works and Utilities	9012	1993	Nissan Pickup	59,293	\$5,889	Chevrolet Equinox	\$22,741	Mike Shaw Chevrolet
Public Works and Utilities	9010	1992	GMC Jimmy GLC	51,198	\$8,148	Chevrolet Tahoe	\$32,564	Mike Shaw Chevrolet

The replacement of these vehicles supports Council’s Strategic Plan goals of Safe and Secure Community, Financially Sustainable City Government and Beautiful City by maintaining a cost effective, dependable fleet of vehicles.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 D

Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Foothills Animal Shelter Annual Assessment

Prepared By: Mike Cressman, Deputy Chief of Police
Kim Barron, Neighborhood and Support Services Commander

Recommended City Council Action

Authorize payment of \$88,190 to Foothills Animal Shelter for the City's 2011 assessment for animal shelter services.

Summary Statement

- On November 25, 1996, City Council authorized the City Manager to enter into an Intergovernmental Agreement (IGA) for the provision of all animal sheltering functions for the City of Westminster to be located at Table Mountain Animal Center (TMAC). Westminster is party to this agreement with Jefferson County, Lakewood, Wheat Ridge, Arvada, Golden, Morrison, Mountain View and Edgewater. The Agreement covers Westminster residents who live in Adams County as well as Jefferson County. In August 2010, TMAC changed its name to Foothills Animal Shelter (FAS) in conjunction with the move to the new facility located at 580 McIntyre Street in Golden.
- Annual contributions to the operating costs of FAS are shared by these nine entities and are determined by an assessment based on population. The IGA restricts these assessments paid to FAS to no more than 50% of the annual operating costs. The remaining amount is obtained through fundraising efforts.
- The amount requested is within the funds authorized by City Council for this item in the 2011 police department budget.

Expenditure Required: \$88,190

Source of Funds: 2011 General Fund – Police Department Operating Budget



Policy Issue

Should City Council authorize the expenditure of \$88,190 for Westminster's 2011 assessment of operating costs for Foothills Animal Shelter?

Alternative

The City could examine alternatives to obtaining animal sheltering services from Foothills Animal Shelter. Staff has examined alternatives for this service in the past and has not found a more cost effective option. Staff will continue to seek alternatives that will provide improved service for our customers.

Background Information

In November 1996, City Council directed the City Manager to enter into an agreement with Table Mountain Animal Center for the provision of all animal sheltering functions, effective January 1, 1997. This intergovernmental agreement set out the method for calculating each participating agencies assessment for operating expenses. An annual operating budget is established by the FAS Manager and approved by a Board of Directors made up of representatives from each of the nine participating agencies. Each of those participating entities' contribution to that operating budget is determined by population. No more than 50% of FAS's annual operating budget is funded through these assessments. The remaining amount comes through fundraising efforts by the Foothills Animal Shelter Foundation.

The Foothills assessment for 2011 represents a 4.9% increase over 2010. This increase is due primarily to increased building costs associated with the expanded facility. Funds are budgeted in the Police Department's 2011 General Fund Operating Budget for this expense.

The new shelter, which is located at the Jefferson County Fairgrounds, replaced the existing shelter at 4105 Youngfield Service Road due to the building's age and condition. In addition to the operating expenses, as determined by the annual assessment, funding for the new facility is generated from mandatory dog licensing for all Jefferson County agencies participating in the TMAC IGA, as well as charitable donations and contributions made through the TMAC Foundation.

Action on this item supports City Council's Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government Providing Exceptional Services.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Reclaimed Water System Cross Connection Testing Project - Phase II

Prepared By: Bret Eastberg, Reclaimed Water System Analyst
Jenny Fifita, Reclaimed Water System Coordinator

Recommended City Council Action

Based on the recommendation of the City Manager, find that the public interest is best served by authorizing the City Manager to execute a contract with Hydrosystems KDI, Inc. in the amount of \$65,046 for the completion of the Reclaimed Water System Cross Connection Project - Phase II and authorize a ten percent contingency in the amount of \$6,505 for a total project budget of \$71,551.

Summary Statement

- Developing the reclaimed water program is critical to meeting the City's growing water demands. At build-out it will supply ten percent of the City's total water needs.
- The City currently has approximately 85 reclaimed water customers.
- Staff feels that cross connection testing at all city reclaimed water sites is important as a cross connection might pose a risk to public health. By performing this testing, the City proactively protects the potable water system and ensures that no connections exist between the drinking water (potable) system and the reclaimed water (non-potable) system.
- Historically, Staff has prevented cross connections by inspecting new reclaimed water connections, marking reclaimed water piping and appurtenances purple, posting signs and educating customers.
- In 2010, Hydrosystems KDI, Inc. was selected through a competitive process for Phase I of this project to test about a third of the City's reclaimed water sites and to verify that no cross connections existed. No cross connections were discovered.
- Staff recommends that Council approve a sole source contract with Hydrosystems KDI, Inc. to complete Phase II of the Reclaimed Water Cross Connection Testing Project that will entail testing the remaining reclaimed water sites for cross connections.
- In Staff's opinion, Hydrosystems KDI, Inc. is the best candidate to perform the work. Staff was pleased with their performance during Phase I of the project, their costs are reasonable and they have local expertise to complete the testing as well as access to other resources.
- Adequate funding for this project is available in an existing Reclaimed capital account.

Expenditure Required: \$71,551

Source of Funds: Utility Fund - Reclaimed Water System Improvements Project Account



Policy Issue

Should the City execute a contract with Hydrosystems KDI, Inc. for the Reclaimed Water System Cross Connection Testing Project – Phase II?

Alternatives

Council could choose to go through a competitive selection process for the Phase II work. Staff does not recommend this alternative. Staff already went through a competitive selection process for Phase I and determined that few Colorado firms have expertise in cross connection testing. Hydrosystems KDI, Inc. is a local firm that was found to be the best qualified and most reasonably priced. In addition, Hydrosystems KDI, Inc. is now familiar with the City's operations and has accomplished additional certification in this type of cross connection testing. Hydrosystems KDI, Inc. has also committed to maintaining their 2010 billing rates for Phase II.

A second alternative would be to not complete the project. This is not recommended because a cross connection could pose a risk to public health and compromise the integrity of the City's drinking water system.

Background Information

The City of Westminster has operated a reclaimed water program since 2000. Reclaimed water is wastewater that the City treats so that it can be reused for landscape irrigation. The City has invested in the reclaimed water system because its development and use are critical to meeting the City's growing water demands. At build-out, reclaimed water will comprise more than ten percent of the City's total water supply. New sources of water are increasingly limited within Colorado and the City's reclaimed water is a reliable, cost effective supply with escalating value. The City currently has 85 reclaimed water customers; all large accounts.

There is an inherent risk associated with the installation pipes carrying various types of water on a single site. Having reclaimed water piping on customer sites that also use potable water increases the risk that a cross connection (a connection between the two systems) could occur. A cross connection could result in contamination of the drinking water system and pose a risk to public health if people were drinking water that was not approved for consumption. Most reclaimed water programs nationwide have a cross connection control program that includes varying components of prevention, public education and testing. The State of Colorado regulations forbid cross connections but do not require cross connection testing. Since the inception of the City's reclaimed program, Staff has focused on preventing cross connections to the reclaimed water system by inspecting new connections, marking reclaimed water piping purple, posting signs and educating customers. As the number of reclaimed customers has increased, so has the risk of cross connection. Staff believes it is important to take proactive steps to protect the integrity of the drinking water system and is requesting the approval of Phase II of this project to test the remaining reclaimed water customers.

In 2010, Hydrosystems KDI, Inc. was selected through the City's competitive selection process to test approximately one-third of the City's reclaimed water sites for cross connections with the Reclaimed Water Cross Connection Testing Project - Phase I. The amount of this contract was \$46,904. During Phase I, a process of cross connection testing was developed and approximately 30 sites were tested. No cross connections were discovered. As a product of Phase I, the consultant also provided recommendations for reducing the risk of cross connection at various sites and evaluated the City's current cross connection prevention practices and procedures.

Staff recommends that Hydrosystems KDI, Inc. (Hydrosystems) be awarded a sole source contract for the Reclaimed Water System Cross Connection Testing Project – Phase II. During this project, the remaining 55 untested reclaimed water sites will be tested. It is Staff’s opinion that Hydrosystems is the best candidate to perform the work based on their experience, competitive pricing and resources. There are few Colorado firms that have expertise in cross connection testing, and Hydrosystems was selected during a competitive selection process for Phase I. In addition, Hydrosystems is now familiar with the City’s operations and has acquired additional certifications in this type of cross connection testing. Hydrosystems also has a relationship with HDR Engineering, a large international firm that has performed thousands of reclaimed water cross connection tests in California and can draw upon their expertise if needed. Hydrosystems is maintaining their 2010 billing rates, used for Phase I, for Phase II of this work in 2011. Adequate funds are available for this project in the Reclaimed System Improvements capital account.

This project helps meet the City’s strategic goals by creating a “Beautiful and Environmentally Sensitive City,” with a “Financially Sustainable City Government Providing Exceptional Services” and a “Safe and Secure Community” by providing a cost-efficient source of irrigation water for the City’s reclaimed water customers. This project also helps ensure a safe drinking water supply for City residents.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 F

Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Purchase of Variable Frequency Drives for Semper Water Treatment Facility

Prepared By: Richard A. Clark, Utilities Operations Manager
Tom Settle, Water Treatment Superintendent

Recommended City Council Action

Based on the recommendation of the City Manager, City Council finds that the public interest will best be served by authorizing the City Manager to execute a sole source contract with Eaton Corporation for the purchase of two variable frequency drive motor control systems and installation in the amount of \$142,500 and authorize a project contingency of \$14,000 for a total project cost of \$156,500.

Summary Statement

- Staff requests approval to purchase materials and labor to install two variable frequency drives (VFDs) at the Semper Water Treatment Facility (WTF). The VFDs will be installed on the two primary high service pumps that deliver water from the plant to the distribution system. The proposed installed cost is \$142,500. A \$14,000 contingency is being requested to address unforeseen issues that may arise during the installation.
- The VFDs will result in providing reduced energy consumption and improved pump operations that will stabilize system pressures and minimize the impacts of pump starts and stops that can increase the incidence of water breaks.
- Staff has applied for and received approval for an energy rebate for this modification through Xcel Energy in the amount of \$39,896, making the net cost of the project \$102,604. Xcel has predicted a 10-year payback period in energy savings for the investment, after the rebate value is applied.
- Funding for purchase and installation is available in the Utility Fund Capital Improvement Fund.
- Staff is requesting to contract for the equipment and installation from a sole source provider, Eaton Corporation. The Utility Operations Division has standardized on this vendor for all major electrical control equipment to reduce spare part inventory costs and staff training requirements.
- The purchase price was negotiated in conjunction with the purchase of three identical units for the Reclaimed Water Treatment Facility expansion project with a net savings of 20%.

Expenditure Required: \$156,500

Source of Funds: Utility Fund - Capital Improvement Projects Budget



Policy Issue

Should Council authorize the sole source purchase of the electrical equipment and installation?

Alternative

Council could choose to delay the purchase of the VFDs and continue to use the existing motor control equipment. This is not recommended as continued use of the existing motor control equipment will result in continuing higher energy consumption, greater fluctuations in water system pressure and increased pump component failures.

Background Information

The Semper WTF High Service Pump Station was put into service in 1996 using the most current electrical system technologies, at the time, for the six pumps installed. Two of the pumps are 480 volt, 400 horsepower units and are used to perform 60 – 70% of the annual pumping duties for the Semper WTF. Each of the pumps operates only at full speed, at which time they are pumping their full rated capacity to the distribution system. Because of the engineering design of the pumps and the City's distribution system, there are fairly frequent starts and stops of the pumps that cause dramatic pressure surges during start-up and reduced system pressures when neither pump is running.

The Utilities Operations staff has determined that the installation of VFDs on these two pumps will allow operations staff to regulate the pump start and stop rates as well as select intermediate pumping rates for the pumps. A VFD is similar to the throttle in an automobile, allowing tightly controlled changes in the power applied to the pumps. The VFDs will allow the operators to choose pumping rates that will minimize the need for pump starts and stops, providing a more consistent system pressure at all hours.

Early investigations found the VFD costs to be fairly high. As the Reclaimed WTF Expansion CIP began its design phase, staff became aware that the same equipment was slated for installation in that facility and negotiations were initiated with Eaton Corporation on the purchase of a total of five of the same VFDs. The final pricing reduced the component prices by 20%, effectively saving the cost of one of the VFDs.

Variable Frequency Drives are also considered an energy conservation device. Staff contacted the City's Xcel Energy account manager to determine the applicability of this purchase to their various rebate programs. Xcel Energy required that the rebate be applied for prior to actual purchase due to the large energy consumption of these units. They have pre-approved this purchase for a rebate of \$39,896. Xcel calculates that the energy savings will return the City's overall investment in approximately 10 years after the rebate is credited, based on energy savings alone. The rebate will be awarded by Xcel after the equipment installation is confirmed and the funds will be re-appropriated back to the project account, once received. With the rebate applied, the final cost of the project is reduced to \$102,604.

This authorization for purchase of two VFDs for the Semper WTF meets Council's Strategic Plan goals of Financially Sustainable City Government, Safe and Secure Community and Beautiful and Environmentally Sensitive City by keeping the City's water treatment facility in good operational condition and improving electrical efficiencies.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Second Reading of Councillor's Bill No. 6 re Economic Development Assistance Agreement Addendum with Scottrade, Inc.

Prepared By: John L. Hall, Business Development Officer

Recommended City Council Action

Pass Councillor's Bill No. 6 on second reading authorizing the City Manager to execute and implement an Economic Development Agreement Addendum with Scottrade, Inc. for the purpose of clarifying sales and use tax rebates on furniture and equipment purchases.

Summary Statement

- This Councillor's Bill was passed on first reading on February 14, 2011.
- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the attached assistance Economic Development Assistance (EDA) Addendum with Scottrade, Inc.
- The Addendum allows for the rebate of sales tax in addition to use tax rebate on furniture and equipment.
- Changes to the EDA text (See Exhibit A) that will allow for the Sales Tax rebates are in **bold**.
- The intent of the original EDA was to provide a rebate to the company of use tax paid when purchasing furniture and equipment at move-in and for the first five years of operation. Scottrade, Inc. chose to "Shop Westminster," therefore paying sales tax instead of use tax. Since the agreement was written to apply to only use tax, the company could not receive the intended rebate.
- The Addendum will allow Scottrade, Inc. to receive sales tax rebates from purchases of furniture and fixtures as intended per the original agreement.
- The total dollar amount of the rebate does not change from the original agreement.

Expenditure Required: No change to the current amount of the original EDA

Source of Funds: The EDA with Scottrade, Inc will be funded through the rebate of permit fees, construction use tax, and equipment sales and use tax generated directly from the location of Scottrade, Inc. in the Westmoor Technology Park, located at 10955 Westmoor Drive.

Respectfully submitted,

J. Brent McFall
City Manager
Attachments



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **6**

SERIES OF 2011

INTRODUCED BY COUNCILLORS
Lindsey - Kaiser

A BILL

**FOR AN ORDINANCE AUTHORIZING AN ADDENDUM TO AN ECONOMIC
DEVELOPMENT AGREEMENT WITH SCOTTRADE, INC.**

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

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

WHEREAS, the City of Westminster and Scottrade, Inc. entered into an Economic Development Agreement on February 8, 2010; and

WHEREAS, Scottrade, Inc. (Scottrade) has purchased and is occupying 200,000 square feet in Westmoor Technology Park in Westminster; and

WHEREAS, a proposed Addendum to the executed Economic Development Agreement between the City and Scottrade is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Addendum to the Economic Development Agreement with Scottrade dated February 8, 2010, in substantially the same form as the one attached as Exhibit "A," and upon execution of the Addendum to fund and implement said Addendum.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of February, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of February, 2011.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Exhibit A

ADDENDUM TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND SCOTTRADE, INC. DATED FEBRUARY 8, 2010

The City of Westminster and Scottrade, Inc. agree to amend the Economic Development Agreement described above as follows:

1. Amend Paragraph 3 to read:

3. **Sales and Use Tax Rebate – Furniture and Fixtures.** The City will rebate 60% of the City's **Sales and Use Tax** (excludes the City's .25% Open Space and .6% Public Safety Tax) collected on the furnishings and equipment purchased during the period three months prior to the date Scottrade obtains a final Certificate of Occupancy for their new facility and for the subsequent five year period of time. This rebate will be approximately \$53,100.

2. All other terms and conditions of this Agreement shall remain in effect.

This Addendum is dated March __, 2011.

SCOTTRADE, INC.

CITY OF WESTMINSTER

By: _____
Print Name: _____
Its: _____

By: _____
J. Brent McFall
City Manager

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No.



Agenda Item 8 H

Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Second Reading of Councillor's Bill No. 7 re Amendment of the Economic Development Agreement with The Bedrin Organization for Murdoch's Farm and Ranch Supply Store

Prepared By: Susan Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor's Bill No. 7 on second reading authorizing the City Manager to execute and implement the Amended Economic Development Agreement with The Bedrin Organization for the "Murdoch's" store.

Summary Statement

- This Councillor's Bill was passed on first reading on February 14, 2011.
- On November 22, 2010, Council approved on first reading and subsequently on second reading the Economic Development Agreement (EDA) with The Bedrin Organization to facilitate a Murdoch's Ranch & Home Supply Store.
- In the Agenda Memo and the Economic Development Agreement, it was stated that the end date for the Agreement was December 31, 2012. The date should have read December 31, 2013.
- The dollar amount of the assistance package will not be increased by this change and all assistance will be directly generated from the "Murdoch's" store.
- Action is needed to correct this error so that the Agreement reflects the actual terms agreed upon with The Bedrin Organization.

Expenditure Required: No change to the amount of the approved EDA

Source of Funds: The approved EDA with The Bedrin Organization will be funded through sales tax generated by Murdoch's

Respectfully submitted,

J. Brent McFall
City Manager
Attachments



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **7**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

Lindsey - Major

**A BILL
FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO AN ECONOMIC
DEVELOPMENT AGREEMENT WITH THE BEDRIN ORGANIZATION FOR A
“MURDOCH’S” STORE**

WHEREAS, the successful attraction of new businesses that fill vacant space in existing retail centers in the City of Westminster provides increased revenue for citizen services and is therefore an important public purpose; and

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

WHEREAS, The Bedrin Organization is leasing the former Steve and Barry’s space in Brookhill V in Westminster to Murdoch’s Farm and Ranch Supply; and

WHEREAS, the City approved an Economic Development Agreement for The Bedrin Organization on December 13, 2011; and

WHEREAS, a proposed amendment to the Economic Development Agreement between the City and The Bedrin Organization is attached hereto as Exhibit A and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Amendment to the Economic Development Agreement with The Bedrin Organization in substantially the same form as the one attached as Exhibit A, and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of February, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of February, 2011.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney’s Office

Exhibit A

**AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY
OF WESTMINSTER AND THE BEDRIN ORGANIZATION
DATED DECEMBER 13, 2010**

The City of Westminster and The Bedrin Organization agree to amend the Economic Development Agreement described above as follows:

1. Amend Paragraph 1 to read:

1. Sales Tax Rebate. The City shall rebate to The Bedrin Organization 50% of the sales tax collected from Murdoch's for the period of time commencing on the date of issuance of a Certificate of Occupancy for the Murdoch's store, and ending on December 31, **2013** ("Termination Date".) Such rebate shall be payable exclusively from sales tax revenue collected by the City from Murdoch's and attributable to the imposition of the City's 3.0% general sales tax (excluding the City's .25% open space tax and .6% public safety tax). The sales tax rebate shall not continue past the Termination Date and shall be administered as follows:

2. All other terms and conditions of this Agreement shall remain in effect.

This Addendum is dated March __, 2011.

THE BEDRIN ORGANIZATION

CITY OF WESTMINSTER

By: _____
Print Name: _____
Its: _____

By: _____
J. Brent McFall
City Manager

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No.



Agenda Item 10 A

Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Resolution No. 6 re Year-End 2010 General Fund Contingency Transfer

Prepared By: Barbara Opie, Budget & Special Projects Manager

Recommended City Council Action

Adopt Resolution No. 6 authorizing the transfer of \$97,000 from the 2010 General Fund contingency account into the Street Division budget within the Public Works & Utilities Department.

Summary Statement

- No contingency transfers are being requested into any other of the City's Departments or funds.
- These actions are part of the routine year-end housekeeping functions to address certain unanticipated expenses in various budget accounts that could not be absorbed within the operating budget. Each year, contingency funds are budgeted for unanticipated expenses that cannot be absorbed within the adopted operating budget such as the ones included in this agenda memorandum.
- Funds for these transfers are available in the General Funds contingency account. The balance in the General Fund contingency account, prior to this transfer, is \$500,000, leaving a balance of \$403,000 to be carried over to 2011.

Expenditure Required: \$97,000

Source of Funds: General Fund Contingency Account



Policy Issue

Should the City Council appropriate and transfer General Fund contingency money to offset the identified unanticipated operating costs explained within this agenda memorandum?

Alternative

City Council could choose not to move any contingency funds to offset these additional expenses. Staff does not recommend this option as not appropriating these funds will cause the Street Division in the Public Works and Utilities Department to end the year over budget.

Background Information

During the budget development, City Council appropriates money in the City's General Fund that is designated as contingency funding. In 2010, City Council appropriated \$1,000,000 in contingency funding in the General Fund. In December 2010, \$500,000 of the contingency funds was appropriated into the Westminster Economic Development Authority's (WEDA) Westminster Center Urban Reinvestment Project. The \$500,000 that remains is available for use with the year-end process to address unanticipated expenditures.

Contingency is funding set aside in the budget to act as an operating reserve for unanticipated expenditures. Over the course of a year, special projects, studies, weather impacts (e.g., dry summers, heavy snows, etc.) and other activities that cannot be anticipated occur, negatively impacting departments' operating budgets. Under these special circumstances, Staff recommends the use of the contingency funds to cover these unanticipated expenses.

At year-end, departments review their respective budgets to identify where they can absorb any unanticipated expenses. However, if after reviewing all accounts within a department, the department finds that it cannot absorb these additional costs, the department forwards a request to the City Manager's Office to review and make recommendations to the City Council for the transfer of contingency funds to cover these expenses. No year-end contingency fund transfer requests were made in 2009.

The transfer requested from the 2010 General Fund's contingency account is for \$97,000 in the Street Division within the Public Works and Utilities Department. The street light account continues to be a challenge to manage due to increased energy costs and escalating repair costs. The repair costs include repairs not authorized by City Staff but done by Xcel Energy and charged to the City. A component on the street light bills also includes miscellaneous costs and non-energy charges that are difficult to predict. The original budget of \$1,969,952 was based on historical experience; however, due to large variations in maintenance costs, this account was overspent in 2010. The amount spent from the street light account in 2010 totaled \$2,134,384, resulting in this line item being over spent by \$164,432. The division has utilized savings from other accounts, such as professional services and snow removal materials, to reduce the amount needed from contingency at year-end to \$97,000. Accounting is currently entering final adjustments into the City's financial management system to the fiscal year 2010, so additional expenses may be incurred within this division before the books are officially closed; the amount requested provides a small buffer of approximately \$2,500 should additional costs be incurred by this division through the year-end Accounting adjustments.

A resolution authorizing the transfer of moneys across departments is attached, pursuant to the City Charter Section 9.6(1), Budget Control. This section notes that money from the contingency fund be transferred via resolution, thus requiring City Council action.

This action requested in this agenda memorandum relates to the City Council's Strategic Plan goal of "Financially Sustainable City Government Providing Exceptional Services" by ensuring a balanced budget where expenditures do not exceed revenues through the reallocation of previously appropriated funds.

Respectfully submitted,

J. Brent McFall, City Manager
Attachment - Resolution

RESOLUTION

RESOLUTION NO. **6**

INTRODUCED BY COUNCILLORS

SERIES OF 2011

**A RESOLUTION
AUTHORIZING THE REALLOCATION OF MONEYS FROM THE GENERAL FUND
CONTINGENCY BUDGET TO THE STREET DIVISION IN THE PUBLIC WORKS &
UTILITIES DEPARTMENT IN THE 2010 BUDGET**

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

WHEREAS, the 2010 General Fund contingency balance is \$500,000.

NOW, THEREFORE, the Westminster City Council resolves that:

A total of \$97,000 be transferred from the 2010 General Fund Contingency to the Street Lights account (10035450.67400.0000) in the Street Division budget in the Public Works and Utilities Department.

PASSED AND ADOPTED this 28th day of February, 2011.

ATTEST:

Mayor

City Clerk



Agenda Item 10 B

Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Resolution No. 7 re Standley Lake and Golf Course Fees for 2011

Prepared By: Ken Watson, Regional Parks, Sports and Golf Manager

Recommended City Council Action

Adopt Resolution No. 7 approving an increase in various Standley Lake Regional Park use fees and various user fees and passes for the City's golf courses, Legacy Ridge and The Heritage at Westmoor.

Summary Statement

- Standley Lake Regional Park and the City's golf courses are managed to either fully recover operating costs or recover full operating costs and other costs such as central charges, capital improvements, lease payments and, if possible, debt payments.
- As costs increase, fee adjustments are required.
- Staff has identified fees that can be adjusted and remain competitive with similar quality facilities.
- Staff has also identified new offerings or changes to existing passes to help generate additional revenue that are outlined in the background section of this agenda memorandum.

Expenditure Required: \$0

Source of Funds: N/A



Policy Issue

Should City Council increase fees for Standley Lake Regional Park, Legacy Ridge Golf Course and The Heritage Golf Course at Westmoor?

Alternatives

1. Do not authorize the recommended fee increases for Standley Lake Regional Park and phase in increases over the next few years by authorizing the City Manager to increase fees up to 10% annually, based on Resolution No. 70, adopted by City Council in September 2000. Since some fees need to be increased by more than 10% to be competitive with other agencies, Staff does not recommend this as a viable solution to funding increased operating costs and the capital improvement program for Standley Lake Regional Park.
2. Do not authorize the recommended fee increases, new offerings and changes to the corporate passes at Legacy Ridge and The Heritage Golf Course at Westmoor and phase in increases over the next few years by authorizing the City Manager to increase fees up to 10% annually, based on Resolution No. 70, adopted by City Council in September 2000. Staff does not recommend this alternative because the recommended increases are needed to assist with generating revenue to meet recovery targets.
3. Do not authorize any fee increases, new offerings or changes to the corporate pass program and continue to offer the same fees/programs as in past years. Staff does not recommend this as this would not be a viable solution to help meet the revenue and cost recovery goals that have been established for Standley Lake Regional Park and the City's golf courses.

Background Information

Standley Lake

The Intergovernmental Agreement with the Cities of Northglenn, Thornton, and Farmers Reservoir and Irrigation Company (FRICO) requires the lake operation to be supervised and secured 24 hours per day, seven days per week during the five-month boating season and patrolled from sunrise to sunset the remainder of the year. This is done with four full-time staff members and seasonal employees. Revenue from user fees covers the annual operating expenses of the lake. As operating costs increase, fee adjustments are required. Staff has also identified a need for capital improvements to the park, i.e., parking lot and roadway surfacing, campground, picnic areas and boat dock improvements, etc. If approved, the fee increases proposed by Staff will pay for operating expenses and any surplus revenues will be placed in the Standley Lake capital improvement project account to cover Standley Lake capital projects and park improvements as needed.

Standley Lake fees were last adjusted in 2007, with the City Manager authorizing some categories to be adjusted between 1% and 10%.

The City Manager and Parks, Recreation and Libraries Staff have reviewed usage statistics, expenditure budgets, revenue projections, capital improvement needs, and current fees. Staff believes the proposed fees are marketable and will generate additional revenue for increased operating costs and for funding some needed capital improvements for the Regional Park.

Standley Lake Fees

User Category	Existing Fee	Recommended Fee
Resident Power Boat *	\$850	\$850
Nonresident Power Boat *	\$950	\$950
Sail/Fish Boat	\$200	\$200
Day Boats Under 20 hp	\$15	\$15
Annual Sr. Citizen Pass	\$14	\$16
Annual Day Pass	\$60	\$60
Daily Gate Admission	\$6	\$7
Daily Camping	\$10	\$12
Season Camping With Purchase of a Sail/Fish Boating Permit	\$200	\$225
Summer Boat Storage	\$150	\$150
Winter Boat Storage	\$200	\$200
Winter Storage for Campers (New for 2011 – Open to permit holders only)	N/A	\$250

**Annual powerboat permits include season camping, vehicle day pass and boat storage at the park during the five-month boating season.*

These changes in the various usage categories, outlined above, are anticipated to generate an additional \$15,000 to \$20,000 in revenue each year.

Golf Courses

As part of the ongoing effort to balance the Golf Course budget, Staff continues to evaluate ways to make the Golf Courses more efficient and operate within revenues while maintaining a high-quality golf experience.

Due to the poor economy and increasing competition from new municipal golf courses in the area over the last few years, the golf courses have had difficulty maintaining their enterprise status. Almost every golf course account has been reduced and in 2011, 2.0 FTE were also eliminated to help “resize” and also assist with balancing the budget. However, even with all the marketing ideas, improvements to the restroom facilities and budget reductions, the golf courses are still in a challenging financial state. All golf courses in the nation are struggling with the economy and the number of recently-built quality golf courses in the Denver metro area add to the challenges facing local golf operators.

As City Council is aware, Staff continues to search creative solutions to increase golf rounds, tournament play and overall revenues at the golf courses. Unfortunately, reduced daily and tournament play, combined with the significant number of other public golf courses available in the Front Range, have contributed to this decline in revenues.

Staff is proposing changing the golf fee structures to assist with the goal of maximizing revenue potential during a challenging economy and specifically in the golf industry. The fee changes would be effective for both the City’s two golf courses, Legacy Ridge Golf Course and The Heritage Golf Course at Westmoor. If approved, these fees will become effective immediately. Per City Council direction, Staff revised the fees shown below to offer resident discounts. This may result in reductions to the 2011 revenue projections.

The proposed fee increases do not guarantee increased revenues. Golf is very competitive and an economy-driven business. Staff is making every attempt to increase play and revenue. This is the latest attempt over several years of fee and program changes.

Basically, the fees show in the chart below include a few increases/decreases to existing fees and establish a \$3 discount for resident golfers compared to the nonresident fees.

	2010 Resident	2010 Nonresident	2011 Proposed Resident	2011 Proposed Nonresident
18 Hole Weekday	\$32	\$39	\$37	\$40
9 Hole Weekday	\$18	\$22	\$20	\$23
18 Hole Weekend	\$42	\$45	\$42	\$45
9 Hole Weekday	\$22	\$25	\$22	\$25
18 Hole Senior (M-Th 60+ yrs)	\$24	\$33	\$25	\$28
9 Hole Senior (M-Th 60+ yrs)	\$15	\$21	\$15	\$18
18 Hole Junior (M-Th, after 1 p.m. on weekends 17 Yrs and Younger)	\$15	\$19	\$15	\$18
9 Hole Junior (M-Th, after 1 p.m. on weekends 17 Yrs and Younger)	\$10	\$13	\$10	\$13

The golf course fees listed above provide a resident discount in all categories of \$3 under the nonresident fees. The proposed fees are projected to generate an additional \$15,000 to \$17,000 in annual revenue.

Proposed 10 Play Golf Pass Fee Structure (Weekday and Weekend)
Valid One Year From The Date Of Purchase

Legacy Ridge	
Weekday 10 Punch Pass	\$330 (\$70 Discount)
Weekend 10 Punch Pass	\$375 (\$75 Discount)
Weekday Senior 10 Punch Pass	\$252 (\$28 Discount)
Heritage at Westmoor	
Weekday 10 Punch Pass	\$330 (\$70 Discount)
Weekend 10 Punch Pass	\$375 (\$75 Discount)
Legacy Ridge/Heritage Combo	
Weekday (5 Legacy/5Heritage)	\$330 (\$70 Discount)
Weekend (5 Legacy/5 Heritage)	\$375 (\$75 Discount)

**There is no Senior 10 Punch Pass recommended at Heritage because of a senior discount program that is already in place.*

Staff believes that there are advantages for guests and also to the City of Westminster golf courses by offering this type of pass. Guests who choose to purchase the pass will receive a discount from the rack rate. The golf courses will have a captured guest that chooses to return to play ten times over the course of its use, allowing the option for increased residual revenues from the sale of golf cart rentals, range ball sales, merchandise sales and food and beverage sales to the restaurant concessionaire.

Staff is also proposing a change to the fee structure in the Corporate Golf Pass. Staff believes these new fee structures could assist with generating additional revenue. The Golf Division has been tracking corporate play for the past four years. Corporate play has grown from two Corporate Golf Passes in 2006 to 16 in 2010. Play has increased from 700 rounds in 2006 to over 5,000 rounds as of August 2010. The Corporate Golf Passes have generated positive revenues for both courses. The Golf Division has been monitoring the dollars per player in Corporate Golf Passes in order to maintain revenue goals. In 2010, the dollars per player on passes has dropped below the City's baseline goal of \$30/player and is currently at \$24.72/player.

Current Corporate Golf Pass - \$8,000

- Valid for play anytime Monday through Friday - Saturday and Sunday after 2 p.m.
- 15-day advanced tee times
- One tee time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

In order to assist with meeting projected revenues, protect tee sheets for general public play and maximize revenues, Staff is proposing changes to Corporate Golf Pass for 2011. Staff believes that the change to three levels of Corporate Golf Pass will allow revenues to either increase or maintain the current level, while continuing to provide a great value for the businesses that can now custom fit their pass to the level required to entertain their clients and employees. Also, by changing the advance reservation time for corporate pass holders from 15 days to 7 days, this further ensures that the general public will have priority for reserving tee times.

Weekday Corporate Golf Pass - \$9,000

- Valid for play anytime Monday through Friday ONLY
- Seven day advanced tee times
- One tee time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

Weekend Corporate Golf Pass - \$12,000

- Valid for play anytime Monday through Friday – Saturday and Sunday after 12:00
- Seven day advanced tee times
- One tee time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

SPiRiT Corporate Golf Pass - \$20,000

- Valid for play anytime Monday through Sunday
- Seven day advanced tee-times
- One tee-time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

These proposed changes to the fees for Standley Lake Regional Park and the City's two golf courses meet the City's Strategic Plan goals of "Financially Sustainable City Government Providing Exceptional Services" and "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Resolution

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 2011

**A RESOLUTION TO ADOPT FEES FOR THE 2011 SEASON
AT STANDLEY LAKE REGIONAL PARK, LEGACY RIDGE GOLF COURSE
AND THE HERITAGE GOLF COURSE AT WESTMOOR**

WHEREAS, Staff has determined that the proposed 2011 fees for Standley Lake Regional Park, the Legacy Ridge Golf Course and The Heritage Golf Course at Westmoor will generate revenue to support the expenditure budgets, capital improvement funds and other costs at Standley Lake Regional Park and the City's two golf courses; and

WHEREAS, the fees at the City's golf courses will assist with revenue generation and continue to provide residents discounted fees compared to nonresidents; and

WHEREAS, changes to the corporate passes at the golf courses will assist with revenue goals and continue to provide accessible tee times for daily play; and

WHEREAS, it is in the best interest of the City Council to adjust fees to provide quality, service-oriented, leisure facilities with marketable, competitive fees.

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

1. The 2011 fees for Standley Lake Regional Park are revised as follows:

2011 Standley Lake Fees

User Category	Recommended Fee
Resident Powerboat	\$850
Nonresident Powerboat	\$950
Sail/Fish Boat	\$200
Day Boats Under 20 hp	\$15
Annual Senior Citizen Pass	\$16
Annual Day Pass	\$60
Daily Gate Admission	\$7
Daily Camping	\$12
Season Camping w/Purchase of a Sail/Fish Boat Permit	\$225
Summer Boat Storage	\$150
Winter Boat Storage	\$200
Winter Camper Storage Available to Permit Holders Only	\$250

2. The 2011 fees for the City's two golf courses are revised as follows:

2011 Golf Course Fees

User Category	Recommended Fee Resident	Recommended Fee Nonresident
18 Hole Weekday	\$37	\$40
9 Hole Weekday	\$20	\$23
18 Hole Weekend	\$42	\$45
9 Hole Weekend	\$22	\$25
18 Hole Senior (Mon – Thur, 60+ years)	\$25	\$28
9 Hole Senior (Mon – Thur, 60+ years)	\$15	\$18
18 Hole Junior (Mon – Thur, 17 years and younger)	\$15	\$18
9 Hole Junior (Mon – Thur, 17 years and younger)	\$10	\$13

**10 Play Golf Pass
Valid One Year From the Date of Purchase**

Legacy Ridge	Recommended Fee
Weekday 10 Punch Pass	\$330
Weekend 10 Punch Pass	\$375
Weekday Senior Punch Pass	\$252
Heritage at Westmoor	Recommended Fee
Weekday 10 Punch Pass	\$330
Weekend 10 Punch Pass	\$375
Legacy/Heritage Combination	Recommended Fee
Weekday (5 Legacy/5 Heritage)	\$330
Weekend (5 Legacy/5 Heritage)	\$375

2011 Corporate Passes

Weekday Corporate Golf Pass - \$9,000

- Valid for play anytime Monday through Friday ONLY
- Seven-day advanced tee times
- One tee time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

Weekend Corporate Golf Pass - \$12,000

- Valid for play anytime Monday through Friday – Saturday and Sunday after 12:00
- Seven-day advanced tee times
- One tee time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

SPIRIT Corporate Golf Pass - \$20,000

- Valid for play anytime Monday through Sunday
- Seven-day advanced tee-times
- One tee time per day at either Legacy Ridge or the Heritage at Westmoor
- Includes green fees, carts and range balls for up to four players

PASSED AND ADOPTED this 28th day of February, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney



Agenda Item 10 C

Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Resolution No. 8 re Great Outdoors Colorado Grant for the Westminster Hills Open Space Acquisition

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Adopt Resolution No. 8 in support of the Agreement between the City of Westminster and The State Board of the Great Outdoors Colorado Trust Fund for a grant award to fund the Westminster Hills Open Space Acquisition.

Summary Statement

- City Council approved the submittal of a grant request to Great Outdoors Colorado (GOCO) to help fund the acquisition of the 25-acre Westminster Hills Open Space property (Sisters of the New Covenant parcel) in the amount of \$750,000 towards the purchase price.
- The City was awarded a grant from GOCO in the amount of \$771,000 that includes \$21,000 towards due diligence costs, subject to the execution of a grant agreement.
- GOCO has requested that agencies receiving grant awards pass resolutions in support of the agreement and grant award.
- Staff will appropriate these funds in a separate agenda memo.

Expenditure Required: Matching Funds up to \$850,000

Source of Funds: Parks, Open Space and Trails Bond Funds



Policy Issue

Should the City of Westminster approve a resolution in support of the agreement and grant from the State Board of the Great Outdoors Colorado Trust Fund for the Westminster Hills Open Space acquisition?

Alternative

The alternative would be to not pass a resolution in support of the grant and agreement and decline the grant award. Staff does not recommend this alternative as the grant was awarded to the City to assist with the acquisition of the Sisters of the New Covenant (Sisters) property that is a high priority acquisition to the City's Open Space Advisory Board.

Background Information

City Council previously approved the submission of a grant request to Great Outdoors Colorado for \$750,000 towards the purchase of the 25-acre Sisters of the New Covenant property, located at 100th Avenue and Alkire Street, for open space. The Board for Great Outdoors Colorado has awarded a grant in the amount of \$771,000 to the City of Westminster towards this purchase along with funds to cover due diligence costs. Prior to signing the grant agreement, GOCO requires award recipients to pass a resolution in support of the agreement and grant award.

The 30-acre Sisters parcel is the location of a day retreat center for Catholic nuns. The Sisters would like to retain approximately 5 acres to continue day use of the property. The Trust for Public Land has been negotiating the purchase and is under an Option Agreement with the Sisters. An appraiser is currently working on providing a full appraisal of the property. Staff believes the 25-acre property is valued between \$1.5-\$2 million or between \$1.28 and \$1.75 per square foot. Staff also applied for a grant from the Natural Resource Damage Funds that were made available from the federal government to off-set damages from Rocky Flats. The City was successful in receiving \$400,000 towards the acquisition of the Sisters parcel and \$88,000 towards revegetation of the site. Grant funds from GOCO and the Natural Resource Damage Funds total \$1,150,000 towards the acquisition of this parcel.

The Sisters property is a top priority acquisition for the City's Open Space Advisory Board. This property is one of the last in-holdings in the 1,000-acre Westminster Hills Open Space area. The property contains a mixture of native grasses and weeds but will be revegetated as part of the larger revegetation effort over the entire Westminster Hills area. The bald eagles and a hawk nest nearby at Standley Lake.

A separate agenda memo will be brought at a later date to Council to seek approval for the acquisition of this property for open space.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Resolution

RESOLUTION

RESOLUTION NO. 8

INTRODUCED BY COUNCILLORS

SERIES OF 2011

**A RESOLUTION
TO SUPPORT THE AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND THE
STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND.**

WHEREAS, the City of Westminster supports the completion of the Westminster Hills Open Space acquisition; and

WHEREAS, the City of Westminster has received a grant from Great Outdoors Colorado to fund the Westminster Hills Open Space acquisition, subject to the execution of a grant agreement; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the City Council of the City of Westminster hereby authorizes the City Manager to sign the grant agreement with Great Outdoors Colorado and authorizes the expenditure of funds as necessary to meet the terms and obligations of the grant agreement and application.

PASSED AND ADOPTED this 28th day of February, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

By: _____
City Attorney



Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Councillor's Bill No. 8 re Westminster Hills Open Space Acquisition Grant
Supplemental Appropriation

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 8 on first reading appropriating funds received from Great Outdoors Colorado in the amount of \$771,000 for the Westminster Hills Open Space Acquisition grant.

Summary Statement

- Council authorized the Department of Community Development to pursue a grant in the amount of \$750,000 with Great Outdoors Colorado for the acquisition of the Westminster Hills Open Space (Sisters of the New Covenant) parcel. Great Outdoors Colorado staff recently forwarded the formal grant award documents to the City of Westminster for a grant in the amount of \$750,000 towards the acquisition of the parcel along with \$21,000 towards due diligence costs for a total grant award of \$771,000.
- A separate agenda memo will be brought at a later date to Council to seek approval to purchase this property.
- In order to complete the acquisition, the City is required to contribute a cash match of up to \$850,000.

Expenditure Required: \$771,000 - This is the grant amount received from Great Outdoors Colorado which is being appropriated.

Source of Funds: Great Outdoors Colorado



Policy Issue

Should the Great Outdoors Colorado grant be appropriated to the Parks, Open Space and Trails Fund land purchase account to help pay for the acquisition of the Westminster Hills (Sisters) property?

Alternative

The alternative would be to decline the Great Outdoors Colorado grant money. Staff does not recommend this alternative as the grant was awarded to the City to assist with the acquisition of the Westminster Hills property.

Background Information

City Council previously authorized the Department of Community Development to pursue a grant in the amount of \$750,000 with Great Outdoors Colorado for the acquisition of the Westminster Hills (Sisters of the New Covenant) parcel. Great Outdoors Colorado staff recently forwarded the formal grant award documents to the City of Westminster for a grant in the amount of \$750,000 towards the acquisition of the Sisters parcel along with \$21,000 towards due diligence costs.

The City also received a grant award of \$488,000 from Natural Resource Damage Funds towards the acquisition and restoration of this project.

A separate agenda memo will be brought at a later date to Council to seek approval to acquire this property.

This appropriation will amend the Parks, Open Space and Trails Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Great Outdoors Colorado Grant	5400.40640.0010	\$0	\$771,000	\$771,000
Total Change to Revenues			\$771,000	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchase	54010900.76600.0000	\$26,259	\$771,000	\$797,259
Total Change to Expenses			\$771,000	

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **8**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2011 BUDGET OF THE PARKS, OPEN SPACE AND TRAILS FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2011 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2011 appropriation for the Parks, Open Space and Trails Fund initially appropriated by Ordinance No. 3550 is hereby increased by \$771,000. This appropriation is due to the receipt of Great Outdoors Colorado grant funds.

Section 2. The \$771,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10D, dated February 28, 2011 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Parks, Open Space and Trails Fund	<u>\$771,000</u>
Total	<u>\$771,000</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 28th day of February, 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 21st day of March, 2011.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Councillor's Bill No. 9 re Debt Obligation by the Water and Wastewater Utility Enterprise in the Principal Amount of \$425,000

Prepared By: Mike Happe, Utility Planning and Engineering Manager
Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 9 as an emergency ordinance approving a debt obligation by the Water and Wastewater Utility Enterprise in the principal amount of \$425,000.

Summary Statement

- On December 20, 2010, Council approved the purchase of Lower Church Lake, Loon Lake, 35 Church Ditch Inches, and associated storage rights, easements and rights of way for Open Space. This purchase included a debt obligation by the City's Water and Wastewater Utility Enterprise to purchase 20.5 Church Ditch Inches for \$425,000 at 5% interest per year through 2017. The promissory note was secured by the 20.5 Church Ditch inches pursuant to a deed of trust issued by the City's Water and Wastewater Enterprise.
- The terms of the Note will be annual interest only payments of \$21,250 (5% interest for a total interest payment over the 7-year term of \$148,750) and a balloon payment of \$425,000 due on or before December 28, 2017.
- Since this approval, staff determined that the terms and maximum interest rate of the Note must be fixed by Ordinance.
- In order to meet the expedited timeframe for the purchase of said water rights, the Council finds that an emergency exists, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety.

Expenditure Required: \$573,750

Source of Funds: Open Space Bond Funds and POST Funds



Policy Issue

Should City Council adopt an emergency ordinance to approve a debt obligation by the City's Water and Wastewater Utility Enterprise?

Alternative

None recommended. Passage of an Ordinance by Council is required to approve debt by the Water and Wastewater Utility Enterprise.

Background Information

On December, 20, 2010, Council authorized the purchase of the approximately 47-acre Lower Church Lake, 9.2-acre Loon Lake, 35 Church Ditch Inches, associated storage rights, and easements and rights of way pertaining to the system from Parkwood East, L.L.C., C C Westminster, L.L.C., Little Colina, L.L.C. and Arroyo Investments, L.L.C. (collectively, the "Sellers") and the Mandalay Ditch Company, ("Mandalay") for Open Space. The City only had \$1.2 million in cash to spend towards this acquisition and improvements to the old Mandalay ditch system. The Sellers offered to finance the remainder of the purchase price at 5% interest. The City's Water and Wastewater Enterprise can enter into multi-year agreements. Under the agreement, the City's open space fund will transfer funds to cover the annual interest payments of \$21,250 to the Enterprise along with the final balloon payment of \$425,000 in 2017. Funds will be available in the City's Parks, Open Space, and Trails fund in 2017 due to full repayment of the Certificates of Participation that were sold to fund the purchase of the Metzger Farm along with partial payoff of the debt service from the sale of bonds in 2008.

The City purchased Lower Church Lake, Loon Lake, and the 35 Church Ditch Inches on December 29, 2010. Since this purchase, staff determined that approval of a debt obligation by the City's Water and Wastewater Utility Enterprise must be approved by Ordinance.

This debt obligation approval fits within Council's Strategic Plan goal of Beautiful and Environmentally Sensitive City by helping to preserve two visually appealing and significant bodies of water and for providing wildlife habitat.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance
- Promissory Note (Exhibit A)

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **9**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN EMERGENCY ORDINANCE APPROVING A DEBT OBLIGATION
BY THE WATER AND WASTEWATER UTILITY ENTERPRISE
IN THE PRINCIPAL AMOUNT OF \$425,000**

WHEREAS, the City Council approved the purchase of certain land and water rights from Parkwood East, L.L.C., C C Westminster, L.L.C., Little Colina, L.L.C. and Arroyo Investments, L.L.C. (collectively, the "Sellers") and the Mandalay Ditch Company, ("Mandalay") on December 20, 2010; and

WHEREAS, the Sellers have agreed to finance a portion of the purchase price and have agreed to accept a promissory note, a copy of which is attached as Exhibit A (the "Note"), and deed of trust from the City's Water and Wastewater Enterprise fund; and

WHEREAS, the City of Westminster's Charter, Section 11.2, requires that the terms and maximum interest rate of said note shall be fixed by ordinance.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council approves the issuance of a Promissory Note, in the form attached as Exhibit A hereto, to the Sellers in the amount of \$425,000 from the City's Water and Wastewater Enterprise Fund as and for security for the partial payment of the purchase of certain water rights in the Church Ditch more particularly described as 20.5 inches in the Golden, Ralston Creek and Church Ditch, also known as the Church Ditch, including the right to annually purchase and receive 20.5 inches of water, together with all ditch and ditch rights, and storage and storage rights that are represented by said inches (the "20.5 Church Ditch inches"). The terms of said Note, as more specifically described in attached Exhibit A, include annual interest only payments of \$21,250 (5% interest for a total interest payment over the 7-year term of \$148,750) and a balloon payment of \$425,000 due on or before December 28, 2017. The Note will be secured by the purchased 20.5 Church Ditch inches pursuant to a deed of trust issued by the City's Water and Wastewater Enterprise.

Section 2. The City Council finds that it is to the best advantage of the City to finance the purchase of said water rights.

Section 3. In order to meet the expedited timeframe for the purchase of said water rights, the Council finds that an emergency exists, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on February 28, 2011, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is enacted.

Section 4. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL, AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 28th day of February, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

By: _____
City Attorney's Office

EXHIBIT A

PROMISSORY NOTE

\$425,000.00

Date: December 28, 2010
Due Date: December 28, 2017

FOR VALUE RECEIVED, **WATER AND WASTEWATER UTILITY ENTERPRISE OF THE CITY OF WESTMINSTER** ("Borrower"), hereby promises to pay to the order of **PARKWOOD EAST, LLC**, a Colorado limited liability company, **CC WESTMINSTER, LLC**, a Colorado limited liability company, **LITTLE COLINA, LLC**, a Colorado limited liability company and **ARROYO INVESTMENTS, LLC**, a Colorado limited liability company (collectively, the "Lender"), the principal sum of \$425,000.00 on or before December 28, 2017, upon the terms and conditions of this Promissory Note (this "Note").

RECITALS

A. Borrower, a public entity, and Lender, entered into that certain Agreement for Purchase & Sale of 20.5 Inches of Church Ditch Water, dated as of December 21, 2010 (the "Purchase Agreement"), wherein Borrower agreed to purchase, for a public purpose, from Lender those certain water rights as more particularly described in the Purchase Agreement (the "Water Rights").

B. Pursuant to the terms of the Purchase Agreement, and as consideration for the Borrower's purchase of Water Rights, Lender agreed to finance Borrower's purchase price for the Water Rights in the principal amount of \$425,000.00, upon the terms and conditions set forth in this Promissory Note.

AGREEMENT

1. Agreement to Pay. For value received, Borrower, hereby promises to pay to the order of Lender, the principal sum of \$425,000.00 (the "Loan") on or before December 28, 2017 (the "Maturity Date"), at the place and in the manner hereinafter provided, together with interest thereon at the rate or rates described below, and any and all other amounts which may be due and payable hereunder from time to time.

2. Interest Rate.

2.1 Interest Prior to Default. Interest shall accrue on the outstanding principal balance of this Note from the date hereof through the Maturity Date at a per annum rate of interest equal to 5% (the "Interest Rate").

2.2 Interest After Default. From and after the Maturity Date or upon the occurrence and during the continuance of an Event of Default, interest shall accrue on the balance of principal remaining unpaid during any such period at an annual rate (the "Default

Rate”) equal to 10.00%; provided, however, in no event shall the Default Rate exceed the maximum rate permitted by law. The interest accruing under this section shall be immediately due and payable by Borrower to the holder of this Note upon demand and shall be additional indebtedness evidenced by this Note.

2.3 Interest Calculation. Interest on this Note shall be calculated on the basis of a 360 day year and the actual number of days elapsed in any portion of a month in which interest is due. If any payment to be made by the Borrower hereunder shall become due on any day other than a Saturday, Sunday or a legal holiday on which banks are authorized or required to be closed for the conduct of commercial banking business in Denver, Colorado (a “**Business Day**”), such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

3. Payment Terms.

3.1 Principal and Interest. Payments of principal and interest due under this Note, if not sooner declared to be due in accordance with the provisions hereof, shall be made as follows:

(a) Borrower shall pay accrued interest on the principal balance of this Note on an annual basis commencing on December 28, 2011, and each year thereafter on December 28th of all subsequent years until the Maturity Date.

(b) Borrower shall make one lump sum balloon payment in an amount equal to the entire unpaid principal balance of this Note, together with all accrued and unpaid interest thereon and any other amounts due and payable hereunder on the Maturity Date

3.2 Application of Payments. Prior to the occurrence of an Event of Default, all payments and prepayments on account of the indebtedness evidenced by this Note shall be applied as follows: (a) first, to accrued and unpaid interest on the principal balance of this Note, and (b) second, to the unpaid principal balance of this Note in the inverse order of maturity.

3.3 Method of Payments. All payments of principal and interest hereunder shall be paid by automatic debit, wire transfer, check or in coin or currency which, at the time or times of payment, is the legal tender for public and private debts in the United States of America and shall be made at such place as Lender or the legal holder or holders of this Note may from time to time appoint in the payment invoice or otherwise in writing, and in the absence of such appointment, then via wire pursuant to the following instructions:

(a) Payment of 94.367% of all payments of principal and interest to Parkwood East, LLC, and CC Westminster LLC, pursuant to the following wiring instructions:

Bank:
Bank of the West
12000 N. Washington St., Thornton, CO 80241

ABA Routing Number: 121100782

Account:

Parkwood East LLC
12460 First Street, PO Box 247
Eastlake CO 80614-0247
Account Number: 915007769

(b) Payment of 5.633% of all payments of principal and interest to Little Colina, LLC, and Arroyo Investments, LLC, pursuant to the following wiring instructions:

Bank:

Wells Fargo
1242 Pearl St.
Boulder, CO 80302
Routing Number: 102000076

Account

Little Colina, LLC
2355 Canyon Blvd. Suite 105
Boulder, CO 80302
Account Number: 3469944080

Payment made by check shall be deemed paid on the date Lender receives such check; provided, however, that if such check is subsequently returned to Lender unpaid due to insufficient funds or otherwise, the payment shall not be deemed to have been made and shall continue to bear interest until collected. Notwithstanding the foregoing, the final payment due under this Note must be made by wire transfer or other immediately available funds.

3.4 Prepayment. Borrower may voluntarily prepay the principal balance of this Note, in whole or in part, at any time on or after the date hereof, without penalty.

4. EVENTS OF DEFAULT. Borrower's failure to pay any installment of principal or interest within 10 days after receipt of Lender's written notice of the same shall constitute an "Event of Default" under this Note. Upon an Event of Default, the outstanding principal balance of this Note shall bear interest from the date of the Event of Default until paid in full at Default Rate.

5. REMEDIES. At the election of the holder hereof, and without notice, the principal balance remaining unpaid under this Note, and all unpaid interest accrued thereon and any other amounts due hereunder, shall be and become immediately due and payable in full upon the occurrence of any Event of Default. Failure to exercise this option shall not constitute a waiver of the right to exercise same in the event of any subsequent Event of Default. No holder hereof shall, by any act of omission or commission, be deemed to waive any of its rights, remedies or powers hereunder or otherwise unless such waiver is in writing and signed by the holder hereof, and then only to the extent specifically set forth therein. If any suit or action is

instituted or attorneys are employed to collect this Note or any part hereof, Borrower promises and agrees to pay all costs of collection, including reasonable attorneys' fees and court costs.

6. GENERAL AGREEMENTS.

6.1 Time. Time is of the essence hereof.

6.2 Governing Law. This Note is governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the statutes, laws and decisions of the State of Colorado. This Note may not be changed or amended orally but only by an instrument in writing signed by the party against whom enforcement of the change or amendment is sought.

6.3 No Joint Venture. Lender shall not be construed for any purpose to be a partner, joint venturer, agent or associate of Borrower or of any lessee, operator, concessionaire or licensee of Borrower in the conduct of its business.

6.4 Severable Loan Provisions. If any provision of this Note is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Borrower and Lender shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

6.5 Interest Limitation. If the interest provisions herein shall result, at any time during the Loan, in an effective rate of interest which, for any month, exceeds the limit of usury or other laws applicable to the Loan, all sums in excess of those lawfully collectible as interest of the period in question shall, without further agreement or notice between or by any party hereto, be applied upon principal immediately upon receipt of such monies by Lender, with the same force and effect as though the payer has specifically designated such extra sums to be so applied to principal and Lender had agreed to accept such extra payment(s) as a premium-free prepayment. Notwithstanding the foregoing, however, Lender may at any time and from time to time elect by notice in writing to Borrower to reduce or limit the collection to such sums which, when added to the said first-stated interest, shall not result in any payments toward principal in accordance with the requirements of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this Loan transcend the limits imposed or provided by the law applicable to this transaction or the makers hereof in the jurisdiction in which the Premises are located for the use or detention of money or for forbearance in seeking its collection.

7. NOTICES. All notices required under this Note will be in writing and will be transmitted in the manner and to the addresses required by the Purchase Agreement, or to such other addresses as Lender and Borrower may specify from time to time in writing.

8. CONSENT TO JURISDICTION. **TO INDUCE LENDER TO ACCEPT THIS NOTE, BORROWER IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS NOTE WILL BE LITIGATED IN COURTS HAVING SITUS IN ADAMS COUNTY,**

COLORADO (THE "AGREED VENUE"). BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN THE AGREED VENUE, WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED IN THE DEED OF TRUST AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

9. WAIVER OF JURY TRIAL. BORROWER AND LENDER (BY ACCEPTANCE OF THIS NOTE), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS NOTE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS NOTE OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS NOTE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

10. WAIVER OF DEFENSES. BORROWER WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT IN FULL) OR SETOFF WHICH BORROWER MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY LENDER IN ENFORCING THIS NOTE. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.

11. CUSTOMER IDENTIFICATION - USA PATRIOT ACT NOTICE; OFAC AND BANK SECRECY ACT. Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and Lender's policies and practices, Lender is required to obtain, verify and record certain information and documentation that identifies Borrower, which information includes the name and address of Borrower and such other information that will allow Lender to identify Borrower in accordance with the Act. In addition, Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls Borrower or any subsidiary of Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

[Signature Page Follows]



Agenda Memorandum

City Council Meeting
February 28, 2011



SUBJECT: Councillor's Bill No. 10 re Amendment to the Economic Development Incentive Agreement with the Church Ranch Hotel Companies

Prepared By: Susan F. Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor's Bill No. 10 as an emergency ordinance authorizing the City Manager to execute and implement an amendment to the economic development incentive agreement with the Church Ranch Hotel companies providing for a 19 month extension of the existing Business Assistance Agreement for the full service Marriott & Hyatt Place Hotels project.

Summary Statement

- The Church Ranch Hotel Company LLC is requesting that the construction commencement date articulated in the current Business Assistance Agreement be extended from March 1, 2011 to October 1, 2012.
- No major requirements of the agreement will be otherwise altered.
- It has been made clear to the developer that no more extensions will be granted.
- Council is asked to approve this action with an emergency ordinance because the existing agreement is set to expire on March 1, 2011.

Expenditure Required: No change to current amount of original Business Assistance Agreement

Source of Funds: The Business Assistance agreement with Church Ranch Hotels LLC will be funded through the rebate of permit fees, construction use tax, equipment sales and use tax, accommodations tax, and conference center fees generated directly from the construction of the Marriott and Hyatt Place Hotels at the Church Ranch- US 36 interchange.



Policy Issue

Does Council desire to approve the amended and restated assistance agreement with Church Ranch Hotels, LLC to provide for a 19 month extension of the agreement?

Alternatives

Do Nothing:

The City could decide not to extend the assistance agreement for the Marriott & Hyatt Place Hotels. However, it is clear that funding is not available at this time for construction of the project.

Shorter Extension:

A 12 month extension could be provided for construction to commence, instead of a 19 month extension as requested. The developer has agreed to build sooner if the funds become available, so a shorter timeline provides little advantage.

Background

An assistance agreement for a full service Marriott Hotel was originally approved in September 1998. Because of decline in the hotel market in 2001, the assistance agreement for the Marriott was extended until March 1, 2009. Extension was subsequently requested in 2009 and granted thru March 1, 2011. The extensions were granted subject to a \$50,000 annual deposit that has been paid on time each year by the developer.

In December 2008, Council approved an amendment to the Marriott Hotel agreement to make the assistance available also for a 115 room Hyatt Place Hotel that is to be built coincidental with the full service Marriott Hotel. The developer has received all of the planning approvals for the project as well as building plan approvals. The project is set for commencement of construction.

It is staff's recommendation that an extension of the Business Assistance Package be granted but only to October 1, 2012. The extension would also be subject, as before, to the \$50,000 deposit per each year of the extension.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance
- Amendment to 2009 Business Assistance Agreement

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **10**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN EMERGENCY ORDINANCE AUTHORIZING AN AMENDMENT TO THE 2009
AMENDED AND RESTATED BUSINESS ASSISTANCE AGREEMENT FOR THE
COOPERATIVE DEVELOPMENT AND CONSTRUCTION OF A FULL SERVICE MARRIOTT
HOTEL AND A HYATT PLACE HOTEL**

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

WHEREAS, it is important for the City of Westminster to generate additional tax revenue and remain competitive with other local governments in offering assistance for new businesses; and

WHEREAS, the Marriott and Hyatt Place Hotels (the "Hotels") plan to build hotels adjacent to the Spring Hill Suites in Westminster; and

WHEREAS, the City and the Hotels desire to extend the time frame of their 2009 Agreement.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Amendment to the 2009 Amended and Restated Business Assistance Agreement for the Cooperative Development and Construction of a Full Service Marriott Hotel and a Hyatt Place Hotel with White Etkin Church Ranch Hotel Company I LLC and White Etkin Church Ranch Hotel Company III LLC in substantially the same form as Exhibit "A", attached hereto and incorporated herein by reference, and upon execution of the Amendment to fund and implement said Amendment.

Section 2. Emergency. As the 2009 Amended and Restated Business Assistance Agreement between the parties would terminate on March 1, 2011, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on February 28, 2011, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is enacted.

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL, AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 28th day of February, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit A

**1ST AMENDMENT TO THE
2009 AMENDED AND RESTATED BUSINESS ASSISTANCE AGREEMENT FOR THE
COOPERATIVE DEVELOPMENT AND CONSTRUCTION OF A FULL SERVICE MARRIOTT
HOTEL AND A HYATT PLACE HOTEL**

This Agreement (the "Agreement") is made and entered into this 28th day of February, 2011 by and between the CITY OF WESTMINSTER, a Colorado home-rule municipality ("City"), WHITE ETKIN CHURCH RANCH HOTEL COMPANY I LLC, an Indiana limited liability company ("WE I"), and WHITE ETKIN CHURCH RANCH HOTEL COMPANY III LLC, an Indiana limited liability company ("WE III").

WHEREAS, WE I, WE III and the City entered into the 2009 Amended and Restated Business Assistance Agreement for the Cooperative Development and Construction of a Full Service Marriott Hotel and a Hyatt Place Hotel, dated September 30, 2009 (the "2009 Agreement"); and

WHEREAS, the 2009 Agreement has a commencement of construction date of March 1, 2011 for the Marriott Hotel and Hyatt Place Hotel; and

WHEREAS, the parties desire to amend the construction commencement and completion dates and initiation of operations of the Marriott Hotel and Hyatt Place Hotel.

NOW THEREFORE, the Parties agree as follows:

1. Section 2.1.3 of the 2009 Agreement is amended to read as follows:

The deed for the City Parcel contains a possibility of reverter subject to exercise upon fifteen (15) days prior notice to WE I in the event WE I fails to commence construction of the Marriott Hotel, on or before March 1, 2011. **WE I and WE III agree to prepare and the City agrees to sign an extension to the reverter right extending the date to October 1, 2012.**

2. Section 3.10.1 of the 2009 Agreement is amended to read as follows:

This Assistance Agreement shall terminate and become void and of no force or effect upon the City as to the Marriott Hotel and Hyatt Place Hotel as applicable if WE I and WE III fail to commence construction of the Marriott Hotel and the Hyatt Place Hotel on or before **October 1, 2012**, or, WE I and WE III have not completed construction and initiated operations of the Marriott Hotel and Hyatt Place Hotel by **October 1, 2014**; or in the event WE I or WE III, at any time prior to completing their respective Projects, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator, liquidator of all or a substantial part of their respective assets; or, a petition of relief is filed by either WE I or WE III under federal bankruptcy, insolvency, or similar laws; or, a petition in a proceeding under any bankruptcy, insolvency, or similar laws is filed against either WE I or WE III and not dismissed within sixty (60) days.

3. The first paragraph of Section 3.10.3 of the 2009 Agreement is amended to read as follows:

If WE I and WE III fail to commence construction of the Marriott Hotel and the Hyatt Place Hotel on or before **October 1, 2012**, WE I and WE III agree to (i) transfer to City its interests in Lot 1, Lot 2 and Tract B of the Final Plat free and clear of liens and encumbrances, except for current property taxes and (ii) transfer to City its interest in any and all plans, specifications or drawings for the Marriott Hotel and Hyatt Place Hotel. In addition, Church Ranch Hotel Company I LLC and/or WE I agrees to pay the City additional applicable non-refundable extension fees upon City Council approval of this Agreement per the following schedule:

4. A new subsection 3.10.3 (viii) is added to the 2009 Agreement to read as follows:

Eighth extension payment of \$50,000.00 shall be paid to City by WE I on March 1, 2011. The total of \$375,000.00 shall be non-refundable but shall be applied as a credit to the Tap Fees due and payable by WE I pursuant to this Agreement if construction of the Marriott Hotel commences before October 1, 2012.

5. The last paragraph of section 3.10.3 of the 2009 Agreement is amended to read as follows:

In the event WE I has not commenced construction of the Marriott Hotel on or before **October 1, 2012** then the extension payments made to the City by Church Ranch Hotel Company I LLC and/or WE I shall be forfeited by Church Ranch Hotel Company I LLC and WE I to the City and Church Ranch Hotel Company I LLC and WE I shall have no further right nor benefit of the extension payments and the City has the right to full use of the extension payments for whatever purpose the City deems appropriate.

6. Except as amended above, all terms and conditions of the 2009 Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be effective on the day and year first above written.

CITY OF WESTMINSTER, a
Colorado home-rule municipality ("City")

By: _____
J. Brent McFall, City Manager

ATTEST:

By: _____
Linda Yeager, City Clerk

Adopted by City Ordinance No. _____

WHITE ETKIN CHURCH RANCH HOTEL COMPANY I LLC,
an Indiana limited liability company (“WE I”)

BY: BW Westminster, LLC, an Indiana limited
liability company, Manager

By: White Lodging Services Corporation,
an Indiana corporation, Manager

By: _____
Lawrence E. Burnell
Chief Operating Officer

ATTEST:

By: _____
Printed Name: _____
Title: _____

BY: Church Ranch Hotel Company I, LLC, a
Colorado limited liability company, Manager

By: Church Ranch Land Company, LLC, a
Colorado limited liability company, Manager

By: Etkin Church Ranch Land Company, LLC, a
Colorado limited liability company, Manager

By: _____
Bruce H. Etkin, Manager

ATTEST:

By: _____
Printed Name: _____
Title: _____

BY: Pappilon Church Ranch Land Company, LLC, a
Colorado limited liability company, Manager

By: _____
Gregg A. Bradbury, Manager

ATTEST:

By: _____
Printed Name: _____
Title: _____

By: _____
Charles C. McKay, Manager

ATTEST:

By: _____
Printed Name: _____
Title: _____

WHITE ETKIN CHURCH RANCH HOTEL COMPANY III LLC,
an Indiana limited liability company (“WE III”)

BY: BW Westminster, LLC, an Indiana limited liability company, Manager

By: White Lodging Services Corporation,
an Indiana corporation, Manager

By: _____
Lawrence E. Burnell
Chief Operating Officer

ATTEST:

By: _____
Printed Name: _____
Title: _____

BY: Church Ranch Hotel Company I, LLC, a Colorado limited liability company, Manager

By: Church Ranch Land Company, LLC, a Colorado limited liability company, Manager

By: Etkin Church Ranch Land Company, LLC, a Colorado limited liability company, Manager

By: _____
Bruce H. Etkin, Manager

ATTEST:

By: _____
Printed Name: _____
Title: _____

BY: Pappilon Church Ranch Land Company, LLC, a Colorado limited liability company, Manager

By: _____
Gregg A. Bradbury, Manager

ATTEST:

By: _____
Printed Name: _____
Title: _____

By: _____
Charles C. McKay, Manager

ATTEST:

By: _____
Printed Name: _____
Title: _____

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, February 28, 2011
7:00 P.M.**

- 1. Roll Call**
- 2. Executive Session** – Consultation with the Authority's legal counsel concerning status of the *Westminster Mall Company* litigation and settlement discussions pursuant to CRS §24-6-402(4)(b) and (e).
- 3. Adjournment**



WESTMINSTER

February 23, 2011

Linda Yeager, WEDA Secretary
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031

City of Westminster
Office of the
Council

4800 West 92nd Avenue
Westminster, Colorado
80031

303-658-2006
FAX 303-706-3921

Nancy McNally
Mayor

Chris Dittman
Mayor Pro Tem

Bob Briggs
Councillor

Mark Kaiser
Councillor

Mary Lindsey
Councillor

Scott Major
Councillor

Faith Winter
Councillor

Dear Linda:

I wish to call a special meeting of the Westminster Economic Development Authority (WEDA) for Monday, February 28, 2011, for the purpose of convening in executive session to consult with the Authority's legal counsel concerning status of the *Westminster Mall Company* litigation and settlement discussions, pursuant to CRS §24-6-402(4)(b) and (e).

Sincerely,

Nancy McNally
Chair

cc: WEDA Board Members
J. Brent McFall, Executive Director

