

March 24, 1997  
7:00 PM

**Notice to Readers:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the City Council's part as issues have been discussed by Council previously. Council may defer final action on an item to a future meeting. Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meeting**
4. **Presentations**
  - A. Proclamation re Arbor Day/Earth Day/Tree City USA
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
  - A. City Manager's Report
7. **City Council Comments**

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

8. **Consent Agenda**
  - A. CB No. 21 re NorthPark Plaza Assistance Package (Allen-Dixon)
  - B. CB No. 22 re Revised Flood Plain Control Regulations (Merkel-Dixon)
9. **Appointments and Resignations**
  - A. Resolution No. 19 re Transportation Commission
10. **Public Hearings and Other New Business**
  - A. Public Hearing re Metro Ventures Rezoning
  - B. Councillor's Bill No. 23 re Metro Ventures Rezoning
  - C. Preliminary/Official Development Plan for Metro Ventures
  - D. Resolution No. 20 re Metro Ventures Service Commitments
  - E. Resolution No. 21 re Urban Renewal District Amandment
  - F. Resolution No. 22 re Policy re Sewer Backups
  - G. Special Legal Counsel re Anderson Litigation
11. **Old Business and Passage of Ordinances on Second Reading**

None
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
  - A. Financial Report for February, 1997
  - B. City Council
  - C. Request for Executive Session
    1. Potential Litigation Matter
    2. Review of Potential Annexations
13. **Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, MARCH 24, 1997 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

Mayor Pro Tem Dixon led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL:

Present at roll call were Mayor Pro Tem Dixon and Councillors Allen, Harris, Merkel, Scott and Smith. Also present were William Christopher, City Manager; Vicky Bunsen, Assistant City Attorney; and Michele Kelley, City Clerk. Absent was Mayor Heil.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Merkel to accept the minutes of the meeting of March 17, 1997 with no additions or corrections. Councillor Harris requested to abstain as he was not present for the meeting. The motion carried with 5 aye votes and Councillor Harris abstaining.

PRESENTATIONS:

Mayor Pro Tem Dixon presented a proclamation to City Forester Keith Wood proclaiming April 19 as Arbor Day and accepted the Tree City USA Award and special Growth Award as presented by Ralph Campbell from the Colorado State Forest Service.

REPORT OF CITY OFFICIALS:

City Manager Bill Christopher stated that public hearings will be held on April 14 and April 21 regarding the City's Comprehensive Land Use Plan, and that a public meeting will be held at Shaw Heights Middle School on May 27 at 7:00 P.M. concerning Shaw Heights annexation.

CITY COUNCIL COMMENTS:

Mayor Pro Tem Dixon advised citizens of the drive for school supplies for Sarajevo, Bosnia pupils organized by Tod and Sue Crandall and the "Have a Heart Drive".

CONSENT AGENDA:

The following items were considered as part of the Consent Agenda: Councillor's Bill No. 21 re NorthPark Plaza Assistance Package and Councillor's Bill No. 22 re Revised Flood Plain Control Regulations. The Mayor Pro Tem asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

A motion was made by Smith and seconded by Merkel to adopt the consent agenda items as presented with the recommendation stated on the Council Agenda Memorandums. The motion carried unanimously.

APPOINTMENTS AND RESIGNATIONS:

A motion was made by Allen and seconded by Merkel to adopt Resolution No. 19 which accepts the resignations of Jody Gourley and David Paul from the Transportation Commission, and makes the following appointments to the Transportation Commission: Joe Sloan and Tamra Waltemath as regular members with terms of office to expire December 31, 1998, and John Reiss as an alternate member with term of office to expire December 31, 1997. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING re METRO VENTURES REZONING:

At 7:22 P.M. the meeting was opened to a public hearing on the rezoning and Preliminary/Official Development Plan for a employee parking lot generally located at the northeast corner of Eliot Street and 104th Avenue. Planning Manager Larry Hulse entered a copy of the Agenda Memorandum, Planning Commission Recommendation and other related items as exhibits. Architect John Garner, representing JR Motors Company, was present to address Council. At 7:30 P.M. the public hearing was declared closed.

COUNCILLOR'S BILL NO. 23 - METRO VENTURES REZONING:

A motion was made by Allen and seconded by Merkel to pass Councillor's Bill No. 23 on first reading approving the rezoning of the property adjacent to John Elway Honda from R-3, Multi-family residential, to Planned Unit Development. Upon roll call vote, the motion carried unanimously.

PRELIMINARY/OFFICIAL DEVELOPMENT PLAN FOR METRO VENTURES:

A motion was made by Allen and seconded by Merkel to approve the Preliminary and Official Development Plan for Metro Ventures, for an additional parking lot, based on the finding that the plan is in conformance with Sections 11-2-2, 11-2-3, 11-2-5, and 12-2-1 of the Westminster Municipal Code; and that the intended use is compatible with adjacent residential and commercial development, conditional upon the plan indicating the required minor revisions. The motion carried unanimously.

RESOLUTION NO. 20 - METRO VENTURES SERVICE COMMITMENTS:

A motion was made by Allen and seconded by Merkel to adopt Resolution No. 20 awarding 1.4 service commitments from Category C for the Metro Ventures employee parking lot project. The motion carried unanimously.

RESOLUTION NO. 21 - URBAN RENEWAL DISTRICT AMENDMENT:

A motion was made by Merkel and seconded by Scott to adopt Resolution No. 21 approving an Urban Renewal Plan Amendment to remove Automobile Rental use from the prohibited uses section and add it to the list of permitted uses within Sub-areas A through I. The use of Automobile Rental shall be conditioned upon the following: (a) An Official Development Plan (ODP) shall be required for all rental operations, the existing zoning must be C-1, M-1, or if a PUD, the PUD must be amended to include this use, and the ODP shall specify landscaping, signage, drainage, and any other development related site improvements in accordance with the Urban Renewal Plan; (b) All automobiles for rent shall be stored so as to be hidden from view from any public rights-of-way; (c) The use shall be limited to automobile rental only and the largest vehicle for rent shall be a full sized passenger van; (d) Office and maintenance buildings shall be on the same property as the vehicle storage and under no circumstances shall the storage lot be the sole use of the property; (e) The property used for automobile rental shall not abut any residential zone or use; and (f) Maintenance of vehicles shall be limited to cleaning only, and all permitted maintenance shall be performed indoors. This amendment to the Urban Renewal Plan will not substantially change the current Amended Urban Renewal Plan in land area, design, building requirements, timing or procedure, and therefore is not subject to the procedural requirements of Section 31-25-107, C.R.S. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 22 - POLICY RE SEWER BACKUPS:

A motion was made by Smith and seconded by Allen to adopt Resolution No. 22 implementing a policy regarding the payments to Westminster residents who experience damage to their homes as a result of a backup in City sewer lines. Upon roll call vote, the motion carried unanimously.

SPECIAL LEGAL COUNSEL FOR ANDERSON LITIGATION:

A motion was made by Scott and seconded by Allen to authorize the City Attorney to execute a contract with Hayes, Phillips & Maloney, PC for special legal services in an amount not to exceed \$25,000 to respond to the complaint filed by Jeff and Cheryl Anderson against the Mayor, City Manager and two Assistant City Attorneys. Councillor Harris stated that Counsel also look at frivolous damages in this case. Assistant City Attorney Bunsen stated this would be considered as part of the proceedings. The motion carried unanimously.

MISCELLANEOUS BUSINESS:

Council reviewed the Financial Report for February 1997.

The Mayor Pro Tem stated there would be an Executive Session concerning a potential Litigation matter and a review of potential annexations.

ADJOURNMENT:

The meeting was adjourned at 7:40 P.M.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** March 24, 1997  
**Subject:** Proclamation re Arbor Day/Earth Day/Tree City USA Activities  
**Prepared by:** Keith Wood, City Forester

### **Introduction**

City Council is requested to proclaim Friday, April 18 as Arbor Day in the City of Westminster. In addition, the Mayor and Councillors are requested to accept the City's 12th consecutive Tree City USA award and a special growth award.

### **Summary**

The City's annual Tree City USA award presentation is requested to be presented on Monday, March 24 at the Westminster City Council meeting. Ralph Campbell of the Colorado State Forest Service will be present to award the Tree City USA award to the Mayor and City Council. Additionally, the Tree City USA Growth Award will be presented to Council.

As in the past, the Mayor will present the City's Arbor Day proclamation to City Forester Keith Wood. Mr. Wood will be at the City Council meeting and will accept the proclamation on behalf of the citizens of Westminster.

Calendar of events scheduled for Arbor week is as follows:

#### Arbor Day School Programs

- Thursday, April 17 - 1:00 P.M. at Witt Elementary, 10255 West 104th Avenue

The presentation at Witt Elementary for approximately 110 fourth graders will include the history of Arbor Day. Prizes for the poster contest will be awarded, with the first place winner to receive a potted blue spruce tree from Garden Country Nursery. Second through Tenth Place winners receive 3-5 foot Norway maple saplings. Students will assist Parks Division Staff in planting the initial trees of the windbreak project at Colorado Hills Open Space at 100th Avenue and Simms Street. Students will receive buttons, balloons, and Scotch pine seedlings.

#### Arbor Day Celebration

- Saturday, April 19 - 9:00 A.M. - 3:00 P.M. at City Park Recreation Center, 10455 Sheridan Boulevard

Parks Division Staff will distribute 400 3-5' Norway maple (bare root) saplings, buttons, balloons, and literature. T-shirt and tree sale will be held. A drawing will be held for a 5-gallon, potted fruit tree donated by Garden Country Nursery. Children's entertainment will be available inside the recreation center from 10:00-11:00 A.M.

### **Staff Recommendation**

Present a proclamation to City Forester Keith Wood proclaiming April 19, 1996 as Arbor Day in the City of Westminster, and accept the Tree City USA Award, and special Growth Award as presented by Ralph Campbell from the Colorado State Forest Service.

### **Background Information**

In 1872, J. Sterling Morton, the editor of Nebraska's first newspaper, proposed a tree-planting holiday to be called Arbor Day. Since that time, Arbor Day celebrations have spread to every state in the nation and to many foreign countries, as well.

The Tree City USA award is sponsored by the National Arbor Day Foundation and recognizes towns and cities across America that meet the standards of the Tree City USA program. It is designed to recognize those communities that effectively manage their public tree resources, and to encourage the implementation of community tree management based on four Tree City USA standards:

- > A Tree Board or Department (the City's board consists of Keith Wood, Rich Dahl, Bill Walenczak, and Rod Larsen)
- > A community tree ordinance
- > A community forestry program with an annual budget of at least \$2/capita
- > An Arbor Day observance and proclamation

The Growth Award is also provided by the National Arbor Day Foundation to recognize environmental improvement and encourage higher levels of tree care throughout America. It is designed not only to recognize achievement, but also to communicate new ideas and help the leaders of all Tree City USA recipients plan for improving community tree care.

The recipient of the award must be a Tree City USA award winner in at least its second year, spend as much as the previous year on community forestry, and reach certain levels in the following categories:

- > Education and public relations
- > Partnerships
- > Planning and management
- > Tree planting and maintenance

Respectfully submitted,

William M. Christopher, City Manager

Attachment: Proclamation

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, The holiday called Arbor Day is now observed throughout the nation and the world; and

WHEREAS, Trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and

WHEREAS, Trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, Trees, wherever they are planted, are a source of joy and spiritual renewal; and

WHEREAS, Westminster has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree planting ways.

NOW, THEREFORE, the City Council of the City of Westminster, Colorado, hereby proclaims Friday, April 18, 1997, as ARBOR DAY in the City of Westminster, and urge all citizens to support efforts to protect our trees and to support our City's urban forestry program; and further urge all citizens to plant trees to gladden the hearts and promote the well being of present and future generations.

Signed this 24th day of March, 1997.

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Sam Dixon, Mayor Pro Tem

**Date:** March 24, 1997  
**Subject:** Resolution No. 19 re Transportation Commission Appointments  
**Prepared by:** Michele Kelley, City Clerk

**Introduction**

City Council action is requested to adopt the attached Resolution which accepts the resignation of Jody Gourley and David Paul from the Transportation Commission and to fill these vacancies from the current "pool" of applicants.

**Summary**

Jody Gourley has submitted a letter of resignation from the Transportation Commission since she has recently adopted a child and would like to spend more time with her family. A copy of her letter of resignation is attached.

David Paul has submitted a letter of resignation from the Transportation Commission. A copy of his letter of resignation is attached.

The City Council earlier in 1997 completed interviews with the Board and Commission "pool" applicants that expressed interest in serving on all of the Boards. A copy of the matrix is also attached.

**Staff Recommendation:**

Adopt Resolution No. 19 which accepts the resignations of Jody Gourley and David Paul from the Transportation Commission, and filling these vacancies on the Board.

**Background Information:**

Jody Gourley was originally appointed to the Transportation Commission on March 6, 1995 and has served continually since that time. Her current term of office will expire on December 31, 1998.

David Paul was originally appointed to the Transportation Commission on April 12, 1993 and has served continually since that time. His current term of office will expire on December 31, 1998.

Currently, the Transportation Commission alternate is Joe Sloan who was appointed on March 6, 1995. Per City Code requirements, all alternate members terms expire on December 31, 1997.

A resolution has been prepared to formally accept the resignation of Jody Gourley and David Paul and to make the necessary appointments to the Transportation Commission at this time.

Respectfully submitted,

William M. Christopher, City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1996

\_\_\_\_\_

CITY OF WESTMINSTER TRANSPORTATION COMMISSION APPOINTMENTS

WHEREAS, City Council has been notified of the resignation of Jody Gourley and David Paul from the Transportation Commission; and

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized appointees to carry out the business of the City of Westminster.

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

1. City Council does hereby accept the resignation of Jody Gourley and David Paul from the Transportation Commission; and
2. City Council does hereby appoint the following individuals to the City of Westminster Transportation Commission with the term of office to expire as stated.

<u>NAME</u>	<u>BOARD/COMMISSION</u>	<u>TERM EXPIRE</u>
John Reiss, Jr	Transportation Commission as Alternate member	12-31-97
Tamra Waltemath	Transportation Commission as Regular member	12-31-98
Joe Sloan	Transportation Commission moved from Alternate member to Regular member	12-31-98

Passed and adopted this 24th day of March, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** March 24, 1997  
**Subject:** Councillor's Bill No. and Resolution No. re Metro Ventures  
**Prepared by:** Teresa L. Hamilton, Planner III

## **Introduction**

City Council is requested to hold a public hearing, and later on the agenda, take action on the request for rezoning and the Preliminary/Official Development Plan (PDP/ODP) for a parking lot to serve employees of John Elway Honda/Oldsmobile.

## **Summary**

Applicant/Property Owner Mr. John Garner, an architect, is representing the ownership of JR Motors Company.

Location Northeast corner of Eliot Street and 104th Avenue

Size of site 1.67 acres

Description of Proposed Use The property is proposed to be rezoned and developed for employee parking for the adjacent Metro Ventures auto dealership, commonly known as John Elway Honda. No other commercial use of the property would be allowed.

## Major Issues

Existing zoning of the property is R3, a multi-family zone which would allow up to 14.5 dwelling units per acre, and a building height of 35 feet. The requested zone is Planned Unit Development which would allow an employee parking lot.

## **Planning Commission Recommendation**

At their regular meeting Planning Commission voted unanimously to approve the rezoning of the property from R3, multi-family residential to Planned Unit Development. The Commission also voted unanimously to recommend to City Council the approval of the PDP/ODP for the development of an employee parking lot for the John Elway Honda/Oldsmobile facilities.

The Meadowlark Homeowners Association president was present and stated that the developer had addressed all of their concerns and that they were in favor of the proposed development. There was no testimony in opposition to the request.

## **Staff Recommendation**

1. Hold a public hearing.
2. Pass Councillor's Bill No. on first reading approving the rezoning of the property from R3, Multi-family residential, to Planned Unit Development.

3. Approve of the Preliminary and Official Development Plan for Metro Ventures, for additional parking lot, based on the finding that the plan is in conformance with Sections 11-2-2, 11-2-3, 11-2-5, and 12-2-1 of the Westminster Municipal Code; and that the intended use is compatible with adjacent residential and commercial development, conditional upon the plan indicating minor revisions noted in Exhibit A.

4. Adopt Resolution No. awarding 1.4 service commitments from Category C.

### **Background Information**

Discussion of Major Issues Existing zoning of the property is R3 which allows multi-family development. The owners of the adjacent Metro Ventures auto dealership desire to shift the majority of employee parking off-site, thereby increasing their ability to provide customer parking and storage of new cars. The surrounding uses of adjacent properties are both residential and commercial.

Access and Circulation The owner will dedicate additional land from this site as well as property under the same ownership to the west, for a proposed realignment of Decatur Street by the City, should that become needed in the future (see attached exhibit). These dedications will occur at time of replat, after acceptance of a Phase I Environmental Site Assessment, provided by the owner, or by the City. There are no required street improvements required by this development, although sidewalks will be reconstructed and extended to meet existing walks. One vehicular access point is proposed at the north end of the property, where grades become level with existing Eliot Street.

Site Design The property is surrounded on three sides by existing streets and abuts the Meadowlark Subdivision on the east side, which is developed with single family homes. The plan proposes the extension of an eight (8) foot cedar fence behind lots 10 to 15. The location of the new fence will be directly behind the residents' existing fences, allowing the existing residents the option of removing their existing fence, and reducing the risk of damage to private property by the developer.

The developer will own and maintain the new fence.

The site is generally lower than 104th Avenue and the majority of Eliot Street. The site slopes down to the north, with development resulting in grades generally lower than the surrounding streets with the exception of the north end of the property where the finished grade will become several feet higher than Decatur Street. The finished floor elevations of the existing homes to the east vary from being several feet higher to several feet lower than the proposed grade of the parking lot.

The site, including right-of-way, contains 25% of the area as landscaping. Lilac shrubs will be planted adjacent to the east property line, and proposed new fence, where there is an existing utility easement. A combination of shade trees and evergreen trees will be planted along the other edges, and several parking lot islands will occur to provide some landscaping within the paved area.

Signage A sign identifying the employee parking will be located at vehicular access to the property and comply with City code.

Service Commitment Category This development will require awarded service commitments from Category C, for landscaped areas, at the time of City Council approval.

Referral Agency Responses Referrals have been forwarded to Public Service, United Cable and US West. There has been no response to date.

Public Comments The applicant held a meeting with abutting Meadowlark subdivision residential owners during the planning process. The proposal was generally supported at that time. City Staff also attended a Cotton Creek Community Oriented Governance (COG) meeting in November and provided information regarding the proposal to citizens in attendance.

Surrounding Zoning East - Meadowlark single family detached subdivision; west - Elway Honda and Oldsmobile car dealerships; north - Meadowlark subdivision; south - City limits.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

## **Exhibit A**

Following are a list of items which need to be indicated on the PDP/ODP or otherwise completed.

1. The ODP for the existing auto dealership needs to be amended to provide additional handicap parking on-site for employees and/or visitors, in accordance with City code.
2. Revise note on page 2 regarding condition of landscaping to read "Landscaping shall be planted and maintained in a living condition by the owner. Trees and shrubs must have a 100% ongoing survival rate. Any dead or damaged plant material (as determined by the City) shall be replaced within 6 months of notification by the City. Non-living ground covers, such as rock or mulch, must be 100% intact after one year and 100% intact thereafter."
3. Revise note on page 2 regarding soil preparation to read "Soil preparation under all areas to be seeded, sodded or otherwise planted shall include topsoil and/or organic matter (compost or aged ground manure) and shall be added at a rate of five cubic yards per one thousand square feet and tilled into the soil."
4. Add note on page 2 "Developer shall ensure that the landscape plan is coordinated with the plans prepared by other consultants so that the proposed grading, storm drainage, or other construction does not conflict with nor preclude installation and maintenance of landscape elements as designated on this plan."
5. Add a note on page 2 that "A Standard Environmental Site Assessment Phase I survey and report must be prepared and accepted by the City, prior to acceptance of right of way dedications."
6. Relocate the sign on page 2 out of the site triangle or reduce the height to 30 inches or less as measured from the top of the curb on Eliot Street.
7. Revise the note on page 2 regarding fence location to specify Lots 1-15, since Lot 16 and 17 have already had rear property line fence replacement to match the fence along 104th Avenue.
8. Lighting will be low level of high pressure sodium, directed in a downcast manner in such a manner to not illuminate the adjacent residential lots.
9. Revise the fence and landscape cross section to indicate a grass swale in front of the lilacs, adjacent to the parking lot curb.

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 1997

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PORTION OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH P.M. COUNTY OF ADAMS, CITY OF WESTMINSTER, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from Westminster R-3, multi-family to City of Westminster PUD - Planned Unit Development zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code section 11-2-1.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 2 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code sections 11-2-1, 12-2-1, 12-2-2, and 12-8-7.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein hereto from Westminster R-3, multi-family to City of Westminster PUD--Planned Unit Development:

Valley View Estates, Block 1, Lots 10, 11, 12, 13 and 14 of the South 1/2 of the Southeast 1/4 of Section 8, Township 2 South, Range 68 West of the 6th Principal Meridan. As recorded in Adams County Clerk and Recorder's office, under File 11, Map 121, Book 7, Page 121. Reception No. 707602.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of March, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this        day of April, 1997.

ATTEST: \_\_\_\_\_

Mayor

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

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

\_\_\_\_\_

CATEGORY C SERVICE COMMITMENT AWARD FOR THE METRO VENTURES  
PLANNED UNIT DEVELOPMENT

WHEREAS, the City of Westminster has adopted by ordinance a Growth Management Program for the period July 1, 1990, through June 30, 2000; and

WHEREAS, within that ordinance there is a provision for an award of Service Commitments to Category C, Non-Residential Developments; and

WHEREAS, Category C is the category which is appropriate for the Metro Ventures Planned Unit Development; and

WHEREAS, there are 733.30 Service Commitments available for award in Category C; and

WHEREAS, the City Council has approved the Preliminary and Official Development Plan for Metro Ventures Planned Unit Development.

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

1. An award of 1.4 Service Commitments is hereby made for use in the Metro Ventures Planned Unit Development.

2. A reduction of 1.4 Service Commitments is hereby made to the total number of Service Commitments available in Category C.

3. This award shall be valid for a period ending March 24, 1998.

4. This shall constitute the resolution required under Section 11-5-4 of the City Code.

Passed and adopted this 24th day of March, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** March 24, 1997  
**Subject:** Resolution No. re Urban Renewal District Amendment  
**Prepared by:** Mark E. Geyer, Planner II

### **Introduction**

City Council action is requested to adopt the attached Resolution amending the Urban Renewal Plan to allow Automobile Rental facilities with conditions.

### **Summary**

- > Enterprise Auto Leasing has moved into a portion of the former Aspen Auto Body located at 3698 West 72nd Avenue this winter (see attached vicinity map). Upon application for a business license, they were informed that automobile rental facilities are not an allowable use within the City's Urban Renewal District which encompasses all of the older commercial areas in the vicinity of 72nd Avenue and Federal Boulevard.
- > The owners of the business have requested that the Plan be changed to allow their location with appropriate restrictions and conditions to make the use compatible with the area which would allow a viable re-use of the existing building.
- > Staff is recommending a change to the Urban Renewal District "Permitted Uses" section to permit Automobile Rental Uses subject to certain requirements such as the provision of highly effective visual screening, the provision of significant upgrades to the property, and the limitation of mechanical repairs to vehicles.
- > The use of automobile rental does not necessarily create a negative impact to the neighborhood if proper restrictive measures are taken. By including automobile rental, with conditions, in the Urban Renewal District, Staff believes that properties can be rehabilitated and improved to a higher standard.

### **Staff Recommendation**

Adopt Resolution No. approving an Urban Renewal Plan Amendment regarding allowed uses and incorporating the amendment into the 1997 Amended Urban Renewal Plan. This amendment to the Urban Renewal Plan will not substantially change the current Amended Urban Renewal Plan in land area, design, building requirements, timing or procedure, and therefore is not subject to the procedural requirements of Section 31-25-107, C.R.S.

### **Background Information**

Enterprise Rent-a-Car company recently moved into the front portion of the property previously used by Aspen Auto body at 3698 West 72nd Avenue. After applying for a business license, they were notified that automobile rental businesses are not permitted uses within the Urban Renewal District.

Enterprise approached Staff under the premise that the automobile rental business can, under certain circumstances, be made to be compatible with goals of the Urban Renewal Plan. Enterprise and Staff have met several times and have come to an agreement of what conditions would need to be met to assure compatibility and to meet the goals of the Plan.

Enterprise Rent-a-Car is planning a significant upgrade in the buildings and entrance features of the property once Urban Renewal Plan amendments are complete. As part of the Urban Renewal Plan amendment, an ODP will be required which will further specify all site improvements required to achieve compatibility with the neighborhood and with the goals of the Plan.

The amendment will remove Automobile Rental use from the prohibited uses section and add it to the list of permitted uses within Sub-areas A, B, C, D, E, F, G, H, and I. The use of Automobile Rental shall be conditioned upon the following:

- a. An Official Development Plan (ODP) shall be required for all rental operations. The existing zoning must be C-1, M-1, or if a PUD, the PUD must be amended to include this use. The ODP shall specify landscaping, signage, drainage, and any other development related site improvements in accordance with the Urban Renewal Plan.
- b. All automobiles for rent shall be stored so as to be hidden from view from any public rights-of-way.
- c. The use shall be limited to automobile rental only. The largest vehicle for rent shall be a full sized passenger van.
- d. Office and maintenance buildings shall be on the same property as the vehicle storage. Under no circumstances shall the storage lot be the sole use of the property.
- e. The property used for automobile rental shall not abut any residential zone or use.
- f. Maintenance of vehicles shall be limited to cleaning only. All permitted maintenance shall be performed indoors.

#### Discussion of Major Issues

The major issue with this amendment request is the ability to assure compatibility of this type of business with other businesses and residences in the area and with the goals of the Urban Renewal Plan. If the use is limited as recommended by Staff, it can be made to be compatible with and would be a contributing factor to the improvement of the District.

Staff believes that automobile rental is a use that, if controlled and monitored properly, can be a good neighbor to the existing and future users of commercial properties in the District. If the negative aspects of the typical rental business are controlled (outside storage, mechanical repair, storage in the front of the lot, conflicts with residential uses), the use would meet the goals of the Urban Renewal District.

Architectural/Building Materials

One feature of this amendment to assure compatibility is the requirement to perform an ODP for any request of this type of use. This will establish a review of the existing property and structures and will require upgrades as needed. The applicant in this particular case will be upgrading the property, with remodeled building facades and additional landscaping as part of the required ODP for the property.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

AUTHORIZING AN AMENDMENT TO THE URBAN RENEWAL PLAN TO ADD AUTOMOTIVE RENTAL TO THE LIST OF PERMITTED USES IN THE URBAN RENEWAL AREA

WHEREAS, the City of Westminster City Council has previously adopted the Westminster Urban Renewal Plan (the "Plan") for the Westminster Urban Renewal Area; and

WHEREAS, the Urban Renewal Plan contains specific language prohibiting Automotive Rental as a land use in the Urban Renewal Area; and

WHEREAS, City Staff has proposed modifications to allow Automotive Rental as a permitted use as set forth in the amendment attached to this Resolution as Exhibit A; and

WHEREAS, these modifications maintain the intent of the existing code with regard to permitted uses in the Urban Renewal Area.

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

1. The proposed modifications to the Westminster Urban Renewal Plan as set forth in Exhibit "A" will not substantially change the current Urban Renewal Plan, and therefore, the approval of these amendments is not subject to the procedural requirements of section 31-25-107, C.R.S.

2. Colorado state law expressly authorizes municipalities to cooperate with urban renewal authorities in the planning and implementation of urban renewal projects, and to adopt special building and zoning regulations to facilitate such projects.

3. The proposed Urban Renewal Plan amendments will not compromise the general intent of Chapter 5 (Land Use Regulations and Building Requirements), Section F (Permitted Land Uses), of the Urban Renewal Plan.

4. The Westminster Urban Renewal Plan, as amended pursuant to Exhibit "A", shall hereinafter be deemed controlling with respect to all property within the Urban Renewal Area.

Passed and adopted this 24th day of March, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** March 24, 1997

**Subject:** Resolution No. re Policy re Sewer Backups

**Prepared by:** Matt Lutkus, Deputy City Manager for Administration

### **Introduction**

City Council is being asked to adopt the attached Resolution which will allow for payments to be made to citizens who experience sewer backups when certain criteria are met. Funds are expected to be available in the Utility Fund for this estimated expense.

### **Summary**

The proposed resolution and policy will address concerns regarding citizen property loss which results from a backup in a City sewer line. Currently, the City pays for the cleanup and disinfection of the area affected by the sewer backup. However, in those circumstances where it is determined that the City has no legal liability, no further payments are made. On occasion, property damage loss to citizens has been significant and they typically must bear the full cost of repairs and replacements, even though there may not have been any negligence on their part.

Although the backups occur only a few times per year, there can be considerable consternation on the part of citizens when they realize that the damages resulting from these occurrences are not usually reimbursable by an insurance company and not paid by the City.

The proposed policy provides that up to \$2,500 be paid to the citizen over and above the cost for cleaning and disinfection, when the citizen's home is damaged and they meet the criteria outlined in the policy. Staff believes this would be appropriate, especially given the City's customer service focus.

### **Staff Recommendation**

Adopt Resolution No. implementing a policy regarding the payments to Westminster residents who experience damage to their homes as a result of a backup in City sewer lines.

### **Background Information**

Since January 1990, the City has received 33 insurance claims for 24 sewer backups. Each of the claims were processed by the Colorado Intergovernmental Risk Sharing Agency (CIRSA) on behalf of the City and in 13 of these claims, payments totaling \$33,056 were made. The City does not have data on the damages estimated by the residents who were not reimbursed by the City.

When a City sewer backup occurs into a resident's home, the City Utility Operations crews respond to remove the blockage from the City sewer line and remove any sewage that still may be in the resident's basement. The City then contracts with a cleaning service for the cleaning and disinfection of the resident's property. Typically, if the City has not had any notice that the sewer line was blocked, it need not assume any obligation for the expense involved in the cleanup of the property and reimbursement for damages.

Even though the City will pay for the cleaning and disinfecting of the property, in these cases the cost for repairing the damages to the property is the responsibility of the residents. Residents seldom have the necessary insurance policy endorsement required by insurance companies for sewer backup coverage. The result is considerable dissatisfaction with the City's position of not compensating homeowners for this damage. Council may recall several incidents over the years where citizens have been very dissatisfied with the City's response in these matters.

In the past, most cities have taken a stand similar to that of Westminster, that is, relying on the Governmental Immunity Act and not compensating citizens for damage to their property caused by sewer backups. However, in recent years, many cities have changed their position with regard to reimbursements for sewer backup damages. According to a survey conducted last year by CIRSA, Aurora, Brighton, Broomfield, Golden, and Littleton will pay damages up to a maximum amount even though the city does not accept liability.

City Staff is recommending that Council approve the attached resolution and policy which would provide up to \$2,500 in reimbursements over and above the cost of cleaning and disinfection when citizens experience a sewer backup into their homes which was caused by a blockage in the City sewer line. The program is intended for those situations in which the City has no legal liability for damages caused by the backup. Any recoveries that the resident may receive from other sources, such as the resident's homeowners insurance company, will reduce the payments made under this program. In those cases where the City's claim adjustor finds that the City backup was a result of City negligence, the claim will be adjusted appropriately. Other provisions in the proposed policy will help protect the City from any further obligations when these backups occur.

Given the average of three to four of these claims per year, it is estimated that the City cost for both clean up and damages from this sewer backup reimbursement program would average less than \$10,000 per year. This amount can be absorbed in the City's Public Works and Utilities Department Wastewater Fund in the current budget year. Staff believes that this proposed policy would go a long way toward decreasing the amount of citizen dissatisfaction of the City's role in these incidents.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

CITY PAYMENTS FOR DAMAGES RESULTING FROM SEWER BACKUPS

WHEREAS, there are, on average, three to four sewer backups per year in Westminster involving an average of five claimants, and

WHEREAS, even though the backups occur in the City sewer lines, the City typically does not have legal liability for the losses, and

WHEREAS, citizens do not typically carry the necessary insurance coverage for damage caused by sewer backups, and

WHEREAS, citizen relations would be enhanced by the payment of at least some of the expense incurred by families who experience a City sewer line backup, and

WHEREAS, policies which allow for payments for damages over and above the costs for cleaning and disinfecting the effected areas are becoming more prevalent in the metro area,

NOW, THEREFORE, be it resolved that the Westminster City Council hereby adopts the following policy which provides for payments to citizens who experience sewer line backups when the criteria listed are met.

POLICY REGARDING CITY PAYMENTS FOR DAMAGES RESULTING FROM SEWER BACKUPS

Periodically, an obstruction or other blockage in a City sewer main causes a backup of sewage in the City sewer main into privately owned sewer lines and into citizen residences. Although, in most cases, the City has no legal liability for damages in these situations, the cost of cleanup and replacement of damaged furniture and goods to the resident can be significant. In an effort to maintain positive customer relations when backups occur, the City has had a practice of providing contracted cleanup and disinfection services. In further consideration of the property damage that occurs as a result of sewer backups in City sewer lines, the City is hereby extending the payment made to the residents in such situations up to \$2,500 beyond the cost to the City for cleanup and disinfection.

The following guidelines shall be used in determining the circumstances under which such payment will be made:

1. This program is intended for those situations where the City has no legal liability to pay for the damages caused by a backup in the main sewer line. In those cases where the City's claim adjustor finds that the backup was caused as a result of City negligence, the claim will be adjusted appropriately.

2. Such payments will be made only to owners of residential property and only in those circumstances where the backup occurs in the main sewer line and not when the backup is caused by an obstruction in the individual property owner's service line. No payments shall be made if the backup was the result of negligence on the part of any contractor. The Utility Division Field Operations crew responding to the sewer backup complaint will make the determination on whether the backup occurred in the City sewer main, whether the backup occurred as a result of a blockage in the property owner's service line, or is the result of a contractor's negligence.
3. The City will continue to pay for the contracted cleaning and disinfecting of those areas of the home which are impacted by backups in the City's main sewer lines.
4. The amount of payment made to the property owners shall be determined by the City's insurance claims adjustor but shall not exceed \$2,500 for any one occurrence. The homeowner will be asked to release the City from any further obligations arising out of the sewer backup prior to receiving these funds.
5. Any payments made by an insurance company or any other third party will reduce, on a dollar for dollar basis, any compensation paid under this program.
6. The City accepts no liability for damages to the property as a result of sewer main backup by virtue of its payments under this program.
7. The costs associated with the cleanup and disinfection of the impacted properties and payments made to property owners under this program shall be charged to the City's Utility Fund.

The City's Risk Manager will normally be the main contact for request for payment under this program. Questions on the payments for damages and process for filing claims should be directed to this office.

Passed and adopted this 24th day of March, 1997.

ATTEST:

\_\_\_\_\_  
Mayor

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

**Date:** March 24, 1997

**Subject:** Special Legal Counsel re Anderson Litigation

**Prepared by:** Jeff Betz, Assistant City Attorney

### **Introduction**

City Council action is requested to authorize the City Attorney to execute a contract in an amount not to exceed \$25,000 with special legal counsel to assist in defending the complaint filed by Jeff and Cheryl Anderson against the Mayor, City Manager and two Assistant City Attorneys. Funds are available in the Risk Management budget to cover this expense.

### **Summary**

Special legal counsel is necessary to defend the Complaint filed by Jeff and Cheryl Anderson against the Mayor, the City Manager and two Assistant City Attorneys in connection with the City's condemnation of the Anderson property as part of the 72nd Avenue Improvement Project and related zoning and business relocation issues. Herbert C. ("Lee") Phillips of Hayes, Phillips & Maloney, PC is recommended by Staff to provide the necessary legal services.

### **Staff Recommendation**

Authorize the City Attorney to execute a contract with Hayes, Phillips & Maloney, PC for special legal services in an amount not to exceed \$25,000 to respond to the Complaint filed by Jeff and Cheryl Anderson against the Mayor, City Manager and two Assistant City Attorneys.

### **Background Information**

The City filed its Petition in Condemnation for the Anderson (Central Pawn) parcel on October 30, 1995. The City was granted immediate possession of the property by the Court on February 20, 1996. The Andersons applied for and received relocation benefits through the State of Colorado for moving expenses related to the business conducted on the premises, Central Pawn. The Andersons were notified by the City of the need to apply for rezoning in order to relocate their pawn shop business within the City limits. However, no application for rezoning was submitted by the Andersons. The valuation portion of the condemnation litigation is scheduled to go to trial before a jury beginning April 28, 1997.

Because both Assistant City Attorneys Vicky Bunsen and Jeff Betz were named as defendants in the litigation, it is necessary to obtain outside legal counsel to represent the City. It is recommended that Lee Phillips be retained by the City to provide the necessary legal services to defend against the Complaint, including preparing and filing a Motion to Dismiss. Mr. Phillips has extensive litigation and condemnation experience and is familiar with the issues set forth in the Complaint.

Special Legal Counsel re Anderson Litigation  
Page 2

A cap of \$25,000 is suggested at this time, which should be adequate should the case need to proceed to a separate trial from the condemnation.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**CONTRACT FOR LEGAL SERVICES**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, by and between HAYES, PHILLIPS & MALONEY, P.C., Attorneys at Law (the "Firm") and the CITY OF WESTMINSTER, COLORADO (the "City").

**RECITALS**

1. The City is desirous of contracting with the Firm for legal services.
2. The Firm and its attorneys are authorized to practice law in the State of Colorado.

**AGREEMENT**

1. The Firm shall furnish the following special legal services to the City (the "Services"): see Exhibit "A."
2. Herbert C. ("Lee") Phillips of the Firm shall be principally responsible for the Services.
3. The Firm is acting as an independent contractor; therefore, the City will not be responsible for FICA taxes, health or life insurance, vacation, or other employment benefits.
4. The City shall pay for the Services at the rates also set forth in Exhibit "A."
5. This Contract may be terminated by the City with or without cause.
6. No payments to the Firm shall be made prior to the approval of this Contract by the Westminster City Council.
7. Payments pursuant to this Contract shall not exceed \$25,000.00 without further written authorization by the City.
8. This Agreement is expressly contingent upon the approval of the City of Westminister's City Council of all of the terms set forth herein. In the event this Agreement is not approved in its entirety by City Council, neither Party shall be bound to the terms of this Agreement.

**HAYES, PHILLIPS & MALONEY, P.C.**

By \_\_\_\_\_  
Herbert C. Phillips

**CITY OF WESTMINSTER, COLORADO**

By \_\_\_\_\_  
City Manager

**Date:** March 24, 1997

**Subject:** Financial Report for February 1997

**Prepared by:** Mary Ann Parrot, Finance Director

### **Introduction**

City Council is requested to review the attached financial statements which reflect 1997 transactions through February, 1997.

### **Summary**

There are three sections to the attached report:

1. Revenue Summary
2. Statement of Expenditures vs Appropriations
3. Sales Tax Detail

General Fund revenues represent 15% of the total budget estimate while General Fund expenditures and encumbrances represent 16% of the 1997 appropriation.

Utility Fund revenues represent 16% of the total budget estimate. Utility Fund expenditures and encumbrances represent 25% of the 1997 appropriation. The large amount encumbered is for payments to Thornton for treated water and to the Metro Wastewater Reclamation District for sewage treatment.

The Sales and Use Tax Fund revenues represent 19% of the total budget estimate, while expenditures and encumbrances in that fund represent 17% of the 1997 appropriation. Total Sales and Use Tax revenues for the 25 shopping centers reported increased 8% from the same period last year and increased 6% year-to-date.

The Open Space Fund revenues represent 20% of the total budget estimate while expenditures and encumbrances in that fund represent 16% of the 1997 appropriation.

The Golf Course Fund revenues represent 3% of the total budget estimate while expenditures and encumbrances in that fund represent 19% of the 1997 appropriation. The encumbrances are for the golf cart lease and other foreseeable expenditures.

Theoretically, 17% of revenues and expenditures should be realized after two months in the budget year. However, it is recognized that both revenues and expenditures do not occur on an even 1/12 flow each month of the year.

### **Staff Recommendation**

Accept the report as presented.

**Background Information**

Section 9.6 of the City Charter requires that the City Manager provide, at least quarterly, financial data showing the relationship between the estimated and actual revenue expenditures to date.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments