



CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Presentation of Employee Service Awards
 - B. Proclamation for Sam LaConte
 - C. Proclamation re Mental Health Month
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 April 2006
 - B. Quarterly Insurance Report: January – March 2006
 - C. Banking Service Contract
 - D. Lockbox Services for Processing Utility Bill and Sales Tax Payments
 - E. Construction Contract for the 88th & Zuni Lift Station
 - F. Intergovernmental Agreement with the City of Arvada re Resurfacing of 88th Avenue and Garrison Street
9. Appointments and Resignations
 - A. Metro Wastewater Reclamation District Board of Directors Re-Appointment
10. Public Hearings and Other New Business
 - A. Councillor's Bill No. 33 re Municipal Code Amendment to Comply with Colorado Clean Indoor Air Act
 - B. Councillor's Bill No. 34 re Agreement with The Bedrin Organization for Brookhill V Shopping Center
 - C. Councillor's Bill No. 35 re Best In Class Economic Development Agreement
 - D. Councillor's Bill No. 36 re Waive Recoveries for the Valle Vista Retail Center
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
13. Adjournment

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, MAY 22, 2006 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. Mayor Pro Tem Kauffman and J. Brent McFall, City Manager, were absent, as they were representing the City at the International Conference for Shopping Centers. Stephen P. Smithers, Acting City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Price moved, seconded by Dittman, to approve the minutes of the regular meeting of May 8, 2006. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. Smithers welcomed employees in attendance to be recognized for their years of service to the City. The aggregate service represented by the group was 490 years, for which he extended sincere appreciation. Additionally, the City was represented at the Colfax Marathon by a municipal relay team that finished 7th out of 15 teams.

CITY COUNCIL COMMENTS

Councillor Dittman reported having attended the 4th Annual Walk to support the Colorado Arthritis Foundation. Many people participated, including children with arthritis and their families.

Councillor Price reported having attended the Spring Fling at Legacy Golf Course.

Councillor Lindsey had attended the Annual Open House at Fire Station No. 5 and the Westminster Historical Society's recognition of the Awalts for the renovation of their residence at 7616 Bradburn Boulevard.

Mayor McNally reported that Law Enforcement Day ended with church services at the Tri-City Baptist Church and was attended by many Westminster officers and their families, as well as members of the Police Academy Alumni. Jim Buckner had been selected Officer of the Year. Carrabba's had donated food for lunch after the services, and Mayor McNally thanked them for their community support and generosity. The Mayor also reported having spoken to United Methodist Church members about happenings in the City. Participants in Community Pride Day had gathered 40 hours worth of trash that employees would not have to pick up, and the Mayor commended the community spirit of those volunteers. The Mother/Daughter Tea at City Park Recreation Center had sold out with 150 attendees and was a huge success. The Mayor and several members of Council had attended a "Beam Signing" for the new middle school being built by Adams School District 12 at 120th and Huron, and the Mayor also had judged a student art show for Adams District 12. The week's events included a reception at the Metzger Farm to celebrate its joint acquisition as open space by the cities of Westminster and Broomfield. The farm would be preserved as a working farm for current and future generations to enjoy.

EMPLOYEE SERVICE AWARDS

Councillor Major presented certificates and pins for 20 years of service to Debbie Mitchell and Joel Sherry.

Mayor McNally presented a certificate, pin, and monetary stipend for 25 years of service to Tony DiTirro, Ron McCuiston, Paul Newton, Randy Peterson, and Rich Spahn.

Councillor Dittman presented certificates and 30-year service pins to Lloyd Estes and Tom Settle.

PROCLAMATIONS

In recognition of 47 years of valued service to the City of Westminster, Mayor McNally read a proclamation for Sam LaConte. Ron Hellbusch, Special Projects Coordinator, and Jim Arndt, Director of Public Works and Utilities, highlighted Mr. LaConte's career and his numerous contributions. With his daughter and granddaughter at his side, Mr. LaConte gratefully accepted the proclamation. Council and Staff joined the Mayor in wishing Mr. LaConte well in his retirement.

Councillor Dittman read a proclamation declaring May to be Mental Health Month. Accepting identical proclamations were Vicki Rodgers of Jefferson Center for Mental Health and Lindy Schultz of Adams County Community Reach Center.

CITIZEN COMMUNICATION

Jane Fancher, 7260 Lamar Court, relayed comments about tax increment financing that the Jefferson County Assessor had made to her. She understood that the agreement with Bedrin Organization for Brookhill V Shopping Center would be removed from the agenda and spoke in opposition to the Best In Class economic development agreement scheduled for Council's consideration, as it appeared the City was helping Sheridan Park lease its building.

Jean Woodis, 9799 Alkire Street in unincorporated Jefferson County, asked for the City's assistance in addressing a prairie dog problem in her neighborhood.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: the April 2006 financial report; authority for the City Manager to sign a contract for general banking services with US Bank, National Association in a form approved by the City Attorney's Office for a term of one year, renewable for four additional one-year terms; authority for the City Manager to sign a five-year contract in a form approved by the City Attorney's Office with UMB Bank Colorado, National Association for lockbox services to process utility bill and sales tax payments; authority for the City Manager to execute a \$292,538 contract with Arapahoe Utilities and Infrastructure, Inc., the low bidder, authorize a 10% contingency of \$29,500 and authorize the transfer of \$110,500 from the Utility Fund Wastewater Capital Project Reserve account to the 88th and Zuni Lift Station Project account to increase the project budget from \$250,000 to \$360,500; and authority for the City Manager to sign an Intergovernmental Agreement with the City of Arvada providing for reimbursement of funds by the City of Arvada to the City of Westminster for Arvada's portion of resurfacing on 88th Avenue and on Garrison Street.

Mayor McNally asked if Council wished to remove any items from the consent agenda for discussion purposes or separate vote. There was no request.

It was moved by Councillor Dittman and seconded by Major to approve the consent agenda, as presented. The motion passed unanimously.

METRO WASTEWATER RECLAMATION DISTRICT BOARD OF DIRECTORS REAPPOINTMENT

Upon a motion by Councillor Lindsey, seconded by Councillor Dittman, the Council voted unanimously to reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District's Board of Directors, with a term of office effective through June 30, 2008.

COUNCILLOR'S BILL NO. 33 ADOPTING THE COLORADO CLEAN INDOOR AIR ACT

It was moved by Councillor Price and seconded by Councillor Major to pass Councillor's Bill No. 33 on first reading to repeal Title VI, Chapter 13, Westminster Municipal Code, Smoking in Public Places and reenacting Title VI, Chapter 13, with the Colorado Clean Indoor Air Act. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 34 RE ECONOMIC DEVELOPMENT AGREEMENT WITH BEDRIN TABLED

Councillor Lindsey moved to table Councillor's Bill No. 34 and await detailed information from the City Manager's Office. Councillor Dittman seconded the motion, and it passed unanimously.

COUNCILLOR'S BILL NO. 35 RE BEST IN CLASS ECONOMIC DEVELOPMENT AGREEMENT

It was moved by Councillor Major and seconded by Councillor Dittman to pass Councillor's Bill No. 35 on first reading, authorizing the City Manager to execute and implement the Economic Development Agreement with Best In Class. The agreement totaled \$27,000 for rebate of sales and use tax collected on equipment at move-in. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 36 RE WAIVING RECOVERIES FOR THE VALLE VISTA RETAIL CENTER

It was moved by Councillor Dittman, seconded by Price, to pass Councillor's Bill No. 36 on first reading, authorizing the City Manager to waive approximately \$325,000 in recoveries that had been assessed against the Valle Vista retail center property. The motion passed unanimously on roll call vote.

CITIZEN PRESENTATION

Jane Fancher, 7260 Lamar Court, applauded Council for taking action to repair an aging utility system before it failed. The end result would preclude the need to bond for the improvements at a later date.

ADJOURNMENT:

There was no further business to come before City Council, and the meeting adjourned at 8:10 p.m.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Presentation of Employee Service Awards

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

Recommended City Council Action

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

Summary Statement

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

Expenditure Required: \$ 15,000

| | | |
|-------------------------|----------------|--|
| Source of Funds: | General Fund | -Fire Department \$10,000 |
| | | -Police Department \$2,500 |
| | Utilities Fund | -Public Works & Utilities Department \$2,500 |

Policy Issue

None identified

Alternative

None identified

Background Information

The following 20-year employees will be presented with certificates and service pins:

| | | |
|-----------------|------------------|-------------------------|
| Debbie Mitchell | General Services | Human Resources Manager |
| Joel Sherry | Fire Department | Fire Lieutenant |

The following 25-year employees will be presented with certificates, service pins and checks for \$2,500, minus amounts withheld for Federal and State income taxes after his or her anniversary date:

| | | |
|----------------|--------------------------|-----------------------|
| Dave DeCarlo | Public Works & Utilities | Equipment Operator II |
| Tony DiTirro | Fire Department | FireFighter II |
| Ron McCuiston | Fire Department | Battalion Chief |
| Paul Newton | Police Department | Senior Police Officer |
| Randy Peterson | Fire Department | EMS Coordinator |
| Rick Spahn | Fire Department | EMS Field Coordinator |

The following 30-year employees will be presented with certificates and service pins:

| | | |
|-------------|--------------------------|---------------------------------|
| Lloyd Estes | Public Works & Utilities | Equipment Operator II (retired) |
| Tom Settle | Public Works & Utilities | Plant Superintendent |

On May 24, 2006, the City Manager will host an employee awards luncheon at which time 7 employees will receive their 15-year service pins, 6 employees will receive their 10-year service pins, and 15 employees will receive their 5-year service pins, while recognition will also be given to those who are celebrating their 20th, 25th and 30th anniversaries. This is the second quarterly luncheon for 2006 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees is 490 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Biographies of each individual being recognized are attached.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment



Agenda Item 6 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006

SUBJECT: Proclamation for Sam LaConte

Prepared By Ron Hellbusch, Special Projects Coordinator
Jim Arndt, P.E., Director Public Works and Utilities

Recommended City Council Action

Present a proclamation to Sam LaConte, who has recently retired as Street Operations Manager for the City of Westminster. The proclamation will be presented by Mayor McNally.

Summary Statement

- Sam LaConte was employed by the City of Westminster for 47 years and served as the City's Street Operations Manager for 21 years.
- Sam was a consistent and faithful employee of the City, providing leadership and innovation in the City's street maintenance and capital improvement programs.
- Sam mentored many young and aspiring public works employees during his career with the City and was an active leader in the Colorado Chapter of the American Public Works Association.
- Sam recently retired from the City of Westminster.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

There are no policy issues with this action.

Alternative

None identified

Background Information:

Sam LaConte entered his career with the City of Westminster as a street maintenance worker, but soon gained skills in operations and management and was promoted to the positions of Street Foreman, Street Superintendent and; for his last 21 years, served as Street Operations Manager.

Sam LaConte and his staff were key contributors in developing Colorado's first private contract street sweeping program. The Street Division under Sam's leadership formulated an equally creative and award winning snow control program, which has been the envy of the Denver Metro Region municipalities. A sense of pride was felt by all those in Westminster's city government to overhear citizens and visitors frequently state "you know when you are in Westminster during a snow storm, because streets are cleared of snow and ice, and driving conditions are safe."

The Street Division assembled one of the most complete and technically efficient fleet of street maintenance equipment, and provided employee equipment-training programs under Sam's leadership. Sam participated in many City employee committees and task forces. He particularly enjoyed the number of years chairing the annual employees' golf tournament.

A number of cooperative intergovernmental agreements were negotiated and developed by Sam LaConte with adjoining cities and counties, which created the availability of shared equipment thus reducing budget experiences for street equipment and that provided for shared maintenance service programs, again minimizing budget expenditures.

This proclamation recognizes all of Sam's service and dedication to making Westminster a better community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WHEREAS, Sam LaConte retired from the City of Westminster on January 6, 2006 after 47 years as a City of Westminster Public Works and Utilities employee and 21 of those years as the Street Operations Manager; and

WHEREAS, Sam LaConte's positive attitude, work ethic, commitment, and dedication over the years, have gained him the respect and admiration of City employees, citizens of Westminster, government leaders and colleagues; and

WHEREAS, Sam LaConte will be remembered for his leadership and innovation in the City's street maintenance and capital improvement projects; and

WHEREAS, Sam was consistently thorough and professional in his representation of the City of Westminster's Street Operations Division and Public Works and Utilities Department.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby recognize

SAM LACONTE

for his dedication, hard work and commitment to the City of Westminster and wish him good luck in all his future endeavors.

Signed this 22nd day of May, 2006.

Nancy McNally, Mayor



Agenda Item 6 C

WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006

SUBJECT: Proclamation re Mental Health Month

Prepared by: Linda Yeager, City Clerk

Recommended City Council Action

Proclaim the month of May as Mental Health Month. Councillor Chris Dittman will present proclamations to representatives of the mental health agencies serving the citizens of Westminster: Jefferson Center for Mental Health and Community Reach Center in Adams County.

Summary Statement

- Jefferson Center for Mental Health and Community Reach, which serves Adams County residents, have requested that the City proclaim the month of May as Mental Health Month in Westminster.
- The City has been very supportive of these mental health organizations through the City's Human Services funding each year.
- Vicki Rodgers, Director of Older Adult Services at Jefferson Center for Mental Health, and Lindy Schultz, Public Information Officer for Community Reach, will accept the proclamations.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Proclamation re Mental Health Month

Page 2

Policy Issue

None identified

Alternative

None identified

Background Information

Community Reach and Jefferson Center for Mental Health have requested that the month of May be recognized as Mental Health month in Westminster in order to increase community awareness that persons with mental illness can be treated and can be productive citizens.

In 2006, the City is providing \$8,000 to Jefferson Center for Mental health and \$12,000 to Community Reach as part of the Human Services Agency Funding. In addition the City supports Community Reach through the provision of facility space in the former 76th Avenue Library Building for a nominal cost.

Representatives of Community Reach and Jefferson Center for Mental Health will be in attendance to accept the proclamations.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WHEREAS, good mental health is essential to the overall health and emotional well-being of Colorado's children, youth, adults, and families; and

WHEREAS, Colorado's citizens who have mental illnesses can recover and lead full, productive lives; and

WHEREAS, addressing the complex mental health needs of children, youth, adults, and families today is fundamental to the future of Colorado;

WHEREAS, there is a widening gap between the availability of well-trained mental health professionals and the increasing need of children, youth, adults, and families for these mental health services; and

WHEREAS, an estimated 66,000 Colorado children, youth, and adults who have mental health disorders are not receiving the help they need; and

WHEREAS, the cost of community-based public mental health services in Colorado is less than the cost to incarcerate people with mental health needs; and

WHEREAS, the State of Colorado recognizes the need for a comprehensive, community-based continuum of mental health care and a commitment to the core values and guiding principles of a system of care for all its citizens with mental health needs and their families.

THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim May to be

Mental Health Month

and call upon all citizens, agencies, public and private institutions, businesses and schools to recommit our resources to increasing awareness and understanding of mental illness and to providing appropriate and accessible services for all citizens.

Signed this 22nd day of May, 2006

Nancy McNally, Mayor



WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
May 26, 2006



SUBJECT: Financial Report for April 2006

Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

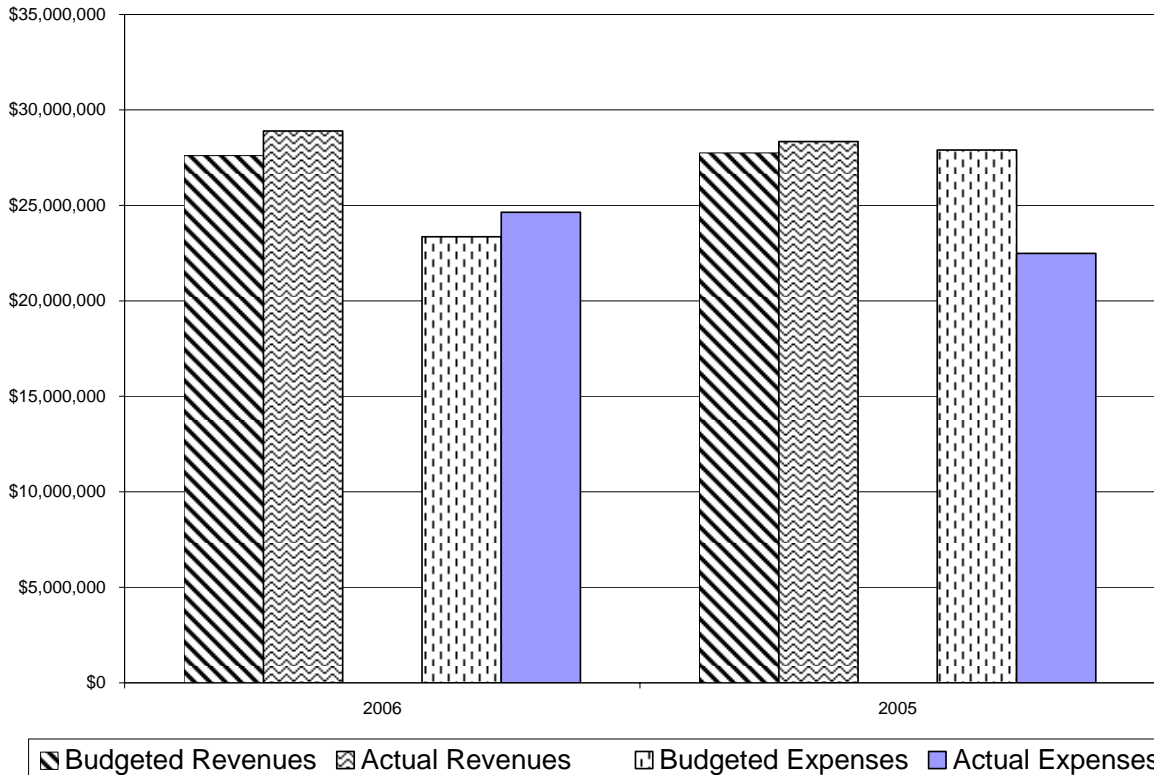
Accept the Financial Report for April as presented.

Summary Statement

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

The General Fund revenues and carryover exceed expenditures by \$4,257,000. On the expenditure side, it is important to note that there is one additional payroll as there are three payrolls included in April. The following graph represents Budget vs. Actual for 2005 – 2006.

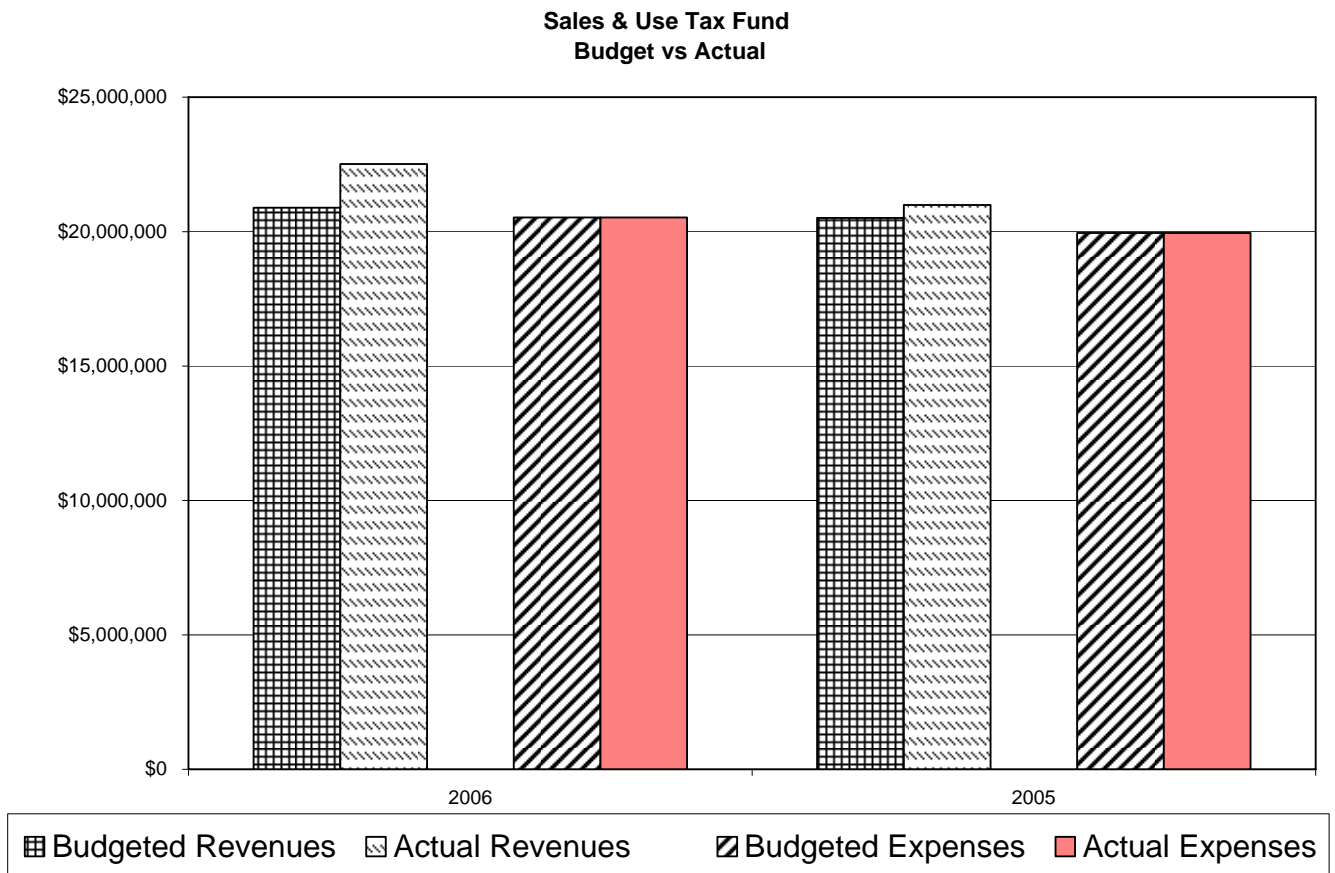
**General Fund
Budget vs Actual**



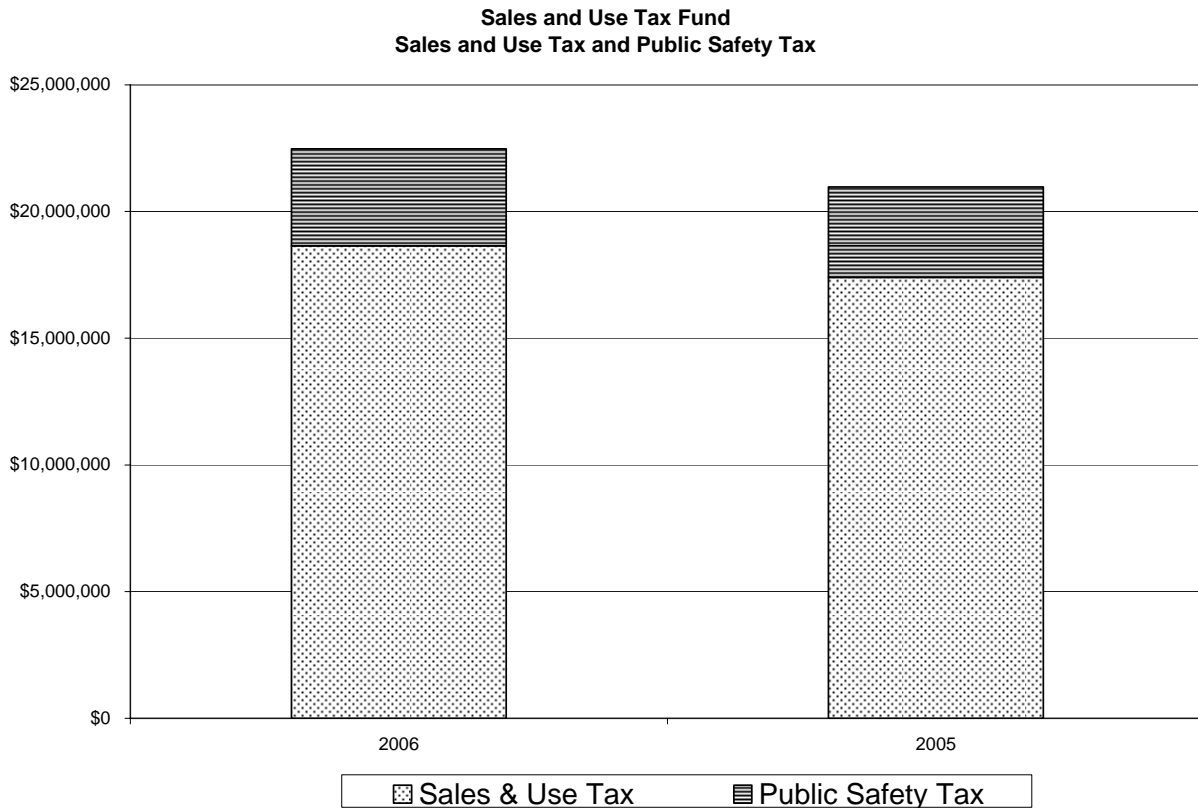
The Sales and Use Tax Fund's revenues and carryover exceed expenditures by \$1,984,000

- On a year-to-date basis, sales & use tax returns are up 4.8%.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are even with prior years. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 1.5%.
- The top 50 Sales Taxpayers, who represent about 63% of all collections, were down 0.9 % after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 6% on a year-to-date basis.
- Building Use Tax is up 65.0% year-to-date over 2005.

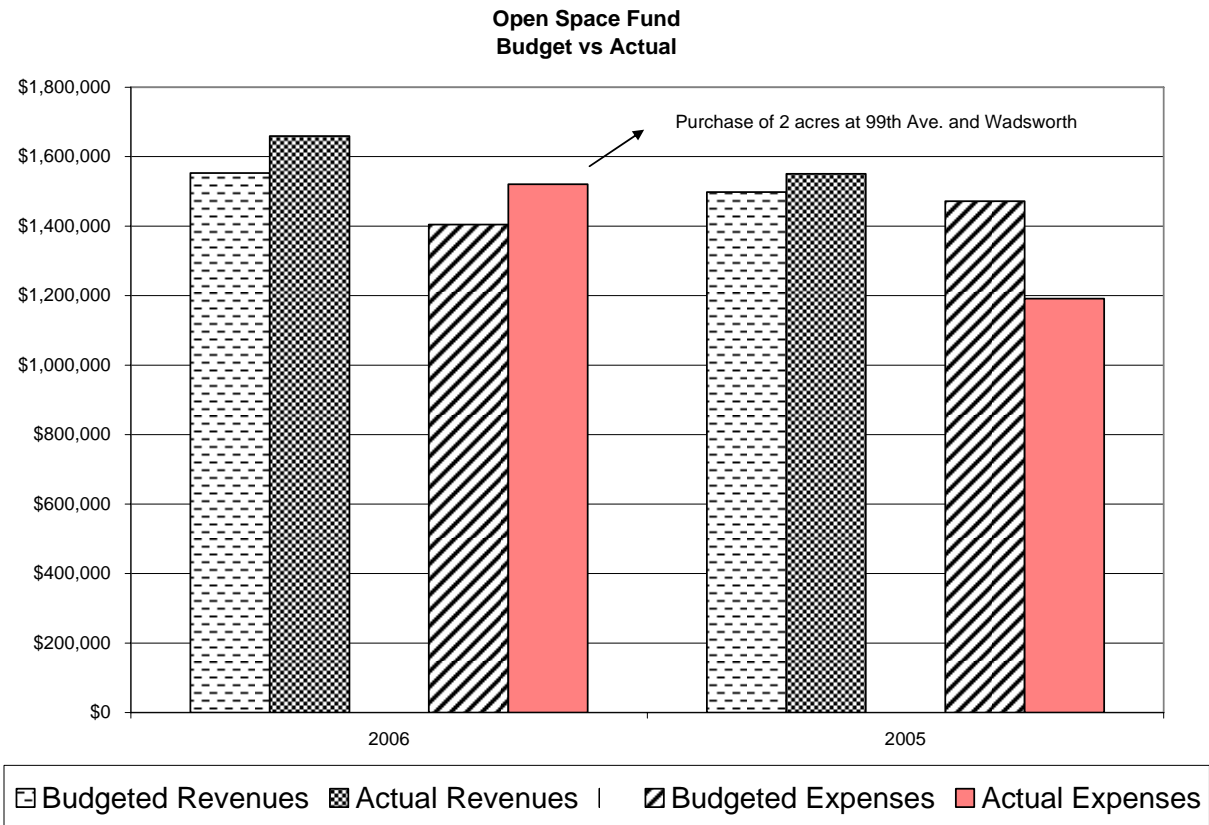
The numbers reflect less reliance on the top producers of sales tax through an expanded and more diversified base of sales tax papers.



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

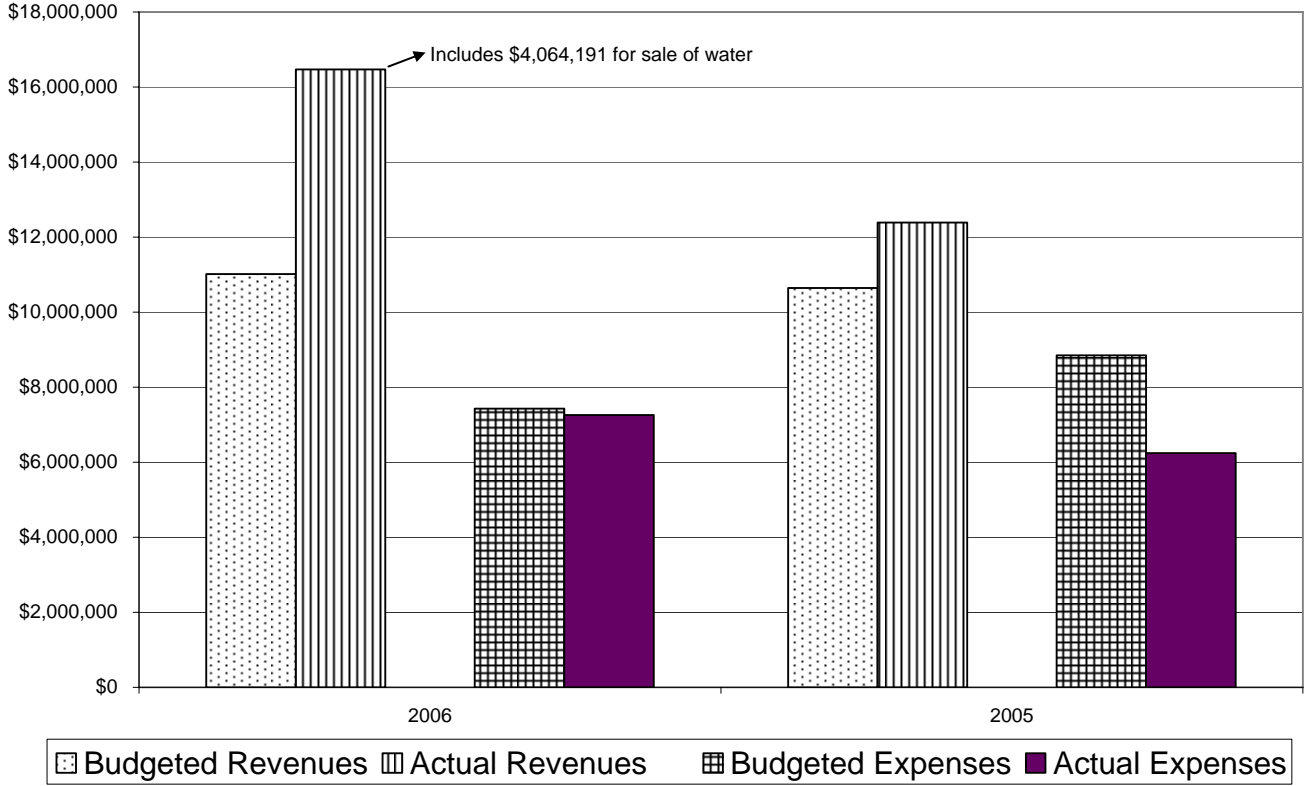


The Open Space Fund revenues exceed expenditures by \$139,000. The Open Space Fund purchased 2 acres of Open Space land at 99th Ave. and Wadsworth in January.



The combined Water & Wastewater Funds' revenues and carryover exceed expenses by \$9,208,000. \$7,850,000 is budgeted for capital projects. The City sold water to Southwest Adams Country Water and Sanitation District for \$4,065,000 in March.

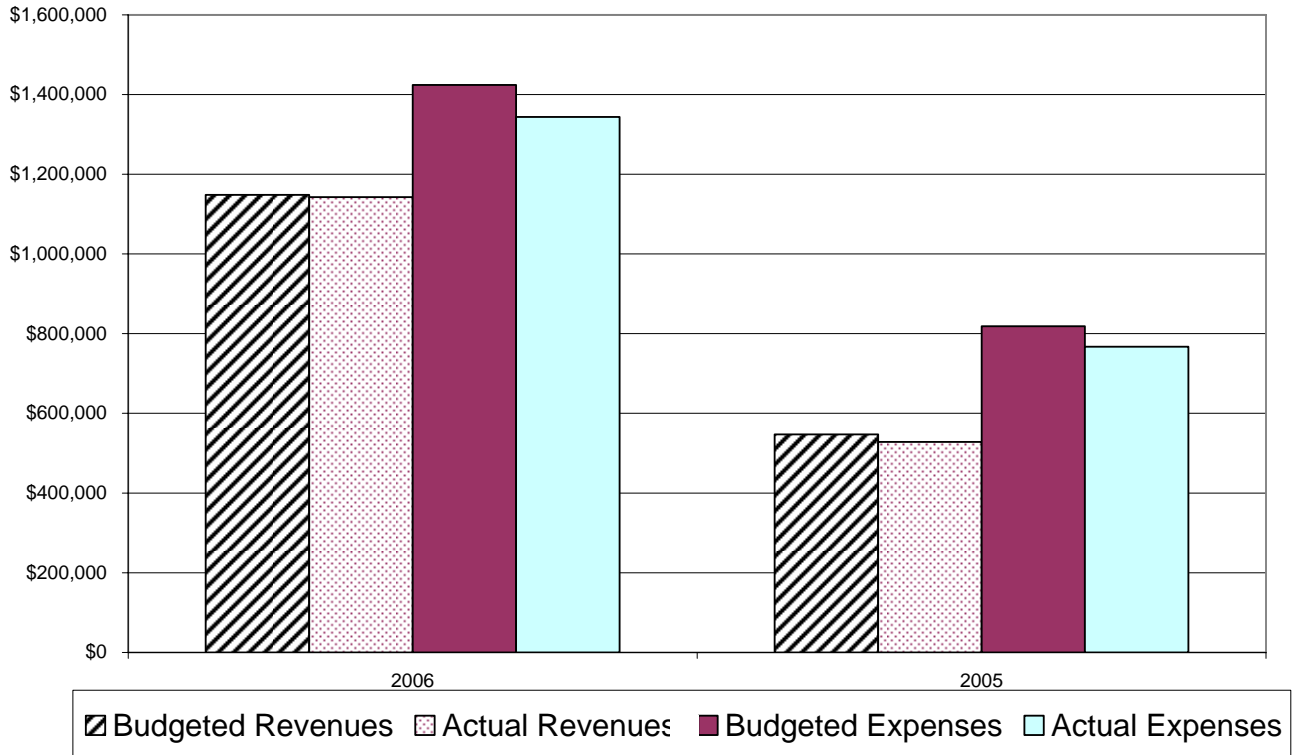
**Combined Water and Wastewater Funds
Budget vs Actual**



The variance between 2005 and 2006 budgeted expenditures is due to a change in proration methods used to calculate the prorated budget. In 2005, the total budget was prorated by 1/12th for each month, and in 2006 the pro-rations are based on 5 year trend data.

The combined Golf Course Funds' expenditures exceed revenues by \$202,000. The golf courses made a quarterly lease payment for golf carts and equipment in January. When comparing 2005 expenditures to 2006, the 2006 Heritage figures include a lease purchase, for golf carts and maintenance equipment, of \$582,144.

**Golf Course Enterprise
Budget vs Actual**



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

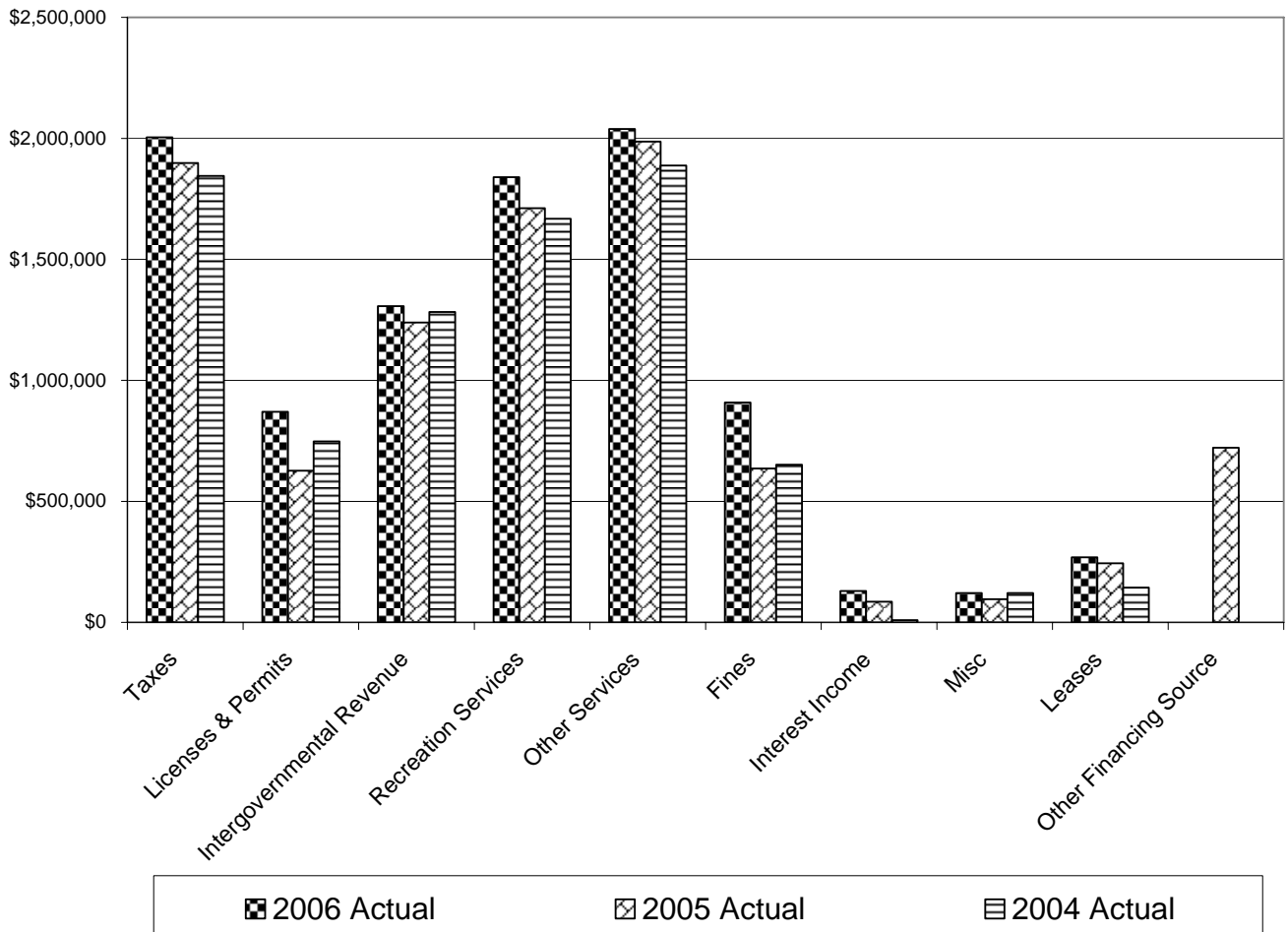
This section includes a discussion of highlights of each fund presented.

General Fund

This fund reflects the results 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.

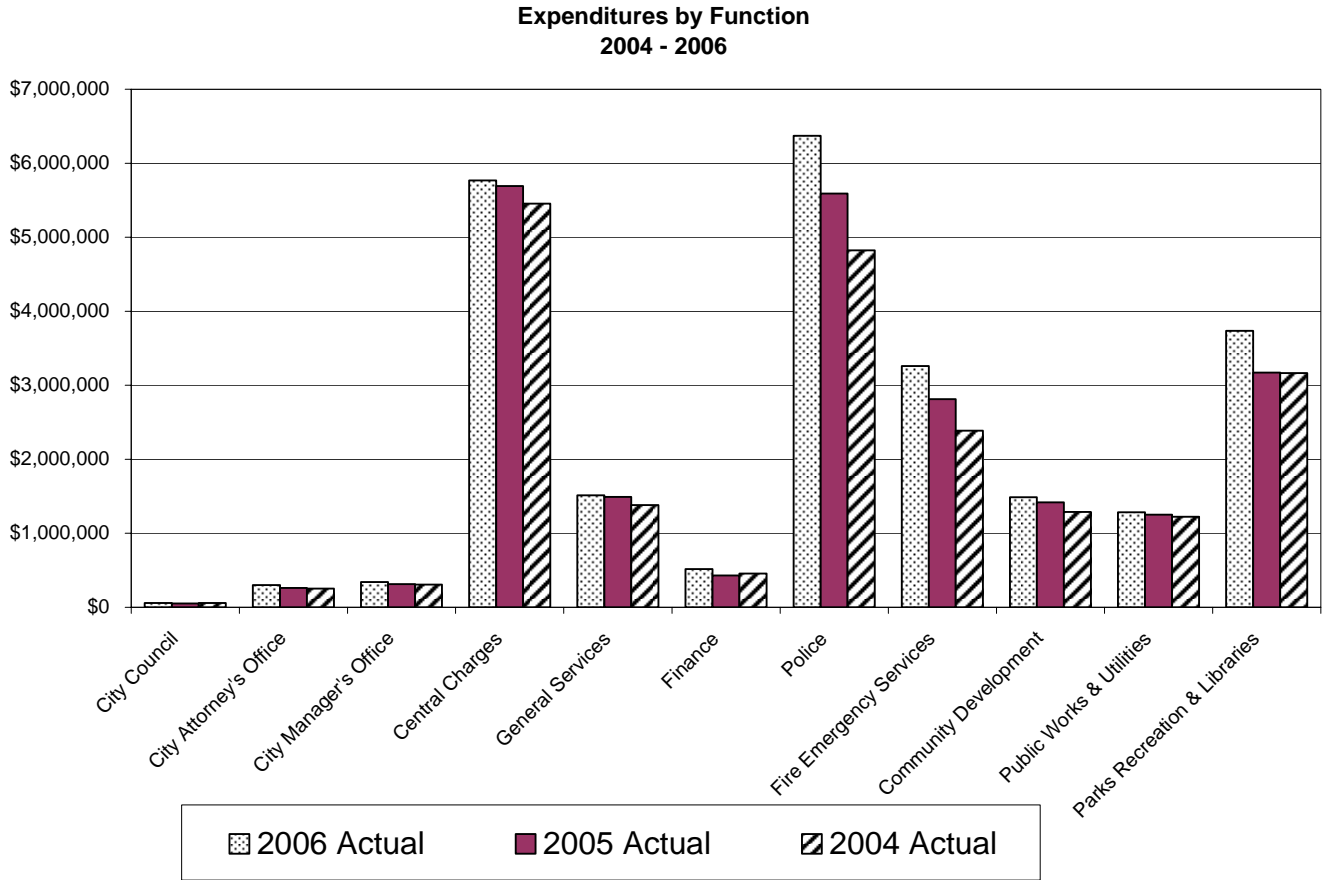
The following chart represents the trend in actual revenues from 2004 – 2006 year-to-date.

**General Fund Revenues without Transfers and Carryover
2004 - 2006**



Other Financing Source reflects 2005 lease financing proceeds used to purchase City computers.

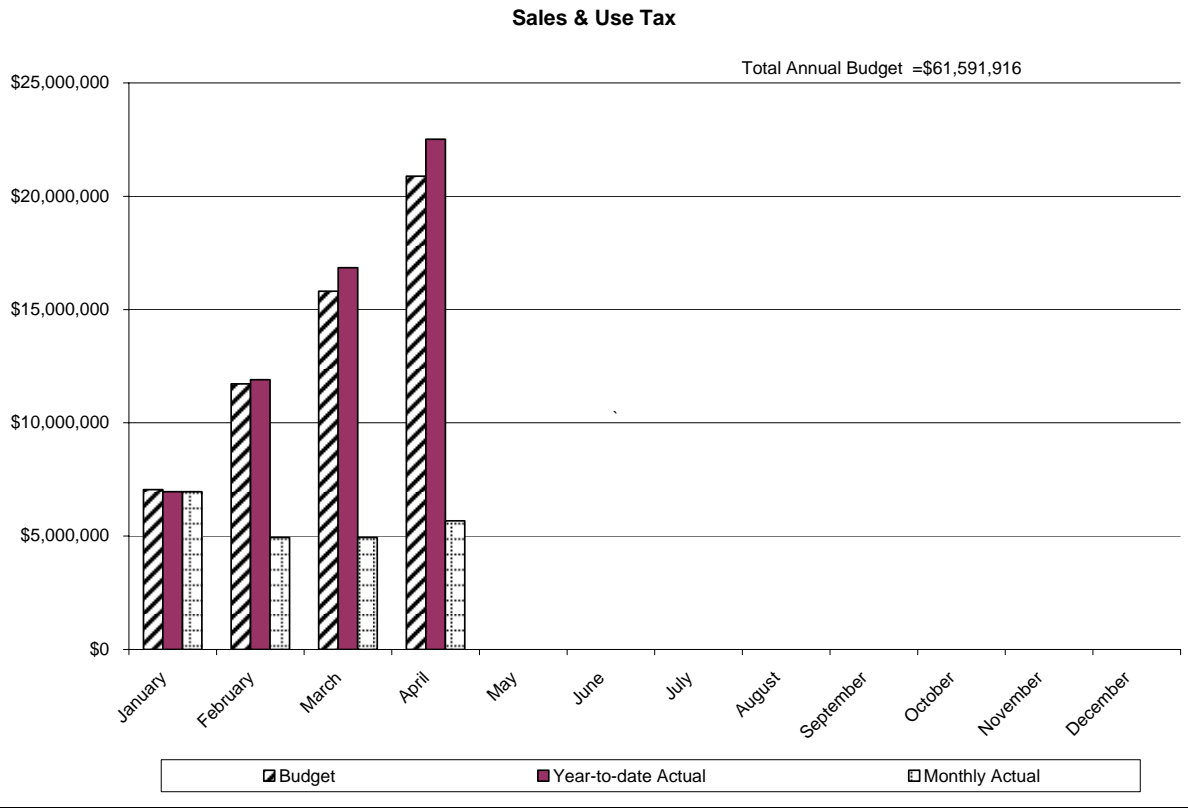
The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2004 –2006.



Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space 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 Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

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

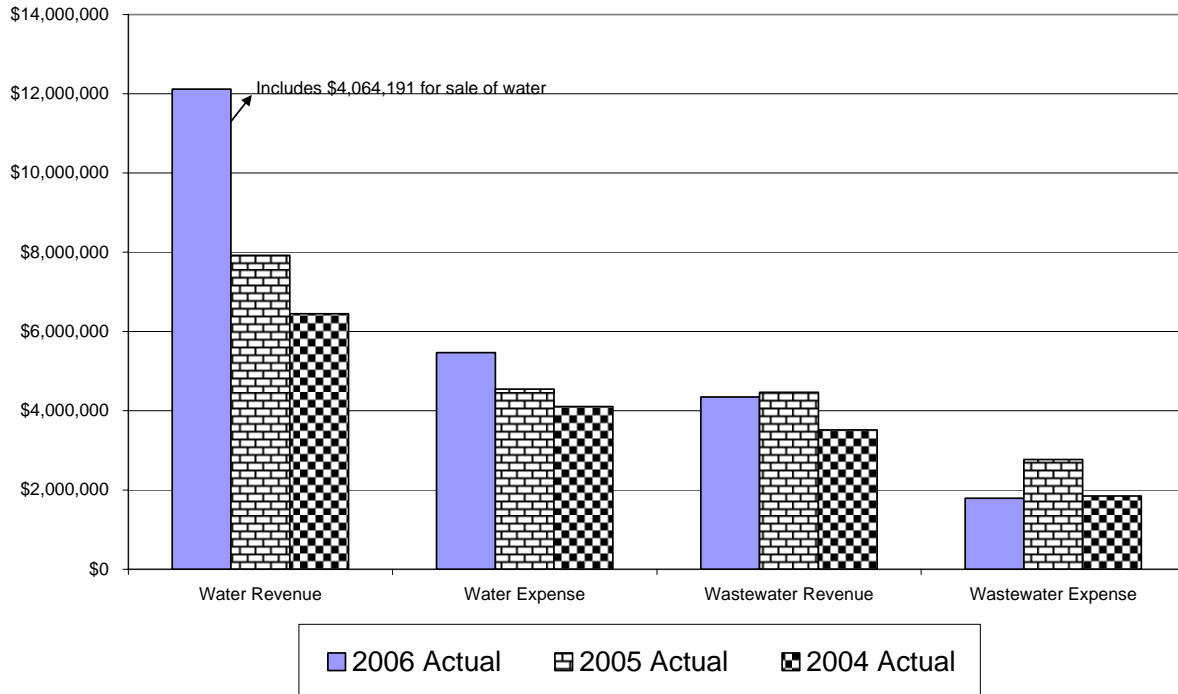


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

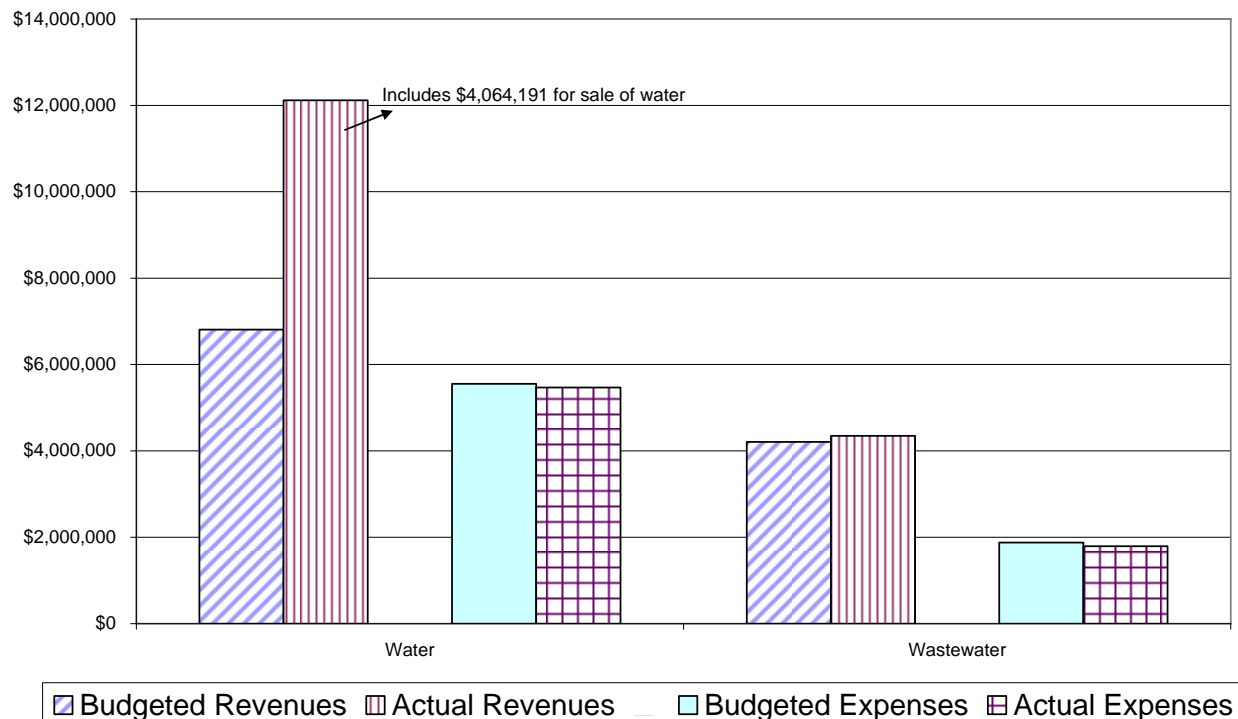
This fund reflects the operating results of the City's water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects.

These graphs represent the segment information for the Water and Wastewater funds. In 2005, water tap fees were significantly higher at this time of year compared to 2006 and 2004.

**Water and Wastewater Funds
Revenue and Operating Expenses 2004-2006**



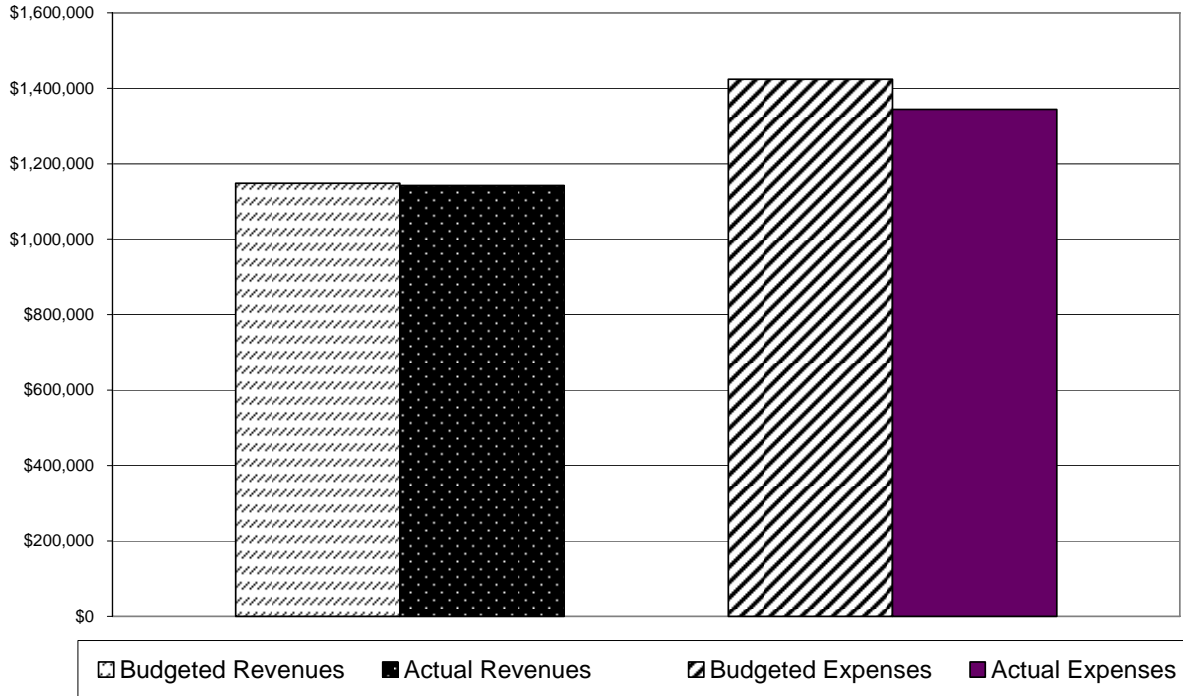
**Water and Wastewater Funds
Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

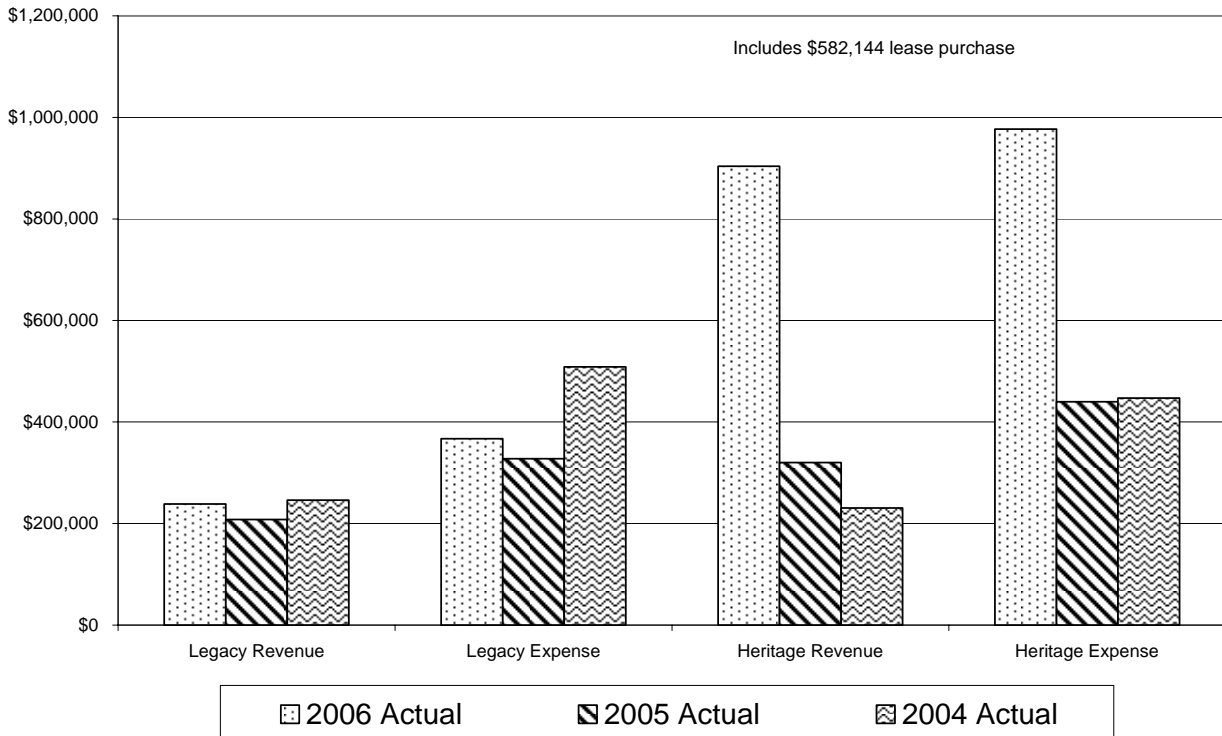
This enterprise reflects the operations of the City's two municipal golf courses. On October 11, 2004, City Council approved a four-point program to provide relief to the golf courses over the coming years.

**Combined Golf Courses
Budget vs Actual**

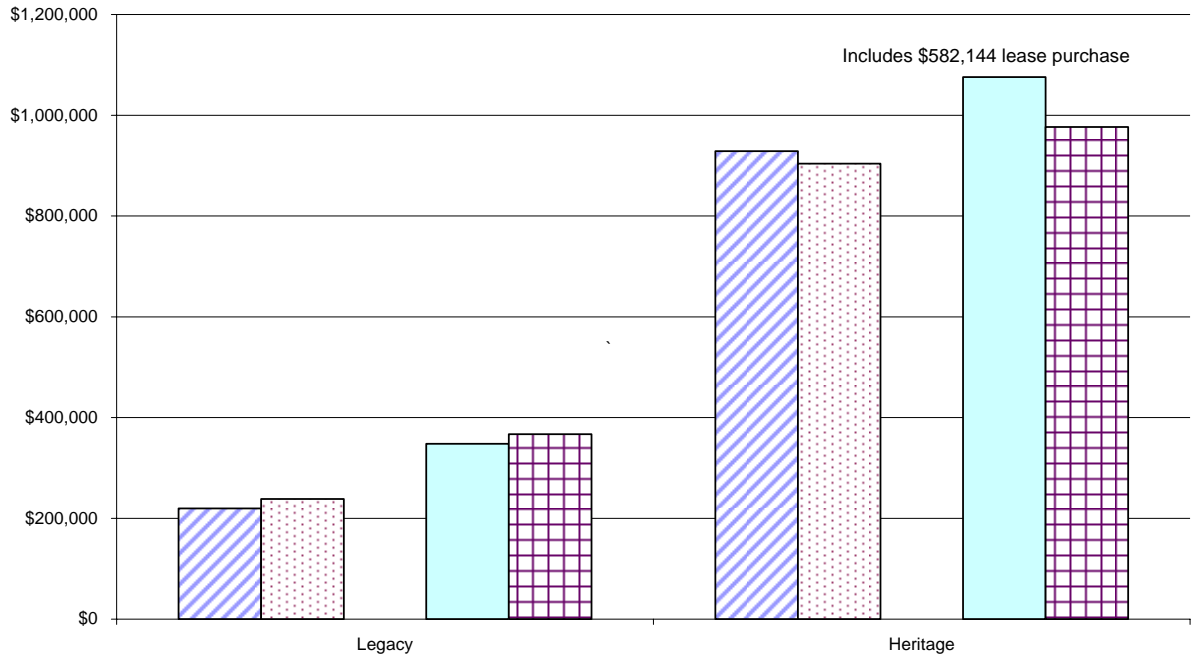


The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses
Revenue and Expenses 2004 - 2006**



**Legacy and Heritage Golf Courses
Budget vs Actual**



Respectfully submitted,

J. Brent McFall
City Manager

Attachments
Statement
Tax Reports

**City of Westminster
Financial Report
For the Four Months Ending April 30, 2006**

| Description General Fund | Budget | Pro-rated for Seasonal Flows | Notes | Actual | (Under) Over Budget | % Budget |
|-------------------------------------|-------------------|---|--------------|-------------------|--------------------------------|---------------------|
| Revenues and Carryover | | | | | | |
| Taxes | 4,873,125 | 1,643,474 | | 2,004,198 | 360,724 | 121.9% |
| Licenses & Permits | 1,838,000 | 657,780 | | 869,960 | 212,180 | 132.3% |
| Intergovernmental Revenue | 4,835,000 | 1,224,500 | | 1,306,726 | 82,226 | 106.7% |
| Charges for Services | | | | | | |
| Recreation Services | 5,324,515 | 1,644,025 | | 1,837,723 | 193,698 | 111.8% |
| Other Services | 6,510,500 | 1,888,624 | | 2,038,425 | 149,801 | 107.9% |
| Fines | 2,050,000 | 656,000 | | 908,513 | 252,513 | 138.5% |
| Interest Income | 300,000 | 100,000 | | 129,509 | 29,509 | 129.5% |
| Misc | 335,685 | 111,895 | | 121,248 | 9,353 | 108.4% |
| Leases | 1,175,000 | 293,750 | | 268,750 | (25,000) | 91.5% |
| Refunds | (70,000) | (23,333) | | 1,764 | 25,097 | -7.6% |
| Interfund Transfers | 58,224,502 | 19,408,167 | | 19,408,167 | - | 100.0% |
| Sub-total Revenues | <u>85,396,327</u> | <u>27,604,882</u> | | <u>28,894,983</u> | <u>1,290,101</u> | <u>104.7%</u> |
| Carryover | - | - | | - | - | |
| Revenues and Carryover | <u>85,396,327</u> | <u>27,604,882</u> | | <u>28,894,983</u> | <u>1,290,101</u> | <u>104.7%</u> |
| Expenditures | | | | | | |
| City Council | 205,023 | 75,679 | | 58,711 | (16,968) | 77.6% |
| City Attorney's Office | 910,716 | 274,839 | | 302,107 | 27,268 | 109.9% |
| City Manager's Office | 1,110,469 | 344,350 | | 341,259 | (3,091) | 99.1% |
| Central Charges | 21,867,305 | 5,343,556 | | 5,767,811 | 424,255 | 107.9% |
| General Services | 4,925,576 | 1,627,039 | | 1,513,671 | (113,368) | 93.0% |
| Finance | 1,719,784 | 529,811 | | 517,147 | (12,664) | 97.6% |
| Police | 19,280,446 | 5,967,768 | | 6,370,241 | 402,473 | 106.7% |
| Fire Emergency Services | 10,116,225 | 3,005,262 | | 3,260,402 | 255,140 | 108.5% |
| Community Development | 4,564,628 | 1,391,749 | | 1,487,834 | 96,085 | 106.9% |
| Public Works & Utilities | 7,365,356 | 1,273,490 | | 1,283,963 | 10,473 | 100.8% |
| Parks, Recreation & Libraries | 13,330,799 | 3,520,705 | | 3,735,093 | 214,388 | 106.1% |
| Total Expenditures | <u>85,396,327</u> | <u>23,354,248</u> | | <u>24,638,239</u> | <u>1,283,991</u> | <u>105.5%</u> |
| Revenues and Carryover | | | | | | |
| Over(Under) Expenditures | <u>-</u> | <u>4,250,634</u> | | <u>4,256,744</u> | <u>6,110</u> | |

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)
MONTH OF APRIL 2006

| Center Location Major Tenant | Current Month | | | Last Year | | | %Change | | |
|---|------------------|----------------|---------|------------------|----------------|-------------|---------|-------|-------|
| | General Sales | General Use | Total | General Sales | General Use | Total Sales | Use | Total | |
| WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART | 403,892 | 2,335 | 406,227 | 325,524 | 2,024 | 327,548 | 24 | 15 | 24 |
| WESTMINSTER MALL 88TH & SHERIDAN 5 DEPARTMENT STORES | 357,223 | 3,287 | 360,510 | 411,581 | 3,453 | 415,034 | -13 | -5 | -13 |
| CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN COMP USA/CIRCUIT CITY | 224,631 | 1,501 | 226,132 | 222,184 | 2,789 | 224,973 | 1 | -46 | 1 |
| NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO | 199,497 | 262 | 199,759 | 193,656 | 37 | 193,693 | 3 | 608 | 3 |
| BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT | 172,453 | 1,294 | 173,746 | 181,959 | 2,392 | 184,351 | -5 | -46 | -6 |
| SHERIDAN CROSSING SE CORNER 120TH & SHER ALBERTSONS | 167,466 | 747 | 168,213 | 164,428 | 900 | 165,327 | 2 | -17 | 2 |
| SHOPS AT WALNUT CREEK 104TH & REED TARGET | 140,624 | 4,465 | 145,089 | 100,804 | 12,939 | 113,744 | 40 | -65 | 28 |
| PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC | 125,262 | 14,548 | 139,810 | 104,288 | 20,863 | 125,151 | 20 | -30 | 12 |
| VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US | 95,151 | 1,435 | 96,586 | 106,616 | 15,020 | 121,637 | -11 | -90 | -21 |
| NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS | 87,487 | 439 | 87,926 | 89,809 | 815 | 90,624 | -3 | -46 | -3 |
| OFFICE MAX CENTER SW CORNER 88TH & SHER GUITAR STORE | 66,072 | 160 | 66,232 | 71,826 | 248 | 72,074 | -8 | -36 | -8 |
| STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS | 65,676 | 377 | 66,053 | 72,318 | 251 | 72,570 | -9 | 50 | -9 |
| WESTMINSTER CROSSING 136TH & I-25 | 56,866 | 2,162 | 59,028 | 0 | 0 | 0 | ***** | ***** | ***** |
| WILLOW RUN 128TH & ZUNI SAFEWAY | 55,137 | 45 | 55,182 | 57,442 | 813 | 58,255 | -4 | -94 | -5 |
| STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH | 53,130 | 88 | 53,219 | 57,101 | 99 | 57,200 | -7 | -11 | -7 |

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)
MONTH OF APRIL 2006

| Center Location Major Tenant | Current Month | | | Last Year | | | %Change | | | |
|--|------------------|----------------|-----------|------------------|----------------|-----------|---------|------|-------|--|
| | General Sales | General Use | Total | General Sales | General Use | Total | Sales | Use | Total | |
| SAFEWAY | | | | | | | | | | |
| VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS | 44,993 | 5,892 | 50,885 | 43,863 | 257 | 44,120 | 3 | 2193 | 15 | |
| WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY | 49,300 | 100 | 49,400 | 52,297 | 511 | 52,808 | -6 | -80 | -6 | |
| LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY | 8,986 | 36,471 | 45,458 | 11,729 | 7,250 | 18,979 | -23 | 403 | 140 | |
| MISSION COMMONS W SIDE WADSWORTH 88-90TH GATEWAY COMPUTERS | 39,511 | 506 | 40,017 | 31,522 | 36 | 31,558 | 25 | 1306 | 27 | |
| NORTHVIEW S SIDE 92ND YATES-SHER ALBERTSONS | 39,465 | 238 | 39,703 | 43,703 | 523 | 44,225 | -10 | -55 | -10 | |
| ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS | 32,532 | 1,010 | 33,542 | 26,661 | 748 | 27,409 | 22 | 35 | 22 | |
| HIDDEN LAKE NE CORNER 72 & SHERIDAN ALBERTSONS | 28,539 | 569 | 29,108 | 31,455 | 169 | 31,624 | -9 | 237 | -8 | |
| WESTMINSTER SQUARE NW CORNER 74TH & FED ARC THRIFT STORE | 27,384 | 1,192 | 28,576 | 25,460 | 332 | 25,792 | 8 | 259 | 11 | |
| STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS | 25,204 | 1,962 | 27,165 | 26,186 | 8,026 | 34,212 | -4 | -76 | -21 | |
| FEDERAL STRIP W SIDE FEDERAL 68TH-72ND BOVAS | 24,617 | 71 | 24,688 | 21,040 | 30 | 21,070 | 17 | 138 | 17 | |
| | 2,591,098 | 81,154 | 2,672,252 | 2,473,452 | 80,525 | 2,553,977 | 5 | 1 | 5 | |

CITY OF WESTMINSTER

**GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)
MONTH OF APRIL 2006**

| Center Location Major Tenant | YTD 2006 | | | YTD 2005 | | | %Change | | |
|---|------------------|----------------|-----------|------------------|----------------|-------------|---------|-------|-----|
| | General Sales | General Use | Total | General Sales | General Use | Total Sales | Use | Total | |
| WESTMINSTER MALL 88TH & SHERIDAN 5 DEPARTMENT STORES | 1,933,257 | 13,861 | 1,947,117 | 2,057,698 | 12,792 | 2,070,490 | -6 | 8 | -6 |
| WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART | 1,709,020 | 11,217 | 1,720,237 | 1,497,466 | 8,042 | 1,505,508 | 14 | 39 | 14 |
| CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN COMP USA/CIRCUIT CITY | 988,071 | 3,078 | 991,148 | 1,024,616 | 4,246 | 1,028,862 | -4 | -28 | -4 |
| NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO | 845,654 | 1,106 | 846,760 | 807,021 | 1,033 | 808,054 | 5 | 7 | 5 |
| BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT | 748,749 | 11,640 | 760,388 | 787,574 | 6,588 | 794,162 | -5 | 77 | -4 |
| SHERIDAN CROSSING SE CORNER 120TH & SHER ALBERTSONS | 708,649 | 6,631 | 715,280 | 692,825 | 17,410 | 710,235 | 2 | -62 | 1 |
| PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC | 557,988 | 65,666 | 623,654 | 497,436 | 72,997 | 570,434 | 12 | -10 | 9 |
| SHOPS AT WALNUT CREEK 104TH & REED TARGET | 524,817 | 8,614 | 533,430 | 415,587 | 15,835 | 431,422 | 26 | -46 | 24 |
| VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US | 417,886 | 5,068 | 422,954 | 370,901 | 35,506 | 406,407 | 13 | -86 | 4 |
| NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS | 405,734 | 1,496 | 407,230 | 428,798 | 5,014 | 433,812 | -5 | -70 | -6 |
| STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS | 322,266 | 1,390 | 323,656 | 332,080 | 1,032 | 333,112 | -3 | 35 | -3 |
| OFFICE MAX CENTER SW CORNER 88TH & SHER GUITAR STORE | 248,903 | 1,165 | 250,068 | 278,532 | 2,734 | 281,265 | -11 | -57 | -11 |
| STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY | 222,172 | 887 | 223,059 | 229,397 | 1,076 | 230,473 | -3 | -18 | -3 |
| WILLOW RUN 128TH & ZUNI SAFEWAY | 221,804 | 995 | 222,799 | 227,609 | 9,009 | 236,618 | -3 | -89 | -6 |
| WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH | 200,308 | 4,271 | 204,579 | 211,922 | 4,970 | 216,893 | -5 | -14 | -6 |

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)
MONTH OF APRIL 2006

| Center Location Major Tenant | YTD 2006 | | | YTD 2005 | | | %Change | | |
|--|------------------|----------------|------------|------------------|----------------|-------------|---------|-------|-------|
| | General Sales | General Use | Total | General Sales | General Use | Total Sales | Use | Total | |
| SAFEWAY VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS | 171,415 | 7,714 | 179,129 | 169,003 | 2,063 | 171,066 | 1 | 274 | 5 |
| NORTHVIEW S SIDE 92ND YATES-SHER ALBERTSONS | 154,827 | 1,693 | 156,520 | 176,737 | 2,078 | 178,815 | -12 | -19 | -12 |
| MISSION COMMONS W SIDE WADSWORTH 88-90TH GATEWAY COMPUTERS | 136,811 | 1,138 | 137,949 | 313,543 | 3,467 | 317,009 | -56 | -67 | -56 |
| BROOKHILL IV E SIDE WADS 90TH-92ND MEDIA PLAY | 119,539 | 852 | 120,391 | 158,944 | 2,107 | 161,051 | -25 | -60 | -25 |
| HIDDEN LAKE NE CORNER 72 & SHERIDAN ALBERTSONS | 119,226 | 2,343 | 121,569 | 141,143 | 1,477 | 142,619 | -16 | 59 | -15 |
| ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS | 110,028 | 3,086 | 113,114 | 85,051 | 3,004 | 88,055 | 29 | 3 | 28 |
| WESTMINSTER SQUARE NW CORNER 74TH & FED ARC THRIFT STORE | 105,874 | 3,182 | 109,056 | 96,710 | 5,837 | 102,546 | 9 | -45 | 6 |
| STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS | 100,836 | 3,116 | 103,952 | 103,264 | 9,835 | 113,099 | -2 | -68 | -8 |
| WESTMINSTER CROSSING 136TH & I-25 | 92,702 | 36,660 | 129,362 | 0 | 0 | 0 | ***** | ***** | ***** |
| SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY | 81,479 | 847 | 82,326 | 86,575 | 630 | 87,206 | -6 | 34 | -6 |
| | 11,248,013 | 197,714 | 11,445,727 | 11,190,432 | 228,782 | 11,419,214 | 1 | -14 | 0 |



Agenda Item 8 B

WESTMINSTER
COLORADO

City Council Meeting
May 22, 2006



SUBJECT: Quarterly Insurance Report: January – March 2006

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Accept the 1st Quarter 2006 Insurance Report.

Summary Statement

- The attached report provides detailed information on each claim including the City's claim number, date of loss, claimant's name and address, a summary of the claim, and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office to make sure that the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer, acting as the City Manager's designee, has the authority to settle claims of less than \$30,000. However, under our contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjuster and settlement of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Information on the status of each claim received during the 1st quarter of 2006 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee Representatives and Department Heads. Follow up action, including discipline if appropriate, is taken on incidents where City employees are at fault.

For the 1st quarter of 2006, Staff has noted the following summary information:

- Eight of the nine claims reported in the 1st quarter of 2006 are closed at this time.
- Total claims for the quarter and year-to-date breakdown by department as follows:

| Department | 1st Qtr 2006 | | | YTD |
|-----------------|--------------|----------|----------|----------|
| | Total Claims | Open | Closed | Total |
| CD | 1 | 0 | 1 | 1 |
| Fire | 1 | 0 | 1 | 1 |
| Police | 5 | 1 | 4 | 5 |
| PR&L | 0 | 0 | 0 | 0 |
| PWU - Streets | 1 | 0 | 1 | 1 |
| PWU - Utilities | 1 | 0 | 1 | 1 |
| TOTAL | 8 | 1 | 7 | 9 |

The attached report provides detailed information on each claim made during the first quarter of 2006.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**Quarterly Insurance Report
January - March 2006**

| Claim Number | Date | Dept | Claimant | Address | Claim Description | Reserve | Payment | Status | Notes |
|--------------|-----------|---------------|------------------|---|--|------------|------------|--------|--|
| 2006-020 | 1/19/2006 | PD | Dewey Brosam | 7070 Clay St., Westminster CO 80030 | Claimant's wife called 911 reporting that her husband was possibly dead in the next room but she was bedridden and could not reach him. Police Officers forced the door from the garage into the house to gain entrance, damaging the door lock in the process. The husband was not at home. | \$70.00 | \$70.00 | Closed | Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City employees. Claimant was offered up to \$100 "good neighbor" settlement per agreement between Police/Fire and Risk Management. |
| 2006-019 | 1/19/2006 | PWU - Util | Dorothy McDonald | 9520 King Way, Westminster CO 80031 | Grease and tree roots from a neighboring private line into the sewer main caused a sewer back up into the claimant's basement. | \$1,296.82 | \$1,296.82 | Closed | Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City. Risk Management offered the claimant the City's "good neighbor" policy of up to \$2,500 to help with clean up of a sewer backup where the backup occurred in the main line, but where the City was not at fault. |
| 2006-031 | 1/20/2006 | PD | Christi Russo | 4486 Tennyson St., Denver CO 80212 | While searching a parking lot for a hit and run suspect, a police officer backed his patrol vehicle into claimant's vehicle that she was in the process of pulling out of a parking space. | \$2,538.56 | \$2,538.56 | Closed | |
| 2006-036 | 1/27/2006 | PD | Elizabeth Stapp | 8191 Tennyson St., Westminster CO 80031 | Claimant left town and did not stop her newspaper or mail delivery. An observant mail carrier contacted the police who, after talking to neighbors who had not seen the claimant, forced entry in to the claimant's home to do a welfare check | \$100.00 | \$100.00 | Closed | Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City employees. Claimant was offered up to \$100 "good neighbor" settlement per agreement between Police/Fire and Risk Management. |

| Claim Number | Date | Dept | Claimant | Address | Claim Description | Reserve | Payments | Status | Notes |
|---|-----------|-------------|-----------------------------------|---|--|-------------------|-------------------|--------|--|
| 2006-074 | 2/20/2006 | Fire | Randy Enright | 8093 Raleigh St., Westminster CO 80031 | Fire Department responded to a natural gas leak at the claimant's home and while attempting to ventilate the home, an employee broke a basement window. | \$100.00 | \$100.00 | Closed | Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City employees. Claimant was offered up to \$100 "good neighbor" settlement per agreement between Police/Fire and Risk Management. |
| 2006-073 | 2/22/2006 | CD | Dolores Saenz / Frankie Mendez | 4183 W. 72nd Ave. B-301, Westminster CO | Employee backed a City vehicle into the claimants' parked vehicle causing minor damage. | \$482.13 | \$482.13 | Closed | |
| 2006-118 | 3/16/2006 | PWU - St | Ricky Miller | 3717 W. 77th Ave., Westminster CO 80030 | Claimant alleges a large construction sign was blown approximately 45 feet in to his truck causing damage. | \$0.00 | \$0.00 | Closed | Claim denied due to the fact the sign was not a City sign. |
| | | | | | SUB TOTAL | \$4,587.51 | \$4,587.51 | | |
| CLAIMS SUBMITTED IN 1st QUARTER WITH OCCURRENCE DATES PRIOR TO 1st QUARTER 2006: | | | | | | | | | |
| 2005-548 | 7/22/2005 | PD | Joseph Ronald Walker | 4303 Kalamath St., Denver CO 80211 | Claimant alleges he suffered damages when he was wrongfully arrested and detained by Denver Police on the basis of an Affidavit sworn to by a Westminster Police Officer | \$0.00 | \$0.00 | Open | CIRSA investigating |
| 2005-557 | 7/28/2005 | PD | Brian David Miller | 9330 Lowell Ave., Westminster CO 80030 | Claimant alleges he was attacked and bitten by a Westminster police dog and beaten by Westminster police officers | \$0.00 | \$0.00 | Closed | Claim denied based on Colorado Governmental Immunity Act and that the investigation determined the actions of the officers were lawful and followed the City's current policies and procedures. |
| | | | | | SUB TOTAL | \$0.00 | \$0.00 | | |
| | | | | | GRAND TOTAL | \$4,587.51 | \$4,587.51 | | |



Agenda Item 8 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Banking Service Contract

Prepared By: Robert Smith, Treasury Manager
Byron Jefferson, Revenue Administrator
Nancy Tran, Financial Analyst
Bob Byerhof, Financial Analyst

Recommended City Council Action

Based on the report of the City Manager, City Council finds the public interest would be best served by accepting the banking services bid from US Bank, National Association. Authorize the City Manager to sign a contract for general banking services with US Bank, National Association in a form approved by the City Attorney's Office for a term of one year, renewable for four additional one year term years.

Summary Statement

The City has contracted with US Bank, National Association (NA) for general banking services since 1999. City Council approved a two year contract extension in 2004 with US Bank that will expire on June 30, 2006. US Bank provides cash management and banking services including bank accounts for general operating, controlled disbursement, pension, municipal courts, and workers compensation. Additionally, the bank processes check, Automated Clearing House (ACH) and wire transactions for the City's accounts. The Request for Proposal (RFP) was completed as required by the City's purchasing policy. After a thorough analysis of the nine responses submitted, Staff recommends that the City continue the banking contract with US Bank, NA.

Expenditure Required: Amount varies per month based on services provided

Source of Funds: Paid through compensating balances maintained at the bank

Policy Issue

Should the City authorize a banking service contract with US Bank, NA?

Alternative

Award the banking service contract to one of the other two finalists. This option is not recommended for several reasons:

1. Staff believes that the level of service US Bank has provided the City in the area of cash management and banking services has been of extremely high quality. Their automated web-based treasury workstation is simple to use and provides the needed controls to maintain security of transactions. The attention to customer needs that U.S. Bank provides to the City is exemplary.
2. The fees that US Bank will charge for this service are lower than they currently charge and are in line with the industry and will remain fixed for the duration of the contract. Additionally, the bank has offered to increase the interest rates credited on City funds held at the bank, which reduces the compensating balance the City must maintain at the bank to defer charges, and increases the earnings of funds held above the compensating balance level.
3. Conversion to a new cash management bank is a significant undertaking that during the conversion process is disruptive to the City's conduct of daily financial transactions. A conversion process would take approximately 6 to 8 weeks. This would entail a significant amount of Staff time devoted to monitoring the transfer of funds between the banks and training for reporting and on-line systems. Currently 26 individuals are either signers on the City's accounts or complete daily functions within the bank's management systems. In addition, the conversion process presents an uncertainty concerning the level of customer service a new bank might provide relative to the known quality of service provided by US Bank.

Background Information

The City awarded the contract for banking services to US Bank in May 1999 after a competitive bidding process. On June 28, 2004 Staff requested a two year extension of the US Bank contract based on limited staff time to conduct the RFP process and the bank's offer to reduce fees 7-8 percent during the extension period. The current contract with US Bank will expire on June 30, 2006. The Request for Proposal (RFP) was completed as required by the City's purchasing policy.

Staff initiated the RFP process to obtain competitive bids for banking services prior to the expiration of the current contract. The RFP was sent to ten banks, of which nine responded, and were thoroughly reviewed and analyzed. The bid analysis included the evaluation of cash management processes and policies, financial strengths, security implementation, quality controls, disaster recovery, data transmission, reporting, management team, and customer service. Staff invited three banks to make a presentation of their products and services. Staff was given access to each bank's web based treasury management workstation to evaluate ease of use and ability to meet the City's needs. The decision to recommend to continue the banking relationship with US Bank, NA was based on the following:

Bank Relationship and Customer Service

- US Bank has provided consistent and superior customer service throughout the past 7 years that they have provided banking services to the City. The Bank's relationship officer has remained on the City account for the contract period and will continue managing the City's accounts with the new contract.
- US Bank has been responsive to inquires about transactions, fees, or when a special need arises. Occasionally internal or external customers request an inquiry into a disbursement or revenue item that falls beyond the data available via the on-line management system or is an item that needs clarification relative to properly booking the transaction into the City's financial management system. This is of particular importance when an external customer inquires about the status of a payment that the City has made.

- US Bank has been very helpful in problem solving requests made by the City. A recent example was the bank’s flexibility to issue a cashier’s check within an hour’s notice.

Cost and Financial

- US Bank increased the interest rate credited on City funds held at the bank during the extension period, which reduced the cost of banking to the City, even though the Bank did not have to do this by contract.
- US Bank has decreased their current fees by 10% in the RFP quotes and will not increase their fees for the duration of the contract.
- US Bank’s monthly fees quote was competitive with the other banks when analyzed in the context of the collective balances required to offset these costs.

Compensating Balance Definition and Discussion

The City intends to offset the cost of the banking service through the use of a compensating balance. A compensating balance is an agreement by which an entity agrees to maintain a certain amount of funds on deposit at a bank in return for receiving designated banking services. Under such an arrangement, the earnings on the amounts held on deposit are retained by the bank to compensate it for the services provided to the entity. In essence, the City foregoes interest income on the compensating balance in order to pay for the banking services.

The rate a bank agrees to “pay” on the account balances is called the earnings credit rate. The basis of calculating this rate varies from bank to bank. Differences in the rate will affect the size of the compensating balance an entity is required to maintain. Since this is a balance on which the entity does not earn interest itself, a lower required compensating balance is preferable to a higher balance since the funds not used in the compensating balance can be invested in higher earning investments.

The table below lists each of the finalist’s bids with the monthly fees as provided in their respective RFP plus the estimated lost income cost relative to the compensating balance requirement needed to offset the monthly costs based on an earnings rate of 5%. The total monthly cost thus reflects the net cost of banking services and indicates that the marginal difference is \$114/month between the high and low bids.

| Bank | Monthly Fees | Lost Monthly Earnings | Total Monthly Cost |
|-------------|---------------------|------------------------------|---------------------------|
| Wells Fargo | \$1,887 | \$471 | \$2,358 |
| Key Bank | \$2,244 | \$0 | \$2,244 |
| US Bank | \$2,290 | \$66 | \$2,356 |

Although, US Bank’s bid was not the lowest received in terms of monthly fees, their quote was competitive with other respondents when analyzed in the context of the earnings rate the bank offers to offset these fees. The minimal variance in monthly fees between US Bank and the other banks was not significant enough for Staff to recommend changing service providers, particularly given the known quality customer service delivered by US Bank. Staff believes it is in the City’s best interest to continue the banking services contract with US Bank.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Lockbox Services for Processing Utility Bill and Sales Tax Payments

Prepared By: Bob Smith, Treasury Manager
Byron Jefferson, Revenue Administrator
Nancy Tran, Financial Analyst
Bob Byerhof, Financial Analyst

Recommended City Council Action

Authorize the City Manager to sign a five year contract in a form approved by the City Attorney's Office with UMB Bank Colorado, National Association (UMB, NA) for lockbox services to process utility bill and sales tax payments.

Summary Statement

- The City has been utilizing the services of a lockbox provider since 2001. The lockbox processes utility bill payments and sales tax return payments as a means to more efficiently process and deposit payments than if the function were performed internally. Per the City's purchasing policy, a Request For Proposals (RFP) was necessary after completing a five-year term with the current provider. The RFP was sent to ten banks, including the current service provider. After a thorough analysis of the eight responses reviewed, Staff recommends that the City continue the lockbox relationship with UMB, NA, who was the low bidder.
- Adequate funds were specifically authorized by City Council in the 2006 budget for these services.

Expenditure Required: \$65,000 annually

Source of Funds: General Fund - Finance Department Operating Account

Policy Issue

Should the City continue to utilize the services of a lockbox provider to process utility bill and sales tax return payments?

Alternatives

- 1) Revert to processing payments internally: This is not recommended due to the proven efficiencies of the lockbox provider and the increased capital and ongoing operating costs to purchase a new encoding machine.
- 2) Redo the RFP process: This is not recommended since a good sample of local and regional processing firms was reviewed with the best provider recommended.

Background Information

Prior to 2001, the City processed all utility bill and sales tax return payments internally. This function was deemed financially and operationally inefficient on the following basis:

- Very labor intensive to process payments
- Remittance machine needed replacement due to age and frequent breakdowns, estimated cost of a new remittance machine: \$20,000-40,000
- Payment processing may take several days to complete, particularly during the periods that sales tax returns were due or if processing could not be completed due to machine malfunction or staffing shortage
- Payment processing reduced customer service by placing personnel in processing area versus customer service areas
- Processing payments internally delayed deposits, thereby reducing interest earnings

Review of the operational and financial efficiencies anticipated with the lockbox indicated that the initiative has been successful over the past five years. The estimated Staff time devoted to bill processing prior to the lockbox conversion was 6-8 hours daily. In essence, the equivalent of a full-time employee was needed to open envelopes and run checks through a remittance machine prior to their release to the bank for processing. Given this workload, any breakdown in the normal procedure, such as a sick employee or machine malfunction would lead to a bottleneck of processing as well as a delay in deposits. This was of particular concern between the second and third week every month as large sales tax payments are due. By outsourcing the processing function, employees are able to respond to customer service issues more effectively rather than devoting attention to backroom duties.

From a marginal cost perspective, the estimated cost per item to process payments internally is approximately \$.17 versus \$.14 at UMB. With an average of 23,730 payments processed monthly at the lockbox, the savings amount to \$712/month on personnel costs.

From a financial management perspective, deposits are made daily without any concern about processing issues. The following is a list of financial benefits of outsourcing payments versus internal processing:

- Checks arrive for deposit at the City's depository bank the same banking day the check is received at the processing center. Funds are estimated to be deposited into the City accounts 2-3 days sooner than with in-house processing. This occurs by eliminating mail float at the post office, reducing internal processing float at the City, reducing float due to transport by armored car service, and reducing processing float at the bank.
- Eliminates the need for additional Staff to run the in-house remittance processing (cost avoidance of \$45,000 annually).
- Eliminates the need to purchase replacement equipment for in-house remittance processing. The estimated cost to replace the basic equipment is \$20,000-40,000.

Five years have passed under the current lockbox contract with UMB. Staff initiated an RFP process to assess the current competitive market for lockbox services. The RFP was sent to ten banks of which eight responded. All respondents provide lockbox services in the Denver Metropolitan area with the exception of one, which processes payments in Wyoming. Upon receipt of the proposals, Staff thoroughly reviewed and analyzed the proposals. Analysis included processing, funds availability, data transmission, reporting, electronic payments, implementation, customer service, quality controls, staffing, comparative experience, equipment (including backup equipment and disaster recovery), and costs. After selecting two finalists, Staff made site visits to each vendor's local facility.

The decision to continue the lockbox relationship with UMB was based not only on being the lowest cost provider but the excellent quality service provided by the bank over the past five years. UMB offers the dynamics of a smaller service provider and is able to deliver custom processing. For example, the bank's programming team adjusted the reading fields to adapt to the City's new utility billing system format and has long proved itself to carry-out the City's sales tax return processing procedures. Over the past five years, the bank's ability to address customer service issues has been exceptional, such as a processing issue relative to the bill printing a few years ago whereby UMB directly resolved the problem by communicating with the printer directly to adjust the encoding machine fields. The bank has also been very effective at quickly addressing any research or other processing issues related to specific payments, which allows Staff to facilitate responses to either internal or external customers.

From a cost perspective, the table below lists the lowest to highest bids:

| <u>Vendor</u> | <u>Annual Fees</u> |
|-------------------------------|---------------------------|
| UMB Bank | \$ 64,697 |
| Key Bank | \$ 64,821 |
| American National | \$ 67,750 |
| Vectra | \$ 80,026 |
| 1 st National Bank | \$ 89,224 |
| Wells Fargo | \$ 89,687 |
| US Bank | \$ 93,576 |
| Chase | \$115,457 |

As outlined above, UMB provides the lowest estimated cost for providing lockbox services and will honor this pricing for five years. Furthermore, UMB has proven itself to be a quality lockbox provider and Staff feels that continuing the processing of utility bills and sales tax returns through the UMB lockbox is in the best interest of the City.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Construction Contract for the 88th & Zuni Lift Station

Prepared By: Mike Wong, Senior Civil Engineer

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder Arapahoe Utilities & Infrastructure Inc. (AUI) in the amount of \$292,538; authorize a 10% contingency of \$29,500 and authorize the transfer of \$110,500 from the Utility Fund Wastewater Capital Project Reserve Account to the 88th & Zuni Lift Station Project Account to increase the project budget from \$250,000 to \$360,500.

Summary Statement

- Council is being requested to approve a contract with the lowest responsible bidder, Arapahoe Utilities & Infrastructure Inc., for the construction of the replacement of the 88th & Zuni Lift Station.
- The work includes a reinforced concrete structure with a wetwell to house two submersible pumps, electrical and control upgrade, and provision of additional retention time to prevent potential future wastewater overflows.
- Contract documents were prepared by the City's consultant Martin/Martin Consulting Engineers.
- City Council previously authorized a budget of \$250,000 at the May 23, 2005 City Council Meeting as part of the Public Works & Utilities Department's CIP cleanup. In order to complete the needed replacement lift station, staff is recommending a transfer of \$110,500 from the Utility Fund Wastewater Capital Project Reserve Account to the 88th & Zuni Lift Station Project Account.

Expenditure Required: \$360,500

Source of Funds: Utility Fund Capital Improvement - 88th & Zuni Lift Station Project and Utility Fund Reserve

Policy Issue

Should the City execute a contract in the amount of \$292,538 with Arapahoe Utilities & Infrastructure Inc. for the construction of a new facility to replace the existing 88th & Zuni Lift Station, and authorize the transfer of \$110,500 from the Utility Fund Wastewater Capital Project Reserve Account?

Alternatives

The City could choose from the following alternatives:

1. Reject all bids and rebid the project. The City received bids from four construction companies and it is not likely that new bids would be less costly or that the City would receive additional qualified bids.
2. Reject staff’s recommendation to execute a contract with Arapahoe Utilities & Infrastructure Inc. and choose not to build the replacement lift station. At this time delaying the construction of the replacement pump station could increase the future costs and increase the risk of wastewater overflows due to the current undersized wetwell and aging mechanical equipment.
3. Reduce the scope of work thus lowering the contract cost. The original 88th & Zuni Lift Station was built in 1970 and remodeled in February 2000. The aboveground Gorman Rupp package pumps installed in 2000 are not the most suitable pump equipment for this type of lift station operation. The existing lift station is also in need of additional retention time, which is accomplished with the construction of a new larger wetwell. Any reduction in the scope of work from the current design will increase the risk of wastewater overflows at this lift station.

Staff does not recommend any of these alternatives.

Background Information

The existing Greenbriar Lift Station located at 88th Avenue (extended) and Zuni Street has been in operation since 1970. It serves the area bounded by Federal Blvd. on the west, Zuni Street on the east, and lies between 84th and 88th Avenues.

Due to equipment malfunction, three incidents involving wastewater overflows have occurred at the existing lift station since February 2000. There was not sufficient storage either in the existing wetwell or sewer pipeline to prevent these wastewater overflows. As a result, Staff is recommending a new pump station to replace the existing lift station with a larger wetwell and two new submersible pumps.

Advertisement for bids was published in The Daily Journal and the DemandStar online service from March 31 to April 26, 2006. Bids were publicly opened and read on April 26, 2006 in the City Council Chambers.

Four qualified bids were received by the City of Westminster. The following is a tabulation of the bids and the Engineer’s estimate:

| <u>Bidders</u> | <u>Lump Sum Bid</u> |
|--------------------------------------|---------------------|
| Arapahoe Utilities & Infrastructures | \$292,538 |
| Paramount Construction | \$339,538 |
| R&D Pipeline Inc. | \$372,514 |
| Tierdeal Construction | \$466,150 |
| Engineer’s Estimate | \$225,020 |

The Engineer’s estimate was below the lowest responsible bidder by approximately \$67,000 because of the current bidding climate and price increases in construction material, electrical and pump equipment.

Martin/Martin Consulting Engineers was retained in 2003 for the design of the replacement lift station and bid documents were completed in March 2006. At the August 22, 2005 City Council Meeting, City Council approved an amendment to the contract agreement with Martin/Martin Consulting Engineers in the amount of \$20,000 as a result of staff modifying the scope of work to include corrosion protection of the lift station wetwell, addition of a soft start to protect pump equipment from excessive wear and tear, and provision of storage for additional retention time.

After a thorough review of the Statement of Qualifications and other references provided by Arapahoe Utilities & Infrastructure Inc., Staff is confident that the contractor is qualified for the 88th and Zuni Lift Station replacement project.

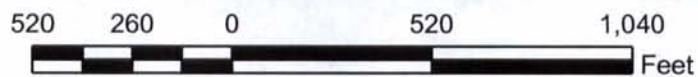
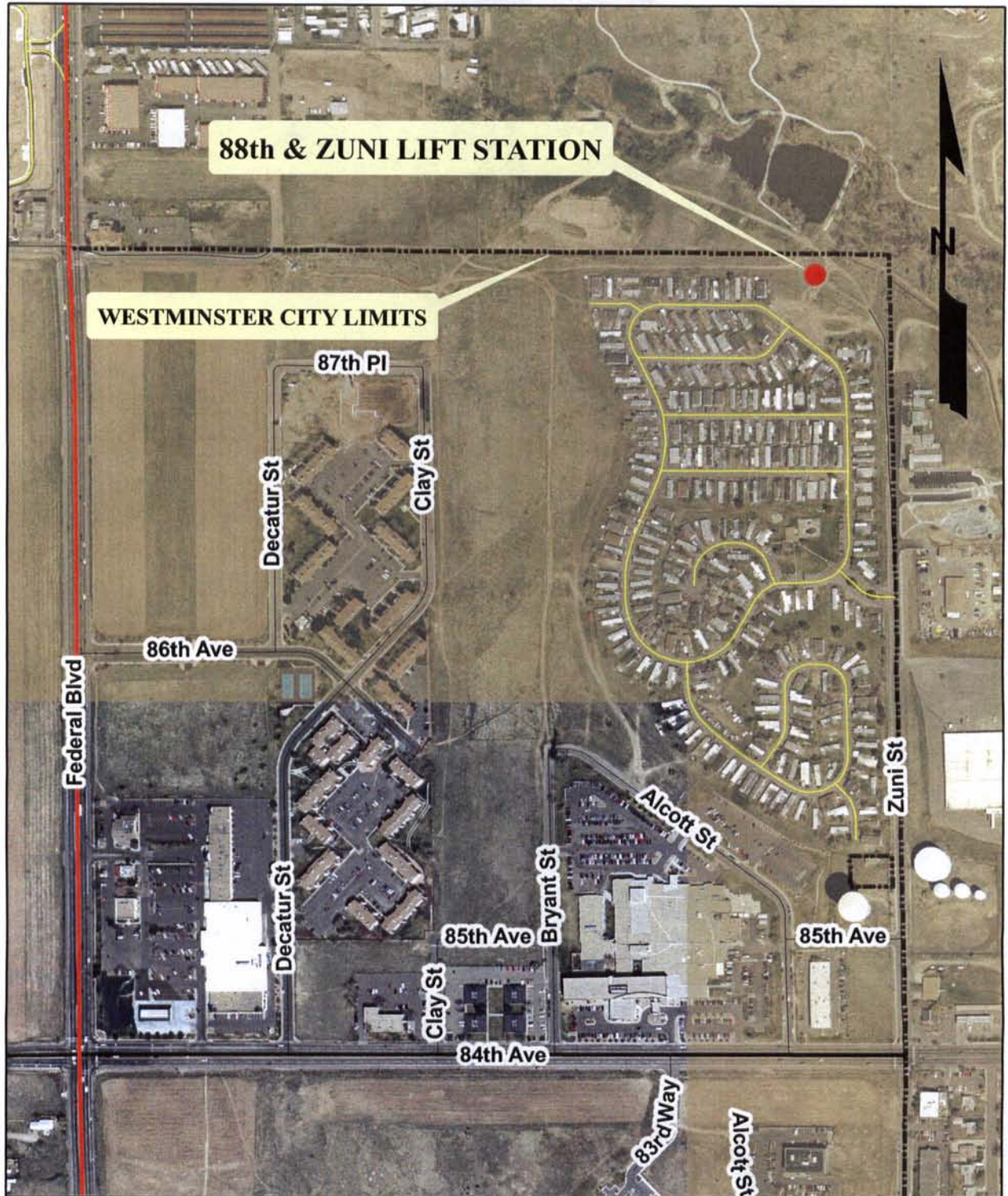
Staff is recommending a transfer of \$110,500 from the Utility Fund Wastewater Capital Project Reserve Account to fund the increased cost of construction at \$62,538; material testing for quality assurance/quality control at \$3,462; I&C programming at \$15,000; a 10% contingency in the amount of \$29,500; and the previously authorized engineering agreement with Martin & Martin in the amount of \$20,000. City Council previously authorized a budget of \$250,000 on May 23, 2005. The recommended transfer of \$110,500 is needed to meet the total project cost to \$360,500.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

LOCATION MAP FOR THE 88TH & ZUNI LIFT STATION



1 inch equals 500 feet



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Intergovernmental Agreement with the City of Arvada re Resurfacing of 88th Avenue and Garrison Street

Prepared By: Dave Cantu, Contract Maintenance Supervisor
Ray Porter, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to sign an Intergovernmental Agreement (IGA) with the City of Arvada providing for reimbursement of funds by the City of Arvada to the City of Westminster for Arvada's portions of resurfacing on 88th Avenue and on Garrison Street.

Summary Statement

- The City of Westminster's Pavement Management process identified 88th Avenue and Garrison Street for resurfacing strategies in 2006 to seal, provide a new riding surface, prolong pavement life, and assist in an overall effort to maintain at least 65% of the City of Westminster's roadways at a 70 or above pavement condition rating.
- Funds have been appropriated in the Street Division's 2006 budget and both street sections were included in the City of Westminster's 2006 Chipseal and Slurry Seal Project bids previously awarded by City Council.
- An IGA has been negotiated between the cities of Westminster and Arvada regarding cooperation for resurfacing the following street segments this year.
 1. 88th Avenue, Garrison Street to 650 ft. west of Independence Street (50% Arvada and 50% Westminster).
 2. Garrison Street, 88th Avenue to 260' south of 86th Avenue. Scheduled for Slurry Seal Surface Treatment later this summer. (50% Arvada and 50% Westminster)
- The IGA calls for Arvada to reimburse Westminster \$22,474 for their portion of cost for resurfacing of these pavements no later than Jan 31, 2007.
- Arvada's City Council approved the IGA on May 15, 2006.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City of Westminster enter into an Intergovernmental Agreement (IGA) with the City of Arvada to provide for reimbursement of funds to the City of Westminster for Arvada's portions of resurfacing 88th Avenue and Garrison Street?

Alternative

Delete the streets from the 2006 Street Improvement Project List.

Staff does not recommend this alternative because the result would be lower quality construction work, possibly two different resurfacing strategies on half the roadway and the motoring public being disrupted twice at the same location. The cooperative agreement is the most cost effective, sound construction approach and makes most sense for both entities.

Background Information

Westminster has included the HAC overlay of 88th Avenue, between Garrison Street and 650 ft. west of Independence Street, within the 2006 Chipseal Project and the Slurry Seal resurfacing of Garrison Street, from 88th Avenue to 260' south of 86th Avenue, in the 2006 Slurry Seal Project.

Westminster Street Division staff planned for and contracted for 100% of the street improvements on West 88th Avenue and on Garrison Street with the understanding that an IGA would be executed committing Arvada funds to the project. The chipseal work was completed this spring as part of the City's overall chipseal contract.

Staff and the City Attorneys from the two respective cities have produced an IGA that allows for compensation in 2007 to Westminster for a portion of 88th Avenue and of Garrison Street, which is in Arvada. These two segments of roadway have been under an IGA maintenance agreement between both cities since 1974.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF WESTMINSTER AND THE CITY OF ARVADA FOR THE PERFORMANCE
OF CERTAIN STREET REPAIRS AND IMPROVEMENTS**

THIS AGREEMENT, made and entered into as of this 2nd day of May, 2006, is entered into by and between the City of Westminster, Colorado (“Westminster”), and the City of Arvada, Colorado (“Arvada”).

WITNESSETH

WHEREAS, Section 29-1-203, C.R.S., as amended permits and encourages local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with local governments in order to provide any lawfully authorized function, service or facility, and

WHEREAS, Westminster desires to contract for the construction of certain street improvements on West 88th Avenue, from Garrison Street to 650 feet west of the centerline of Independence Street and on Garrison Street from 88th Avenue to 260 feet south of the centerline of West 86th Avenue; and

WHEREAS, Westminster is responsible for maintaining and repairing those portions of West 88th Avenue and Garrison Street, situated within Westminster; and

WHEREAS, Arvada is responsible for maintaining and repairing that portion of West 88th Avenue and Garrison Street situated within Arvada; and

WHEREAS, Westminster is willing to include Arvada’s portions of West 88th Avenue and Garrison Street in the same contract as Westminster will be entering into for those street improvements located within Westminster; and

WHEREAS, Westminster has appropriated funds in its 2006 budget sufficient to pay for Arvada’s portion of 88th Avenue and Garrison Street, and Arvada has appropriated funds in its 2007 budget (subject to appropriation) sufficient to reimburse Westminster for the work to be done on Arvada’s portions of 88th Avenue and on Garrison Street.

NOW, THEREFORE, in consideration for the making and performance of the mutual promises and covenants contained herein the parties agree as follows:

1.0 SCOPE OF WORK

- 1.1 Westminster shall perform street repairs and improvements to West 88th Avenue, from the West side of Garrison Street to 650 feet west of the centerline of Independence Street. These repairs will be performed on that portion of West 88th Avenue located in Westminster and on 5,133 square yards of pavement located within Arvada, as shown on attached Exhibit “A”. It is agreed that these repairs shall include construction of a 7/8” thick Double Bonded Hot Applied Chipseal Resurfacing. The work shall be secured by payment and performance bonds and warranted for a period of one year.
- 1.2 Westminster shall perform street repairs and improvements on Garrison Street, from the south side of 88th Avenue to 260 feet south of the centerline of 86th Avenue. These repairs will be performed on that portion of Garrison Street located in Westminster and on 2,667 square yards of pavement located within Arvada, as shown on attached exhibit “A”. It is agreed that these repairs shall include application of a Slurry Seal Surface Treatment. The work shall be secured by payment and performance bonds and warranted for a period of one year.

2.0 TERM. Arvada shall pay its share of the combined work in the amount of \$22,474.00 no later than January 31, 2007 (subject to appropriation).

3.0 COMPENSATION AND PAYMENT

3.1 Westminster shall allocate funds from its 2006 budget in the amount of \$211,084 for Westminster and Arvada portions of the Hot Applied Chipseal Resurfacing and Slurry Seal Surface Treatment improvements.

3.2 Arvada shall allocate funds from the 2007 budget (subject to appropriation) in an amount not to exceed \$22,474 to reimburse Westminster for the Arvada portion of Westminster's total cost.

4.0 PROJECT MANAGER

4.1 Westminster's project manager for the project is Dave Cantu, Contract Maintenance Foreman, Department of Public Works and Utilities, Street Operations Division.

4.2 Arvada's project manager for the Project is Dave Kotecki, Streets Superintendent, Department of Public Works, Streets Division.

4.3 The project managers from both Westminster and Arvada shall be the primary points of contact for questions and inquiries about the Project, and shall be responsible for reporting to their respective entities the progress of the Project, as well as any problems which might arise. Westminster and Arvada may change their designated project managers upon written notice to the other party. All notices given pursuant to this Agreement should be sent to the attention of the project manager of the party to whom the notice is being given.

5.0 COOPERATION. Westminster and Arvada hereby agree that, upon execution of this Agreement and commencement of the Project, they will cooperate with each other to the fullest extent in the scheduling of the work, supervision, and review when applicable to ensure the successful completion of the Project.

6.0 WARRANTY. The parties agree that any contracts awarded for the construction of the Project shall be warranted by the selected Contractor for a one (1) year period, and that surety be provided for enforcement of this warranty.

7.0 INSURANCE AND INDEMNIFICATION.

7.1 During the term of this Agreement, both parties shall maintain property and general liability insurance in commercially reasonable amounts, as determined by mutual agreement of the parties' respective Risk Managers, to insure them from claims arising from the Project.

7.2 Westminster shall require that all contractors, subcontractors, and independent contractors employed by Westminster for the Project maintain property, general liability and statutory worker's compensation insurance in such amounts as to insure Westminster, and Arvada as an additional insured, to the statutory limits of their liability.

7.3 Westminster shall require that the selected Contractor for the Project and its subcontractors indemnify, defend and hold harmless Arvada and its Mayor and Council, officials, and employees to the same extent as the selected Contractor shall be required by the Project contract to indemnify, defend and hold Westminster harmless or to require that the selected Contractor indemnify, defend and hold harmless Arvada and its Mayor and Council, officials, and employees from and against any and all claims, demands, suites, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, expenses (including attorney's fees) and liabilities of, by or with respect to third parties to

the extent they arise, or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional misconduct or negligent acts or omissions of the selected Contractor, the selected Contractor's subcontractors, suppliers, and/or employees in connection with work on the Project.

- 8.0 ADDITIONAL DOCUMENTS OR ACTION.** The parties agree to execute any additional action that is necessary to carry out this Agreement.
- 9.0 ASSIGNMENT.** This Agreement shall not be assigned by either party without the prior written consent of the other party.
- 10.0 FORCE MAJEURE.** Any delays in or failure of performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control and such party.
- 11.0 BINDING EFFECT.** This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representative, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.
- 12.0 EXHIBITS.** All exhibits referred to in this Agreement are, by reference, incorporated herein for all purposes.
- 13.0 NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the project manager as referenced in paragraph 4.0 above at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States mail.
- 14.0 PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- 15.0 INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of the Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.
- 16.0 DEFAULT.** Time is of the essence. If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, maybe terminated by the nondefaulting party, in which case, the nondefaulting party may recover such damages as may be proper. If the nondefaulting party elects to treat this Agreement as being in full force and effect, the nondefaulting party shall have the right to an action for specific performance or damage or both.
- 17.0 WAIVER OF BREACH.** A waiver by any party to the Agreement of the breach of any term or provision of this Agreement shall no operate or be construed as a waiver of any subsequent breach by either party.
- 18.0 ATTORNEY'S FEES.** If any party breaches this Agreement, the breaching party shall pay all of the prevailing party's reasonable attorney's fees and costs in enforcing this Agreement.

19.0 GOVERNING LAW AND VENUE. This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in the appropriate court for Jefferson County, Colorado.

20.0 GOVERNMENTAL IMMUNITIES.

20.1 The Parties hereto intend that nothing herein shall be deemed or construed as a waiver by either party of any rights or protections afforded to them under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S., et seq.)

20.2 Arvada and Westminster agree that in the event any claim or suit is brought against either or both parties by any third party as a result of the operation of this Agreement, that both parties will cooperate with each other, and with the insuring entities of both parties, in defending such claim or suit.

City of Westminster, A Colorado municipal corporation

By: J. Brent McFall, City Manager
4800 West 92nd Avenue
Westminster, Colorado 80031

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

City of Arvada, A Colorado municipal corporation

By: Ken Fellman, Mayor
8101 Ralston Road
P.O. Box 8101
Arvada, Colorado 80001-8101

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A



1 inch equals 230 feet

Legend

— westminster.WMADMIN.CityLimitLines



City of Anvada



Agenda Item 9 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Metro Wastewater Reclamation District Board of Directors Re-Appointment

Prepared By: Tim Woodard, Big Dry Creek Wastewater Treatment Superintendent

Recommended City Council Action

Reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District's Board of Directors, with a term of office effective through June 30, 2008.

Summary Statement:

- City Council action is requested to reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District Board of Directors. Mr. Aldstadt has represented the City of Westminster on the Metro Board of Directors since April 12, 1999.
- The Metro District Bylaws and State Statute require that in order to become a member of the Board of Directors, one must live within the member municipality and within the Metro District service area.
- At this time, there is not a City Staff member to fill the vacancy based on these requirements. Therefore, the recommendation of Staff is to fill the vacancy with Curtis Aldstadt, a City resident and business owner who currently works closely with the Department of Public Works and Utilities on a variety of issues and has represented Westminster's interest extremely well.
- Charles Ragsdale is currently the City's other representative. Mr. Ragsdale's term of office will expire on June 30, 2007.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Metro Wastewater Reclamation District policy requires the elected body of each connector jurisdiction to appoint board of director representatives to the District governing board. Does Council wish to reappoint Mr. Aldstadt or open up the recruitment to fill this seat?

Alternative

As an alternative, Staff could solicit additional names of interested citizens who may wish to represent the City on the Metro Wastewater Reclamation Board. The value of Mr. Aldstadt's appointment is that he is currently involved with the Department of Public Works and Utilities on a number of projects that make him a valuable asset to this Department's team. In addition, Mr. Aldstadt's involvement in the water and wastewater industry provides the City with a citizen who will protect its interest on the Metro Board of Directors and ensure representation of the City.

Background Information

The Metro Wastewater Reclamation District treats approximately 40 percent of the total wastewater generated in Westminster, with the District serving the area south of approximately 97th Avenue.

Over the past five years since Mr. Aldstadt's appointment to the Metro Wastewater Reclamation District Board of Directors he has kept City Staff informed of pertinent activities occurring at the Metro District, while also representing the City's interests very well with the Metro District.

The Metro Wastewater Reclamation District Board of Directors meets at 7:00 p.m. on the third Tuesday of each month. In addition, all Board Members serve on one operations committee, which meets monthly either in the morning or at noon. Mr. Aldstadt currently is the chairperson of the Future Committee and also serves on the Executive Committee.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

APPOINTMENT

I, Nancy McNally, Mayor of the City of Westminster, do hereby certify that the Westminster City Council does hereby appoint **CURTIS ALDSTADT** as the City of Westminster representative on the Board of Directors of the Metro Wastewater Reclamation District, to serve a term of two years, beginning July 1, 2006 and ending June 30, 2008, in accordance with the laws of the State of Colorado and the By-laws of the Metro Wastewater Reclamation District.

Approved by the Westminster City Council this 22nd day of May, 2006.

Mayor

WESTMINSTER CITY COUNCIL
APPROVAL OF APPOINTMENT

It was moved by _____ and seconded by Councillor _____; that the City of Westminster appoint **CURTIS ALDSTADT** to serve a term of two years, beginning July 1, 2006 and ending June 30, 2008, as the City of Westminster representative on the Board of Directors of the Metro Wastewater Reclamation District be and the same hereby is approved. The motion carried unanimously.

STATE OF COLORADO
COUNTY OF ADAMS

§

CERTIFICATE

I, Linda Yeager, City Clerk of the City of Westminster, do hereby certify that the Westminster City Council appointed **CURTIS ALDSTADT** as said City's representative on the Board of Directors of the Metro Wastewater Reclamation District and that the foregoing "Appointment" is an excerpt from the minutes of the regular meeting of the Westminster City Council held on the 22nd day of May, 2006, and that said motion of approval is part of the official minutes of said meeting; and that a quorum was present at all times during the meeting.

Dated this 22nd day of May, 2006.

City Clerk

(SEAL)



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Councillor's Bill No. 33 re Amendment to the Westminster Municipal Code Concerning Smoking in Public Places and the Colorado Clean Indoor Air Act

Prepared By: Barbara Opie, Assistant to the City Manager
Tami Cannon, Paralegal

Recommended City Council Action

Pass Councillor's Bill No. 33 on first reading repealing Title VI, Chapter 13, W.M.C. Smoking in Public Places and reenacting Title VI, Chapter 13, W.M.C. with Clean Indoor Air as described on the attached ordinance.

Summary Statement

- On March 27, 2006, Governor Bill Owens signed legislation making Colorado the 13th state to enact a statewide smoking ban. The law takes effect July 1, 2006. House Bill 06-1175 prohibits smoking in bars, restaurants and most workplaces.
- The City of Westminster currently has regulations in the Westminster Municipal Code (W.M.C.) in Title VI, Chapter 13 concerning Smoking in Public Places. With the adoption of a state-wide law regulating indoor smoking, Staff recommends that the City's law be updated to mirror the state law in order to minimize confusion for businesses and citizens alike. This Councillor's Bill repeals the current code and replaces it with the state law.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

1. Does City Council wish to repeal the current W.M.C. Title VI, Chapter 13 Smoking in Public Places and reenact the revised Clean Indoor Air as described on the attached ordinance to be in compliance with the state law effective July 1?
2. Does City Council wish to enact a more restrictive law concerning indoor smoking, especially as it relates to the radius of main entryways to businesses and public facilities?

Alternative

City Council could leave the portion of the current code in place that requires no smoking within a 25 foot radius of entryways, which is greater than the new state law (15 feet). Staff does not recommend this, as one of the primary goals of this legislation was to make a uniform playing field for businesses and making the City code more restrictive would work counter to the original intent of the law.

Background Information

Gov. Bill Owens signed legislation on March 27 making Colorado the 13th state to enact a statewide smoking ban. The law takes effect July 1, 2006. House Bill 06-1175, sponsored by Rep. Mike May (R-Parker) and Sen. Dan Grossman (D- Denver), prohibits smoking in bars, restaurants and most workplaces.

The new state law primarily addresses the following:

- Prohibits smoking indoors, defined as "any enclosed area or portion thereof." It specifically addresses that the opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area. This applies to all buildings, including restaurants, bars, indoor sports arenas, bowling alleys, pool halls and common areas of retirement facilities.
- Permits smoking in specific areas, including private homes, private vehicles, up to 25% of hotel or motel rooms, retail tobacco business, cigar-tobacco bars, airport smoking concessions, outdoor areas of businesses, and casinos.
- Prohibits smoking within a 15 foot radius of an entryway to a building. An entryway is defined as "the front or main doorway leading into a building or facility."
- Allows cities and counties to enact smoking regulations that are more stringent than the state law, except as it relates to the radius of the entryway. The new law permits cities or counties to specify the radius for smoking near an entryway to be greater or less than the 15 foot designation in the state law.
- Establishes a fine structure for violations of the state law within a calendar year (first offense \$200; second offense \$300; each additional offense \$500). The state law identifies that 75% of fines shall be transmitted to the treasurer of the city, town, or county where the violation occurred with the remaining 25% being transmitted to the state treasurer.

Staff is recommending that the City Council repeal the current municipal code and enact the state law into ordinance. The primary purpose of enacting a local ordinance is twofold: first, it maintains consistency with the state law making the rules for all businesses the same across jurisdictional lines and second, it permits the City to retain 100% of any fines collected for enforcement of this new law rather than transmitting funds to the state. The proposed amendment to the municipal code is essentially the same text as adopted by the State Legislature and Governor.

Staff has reviewed all City facilities in regard to this new law to determine the implications for each facility. Staff will be working to install signage at appropriate locations to remind the public of the new law, especially the 15 foot radius of main entryways. In addition, as it relates to City personnel, Staff will be preparing an Administrative Memorandum to comply with the new law. Specifically, it will state that employees are permitted to smoke only in designated outdoor areas at City facilities. This will ensure that City facilities are welcoming and inviting to residents and customers alike and that the privacy of the City's employees is respected. The current smoking lounge within City Hall will be eliminated pursuant to state law effective July 1.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **33**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

A BILL

**FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING
SMOKING IN PUBLIC PLACES AND CLEAN INDOOR AIR**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VI, Chapter 13, W.M.C., is hereby REPEALED AND REENACTED as follows:

CHAPTER 13

CLEAN INDOOR AIR

6-13-1: LEGISLATIVE INTENT

6-13-2: DEFINITIONS

6-13-3: GENERAL SMOKING RESTRICTIONS

6-13-4: EXCEPTIONS TO SMOKING RESTRICTIONS

6-13-5: OPTIONAL PROHIBITIONS

6-13-6: OTHER APPLICABLE REGULATIONS OF SMOKING

6-13-7: UNLAWFUL ACTS; PENALTY

6-13-1: LEGISLATIVE INTENT: It is the finding and declaration of the City of Westminster that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. The City further finds and determines that a balance should be struck between the health concerns of non-consumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City hereby declares that the purpose of this Chapter is to preserve and improve the health, comfort, and environment of the people of this City by limiting exposure to tobacco smoke.

6-13-2: DEFINITIONS:

(A) "Airport Smoking Concession" means a bar or restaurant, or both, in a public airport with regularly scheduled domestic and international commercial passenger flights, in which bar or restaurant smoking is allowed in a fully enclosed and independently ventilated area by the terms of the concession.

(B) "Auditorium" means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

(C) "Bar" means any indoor area that is operated and licensed under article 47 of title 12, C.R.S. and Title V, Chapter 14, W.M.C., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

(D) "Cigar-Tobacco Bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of

tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.

(E) 1. "Employee" means any person who:

(a) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(b) Provides uncompensated work or services to a business or nonprofit entity.

2. "Employee" includes every person described in paragraph 1. of this subsection (E), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

(F) "Employer" means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "Employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

(G) "Entryway" means the outside of the front or main doorway leading into a building or facility that is not exempted from this Chapter under section 6-13-4. "Entryway" also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be fifteen feet (15').

(H) "Environmental Tobacco Smoke", "ETS", or "Secondhand Smoke" means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as "sidestream smoke," and smoke exhaled by the smoker.

(I) "Food Service Establishment" means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

(J) "Indoor Area" means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

(K) "Local Authority" means a county, city and county, city, or town.

(L) "Place of Employment" means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

(M) "Public Building" means any building owned or operated by:

1. The state, including the legislative, executive, and judicial branches of state government;

2. Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or

3. Any other separate corporate instrumentality or unit of state or local government.

(N) "Public Meeting" means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law of this state.

(O) "Smoke-free Work Area" means an indoor area in a place of employment where smoking is prohibited under this Chapter.

(P) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

(Q) "Tobacco" means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

(R) "Tobacco Business" means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

(S) "Work Area" means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

6-13-3: GENERAL SMOKING RESTRICTIONS:

(A) Except as provided in section 6-13-4, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

1. Public meeting places;
2. Elevators;
3. Government-owned or -operated means of mass transportation, including, but not limited to, buses, vans, and trains;
4. Taxicabs and limousines;
5. Grocery stores;
6. Gymnasiums;
7. Jury waiting and deliberation rooms;
8. Courtrooms;
9. Child day care facilities;
10. Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;
11. (a) Any place of employment that is not exempted.
(b) In the case of employers who own facilities otherwise exempted from this Chapter, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
12. Food service establishments;
13. Bars;
14. Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
15. Indoor sports arenas;
16. Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;
18. Bowling alleys;
19. Billiard or pool halls;
20. Facilities in which games of chance are conducted;

21. The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
 22. Public buildings;
 23. Auditoria;
 24. Theaters;
 25. Museums;
 26. Libraries;
 27. To the extent not otherwise provided in C.R.S. section 25-14-103.5, public and nonpublic schools;
 28. Other educational and vocational institutions; and
 29. The entryways of all buildings and facilities listed in paragraphs 1 to 28 of this subsection
- (A).

(B) A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children under eighteen years of age must be accompanied by a parent or guardian."

6-13-4: EXCEPTIONS TO SMOKING RESTRICTIONS:

(A) This Chapter shall not apply to:

1. Private homes, private residences, and private automobiles; except that this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation;
2. Limousines under private hire;
3. A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent;
4. Any retail tobacco business;
5. A cigar-tobacco bar;
6. An airport smoking concession;
7. The outdoor area of any business;
8. A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees;
9. A private, nonresidential building on a farm or ranch, as defined in section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars; or
10. The retail floor plan, as defined in section 12-47.1-509, C.R.S., of a licensed casino.

6-13-5: OPTIONAL PROHIBITIONS:

(A) The owner or manager of any place not specifically listed in section 6-13-3, including a place otherwise exempted under section 6-13-4, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

(B) If the owner or manager of a place not specifically listed in section 6-13-3, including a place otherwise exempted under section 6-13-4, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by section 6-13-3(A)(11)(b), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (A) of this section.

6-13-6: OTHER APPLICABLE REGULATIONS OF SMOKING: This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law.

6-13-7: UNLAWFUL ACTS; PENALTY:

(A) It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this Chapter to violate any provision of this Chapter.

(B) It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.

(C) Any person found guilty of a violation of any provision of this Chapter shall be punished by a fine not to exceed two hundred dollars (\$200) for a first violation within a calendar year, a fine not to exceed three hundred dollars (\$300) for a second violation within a calendar year, and a fine not to exceed five hundred dollars (\$500) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation.

6-13-8: SEVERABILITY: If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

Section 2. This ordinance shall take effect July 1, 2006.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of May, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of June, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Councillor's Bill No. 34 re Economic Development Agreement with The Bedrin Organization for Brookhill V Shopping Center

Prepared By: Susan Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor's Bill No. 34 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement (EDA) with The Bedrin Organization.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the attached EDA with The Bedrin Organization to assist with the redevelopment of Brookhill V.
- The \$206,167 EDA will be funded with rebates of the incremental sales tax resulting from Bicycle Village's relocation and expansion, as well as from permit fees and use tax on construction.
- This Economic Development Agreement will assist in filling vacancies in the Brookhill V Shopping Center; one of City Council's key objectives.
- The EDA rebate shall terminate after three years.
- If Bicycle Village ceases business operations in the City within five years of when new operations commence, any payments made to The Bedrin Organization under this agreement shall be reimbursed to the City unless a replacement tenant is found.

Expenditure Required: \$206,167 (Rebates)

Source of Funds: The EDA with The Bedrin Organization will be funded through revenue received from permit fees, construction use tax, and incremental sales tax directly generated from the remodeling and operation of Bicycle Village.

Policy Issue

Does Council desire to provide assistance to The Bedrin Organization to aid in the redevelopment of the Brookhill V Shopping Center?

Alternatives

Do Nothing: One alternative to offering the business assistance package is to offer nothing to this company. The City may lose the project if assistance is not provided, the result would be that the City's goal of encouraging the redevelopment of this depressed center would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is already less than what the developer requested to provide the upgrades to the retail center.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. It is staff's opinion that additional assistance is not needed.

Background Information

Staff has been meeting with The Bedrin Organization of New Jersey, owners of the Brookhill V Shopping Center, regarding strategies for filling the vacancies in this shopping center. Ever since the closure of the Builders Square, this particular shopping center has struggled with high vacancy rates. The recent announcement by Media Play that they have closed all stores in Denver further hurt this shopping center. These vacancies have occurred because of lack of market but because of decisions being made nationally that affect this center (i.e., Sears Home Life, Discovery Zone, Builders Square, Media Play). Furthering the vacancy concerns is Carpet Exchange, which is currently constructing a new facility at 100th Avenue and Wadsworth Parkway.

The Bedrin Organization is actively pursuing users for the shopping center. Recently, Bicycle Village approached them about doing a 20,000 square foot store. The store would be at least triple the size of the current store and result in sales three to four times what they are currently producing in their store at the northeast corner of 92nd Avenue and Wadsworth Parkway. With a projected increase in sales of \$4.5 million, it is anticipated that Bicycle Village will generate over \$719,000 in new revenue to the City in the first 5 years of operation.

Revitalization of and filling the vacancies in the Brookhill V Shopping Center has long been a City Council priority. Because of the losses running with this shopping center resulting from vacancies, The Bedrin Organization asked the City to assist them in covering some of the costs of attracting Bicycle Village to the shopping center. The biggest unexpected loss they faced this year was the bankruptcy of Media Play that has resulted in them losing all revenue from Media Play this year plus having to pay all the property tax for the Media Play space since property tax is collected in arrears.

To aid with the filling of vacant space at Brookhill V Shopping Center, staff is recommending the following economic development agreement:

Proposed Assistance

**Approximate
Value**

Building Permit-Fee Rebate

\$2,955

50% of the building related fees for the tenant finish for Bicycle Village (excluding water & sewer tap fees) will be rebated (\$5,911 x 50% = \$2,955)

Building Use Tax Rebate \$4,462
50% of the General Use Tax (excluding the City's .25% open space tax and the .6% public safety tax) on construction materials will be rebated ($\$8,925 \times 50\% = \$4,462$)

Use Tax on Furniture and Fixtures Rebate \$15,000
For the period 3 months prior and the 3 months after Bicycle Village obtains the Certificate of Occupancy at Brookhill V, the City will rebate 50% of the General Use Tax (excluding the City's .25% open space tax and .6% public safety tax) collected on the furnishing and equipment purchased to furnish the new store ($\$1\text{million new equipment} \times 3\% \text{ Use Tax} \times 50\% = \$15,000$)

Sale Tax Rebate – 3 years \$183,750
50% of the Sales Tax increment collected over the base year sales tax receipts in the first three years of operation of the new bicycle store will be rebated (excluding the City's .25% open space tax and .6% public safety tax). (Based on average sales of \$4,083,333 in increased sales per year $\times 3\%$ use tax = an average of \$122,500 in sales tax per year $\times 3$ years = $\$367,500 \times 50\% = \$183,750$). The increment will be based upon sales calculated from the previous 12 month period.

Total Proposed Assistance Package **\$206,167**

As Council will note, the assistance being proposed is 29% ($\$206,167$ total assistance divided by $\$719,000$ projected revenue = 29%) of the total direct sales and general use tax and fee revenue projected from the project in the first 5 years of operation. The rebate will only be from new dollars generated by the new Bicycle Village store.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **34**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH THE BEDRIN ORGANIZATION
FOR THE PARTIAL REDEVELOPMENT OF BROOKHILL V SHOPPING CENTER
WESTMINSTER, COLORADO**

WHEREAS, the successful attraction and retention of high quality retail 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 sales tax revenue and remain competitive with other local governments in offering assistance for occupancy of existing retail space in the City; and

WHEREAS, The Bedrin Organization plans to redevelop and fill vacant space in the Brookhill V Shopping Center, and

WHEREAS, a proposed 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 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 22nd day of May, 2005.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of June, 2006.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

EXHIBIT A

ECONOMIC DEVELOPMENT AGREEMENT WITH THE BEDRIN ORGANIZATION

THIS AGREEMENT is made and entered into this _____ day of _____, 2006, between the CITY OF WESTMINSTER (the "City"), and The Bedrin Organization; a New Jersey LLC.

WHEREAS, the City wishes to provide certain assistance to The Bedrin Organization to encourage the redevelopment of the Brookhill V Shopping Center; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below the City and The Bedrin Organization agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to The Bedrin Organization 50% of the building related permit fees for the Bicycle Village tenant finish required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees.

2. Use Tax Rebate- Construction. The City shall rebate to The Bedrin Organization 50% of the building use tax on the construction materials, resulting from the Bicycle Village tenant finish, required under W.M.C. sections 4-2-9 and 4-2-3.

3. Use Tax Rebate - Furnishings. For the period 3 months prior and 3 months after Bicycle Village obtains its Certificate of Occupancy at Brookhill V, the City shall rebate to The Bedrin Organization 50% of the general use tax (excluding the City's 25% open space tax and .6% public safety tax) collected on equipment and furnishings from Bicycle Village.

4. Sales Tax Rebate. The City shall rebate to The Bedrin Organization 50% of the amount of the incremental sales tax collected over the base year sales tax receipts for Bicycle Village, for the first 3 years (36 months) of operation of the new Bicycle Village store. Such rebate shall be payable exclusively from incremental sales tax revenue collected by the City from the Bicycle Village 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 3 years (36 months) of operation and shall be administered as follows:

- (a) Base Sales Tax Amount. Promptly following the issuance of the final Certification of Occupancy for Bicycle Village at the Brookhill V Shopping Center, the City shall establish the Base Sales Tax Amount. The Base Sales Tax amount will be the total amount of sales tax collected during the base year by the City from Bicycle Village, and attributable to the imposition against retail sales of the City's 3.0% sales tax (excluding the City's .25% open space tax and .6% public safety tax).
- (b) Base and Assistance Years. The base year is defined as the period of time equivalent to the 12 reporting periods prior to opening of the new Bicycle Village store. The assistance years are defined as each consecutive 12 reporting periods following the Base Year, or prior Assistance Year, as applicable. Reporting periods, as referred to in this paragraph, are those periods annually established by Bicycle Village and provided to the City's Sales Tax Administrator. The end of the base year will be at the end of the reporting period just prior to the issuance of the final Certificate of Occupancy for the new Bicycle Village.
- (c) Sales Tax Increment. The Sales Tax Increment is that amount of sales tax collected during an assistance year from Bicycle Village that is in excess of the base sales tax amount.

- (d) Sales Tax Rebate Amount. Any rebates provided by the City to The Bedrin Organization will be from the sales tax increment from Bicycle Village. The City shall rebate to The Bedrin Organization 50% of the sales tax increment.
- (e) Payment. Once the City has collected the base sales tax amount during an assistance year, then sales tax rebate payments will be provided to The Bedrin Organization. The sales tax rebate amount will be paid to The Bedrin Organization in an annual payment, made within 30 days following the end of the applicable assistance year. The sales tax rebate payment will be submitted electronically to The Bedrin Organization designated financial institution.
- (f) End of Sales Tax Rebate. The sales tax rebate shall end 3 years (36 months) from the issuance of the Certificate of Occupancy.

5. Entire Agreement. This instrument shall constitute the entire agreement between the City and The Bedrin Organization and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this agreement with respect to its subject matter.

6. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City if Bicycle Village has not moved into their new space in Brookhill V on or before December 31, 2007; or, should The Bedrin Organization fail to comply with any City code and/or approval process.

7. Business Termination. In the event that Bicycle Village ceases business operations in the City within five years after the new operations commence, The Bedrin Organization shall reimburse the City for any amounts rebated to or otherwise provided to The Bedrin Organization pursuant to this Agreement, unless the City approves a successor to the initial approved user within 12 months of the closing of Bicycle Village, which is substantially similar in quality and sales tax production as the approved user.

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

9. Annual Appropriation. Nothing in this agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

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

The Bedrin Organization, a New Jersey LLC

CITY OF WESTMINSTER

Gerald Bedrin,
Managing Member

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Adopted by Ordinance No.

Linda Yeager
City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Councillor's Bill No. 35 re Best In Class Economic Development Agreement

Prepared By: Susan F. Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor's Bill No. 35 on first reading authorizing the City Manager to execute and implement the Economic Development Agreement (EDA) with Best In Class. The EDA totals \$27,000 for rebate of sales and use tax collected on equipment at move-in.

Summary Statement

- Best In Class is a market development company for home and property improvement services.
- Best In Class currently employs 8 people with average salaries of \$99,875. They expect to add another 80 to 90 jobs over the next three years.
- Economic Development Staff has been actively involved in encouraging Best In Class's relocation of its headquarters from Centennial to Westminster.
- The relocation of Best In Class to Westminster will result in the creation of a significant number of primary jobs and the filling of over 17,000 square feet of vacant office space.
- If Best In Class ceases business operations within three years, they are obligated to reimburse the City for any funds provided under this agreement.

Expenditure Required: \$27,000 (sales and use tax rebates)

Source of Funds: The economic development agreement with Best In Class will be funded exclusively by revenue received from permit fees, construction use tax and sales and use tax on furniture, fixtures, and equipment at move in.

Policy Issue

Does Council desire to provide assistance to Best In Class based on the attraction of a quality basic employer with significant expansion plans and potential to the City?

Alternatives

Do Nothing: One alternative to offering the economic development agreement is to offer nothing to this company. The City may lose the project if assistance is not provided. The result would be that the City's value of attracting primary jobs would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is consistent with other economic development packages.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. It is staff's opinion that additional assistance is not needed.

Background Information

Best In Class started in 2003 and provides business intelligence and market development for home and property improvement companies throughout the country. The company services over 100 trade groups and is a single source of contact for consumers, realtors and builders.

Best In Class recently raised the capital necessary to poise themselves for extensive growth in the next 3 to 5 years. Employment is expected to grow from 8 employees now to as many as 150 by 2011. Payroll will likewise grow to as much as \$11 million in that same time period. As a result of this expected growth, equipment purchases are estimated to run about \$600,000 annually. Over five years, Best in Class will generate approximately \$115,500 ($\$600,000 \times 3.85\% \text{ sales / use tax} \times 5 \text{ years}$) in sales and use tax for the City. Best In Class intends to lease 17,000 square feet in Sheridan Park for their new headquarter facility. The vacancy rate in this business area is higher than average; therefore, the filling of this space is a significance economic benefit for the City.

Based on the above projections, Staff recommends the following economic development agreement:

| Proposed Assistance | Approximate <u>Value</u> |
|---|-------------------------------------|
| <u>Sales and Use Tax on Furniture and Fixtures Rebate</u> | \$27,000 |
| <p style="margin-left: 40px;">During the first 3 years of operations of Best In Class in the new Westminster facility, the City will rebate 50% of the general sales and use tax (excludes the City's .25% open space tax and .6% public safety tax) collected on the furnishings and equipment purchased for the new facility ($\\$600,000 / \text{year new equipment} \times 3 \text{ years} = \\$1,800,000 \times 3\% = \\$54,000 \text{ sales and use tax} \times 50\% = \\$27,000$)</p> | |
| Total Proposed Assistance | \$27,000 |

As Council will note, the assistance being proposed is 23% (\$27,000 total assistance divided by \$115,500 Projected Revenue = 23%) of the total sales and use tax projected for the project in the first five years of operation.

This assistance package is based upon the City's goals to attract quality companies, add primary jobs, and fill existing office space. Best In Class will expand the company's Corporate operations in Sheridan Park. The company provides average salaries above the median household income in Westminster. Best In Class is the type of growth company the City desires for the community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **35**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH BEST IN CLASS TO AID IN THEIR RELOCATION AND EXPANSION IN SHERIDAN
PARK**

WHEREAS, the successful attraction of high quality development to the City 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, Best In Class will lease 17,000 square feet of currently vacant office space in Sheridan Park in the City, and

WHEREAS, a proposed Assistance Agreement between the City and Best In Class 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 Economic Development Agreement with Best In Class 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 22nd day of May 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of June, 2006.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Exhibit A

ECONOMIC DEVELOPMENT AGREEMENT BEST IN CLASS

THIS AGREEMENT is made and entered into this _____ day of _____, 2006, between the CITY OF WESTMINSTER (the "City"), and BEST IN CLASS.

WHEREAS, the City wishes to provide certain assistance to Best In Class to aid in the expansion of this company in the City; and

WHEREAS, Best In Class plans to lease 17,000 square feet in Sheridan Park, thus providing primary job retention and growth within the City; and

WHEREAS, City Council finds the execution of this Agreement will benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

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

1. Sales and Use Tax Rebate- Furniture and Fixtures. For a period of 3 years following the receipt of a City sales tax license and business license for Best In Class, the City will rebate 50% of the general sales and use tax (excludes the City's .25% open space tax and .6% public safety tax) collected in Westminster on the furnishing and equipment purchased to furnish the new facility. The rebate will not exceed \$27,000.

2. Payments of Rebates. Rebates will be paid to Best In Class by the City in quarterly installments from revenue actually collected and received by the City from Best In Class. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically.

3. Entire Agreement. This instrument shall constitute the entire agreement between the City and Best In Class and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

4. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City should Best In Class not comply with the City regulations or code.

5. Business Termination. In the event Best In Class ceases business operations within the City within three (3) years after the new operations commence, then Best In Class shall reimburse the City for any funds provided to Best In Class pursuant to this Agreement.

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

of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

7. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

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

BEST IN CLASS

CITY OF WESTMINSTER

Rex A. Halbeisen
President
Best In Class

J. Brent McFall
City Manager

ATTEST:

Linda Yeager
City Clerk

Adopted by Ordinance No.



Agenda Item 10 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
May 22, 2006



SUBJECT: Councillor Bill No. 36 re Waive Recoveries for the Valle Vista Retail Center

Prepared By: Susan Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor's Bill No. 36 on first reading, authorizing the City Manager to waive approximately \$325,000 in recoveries that have been assessed against the Valle Vista retail center property.

Summary Statement

- Triumph Real Estate Corporation plans to construct a 40,000 s.f. retail and office center at the northwest corner of 104th Avenue and Federal Boulevard.
- Assistance to the developer is based upon the unusual development costs associated with the project because of steep grade, the City's desire to preserve view corridors and high recovery costs.
- This Economic Development Agreement was reviewed with City Council in December, 2005 and City Council directed Staff to bring the agreement forward for action.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the cost recoveries assessed against the Valle Vista property be waived?

Alternatives

1. Do not waive the recoveries. This alternative would result in the project not moving forward at its current development level.
2. Rebate sales tax instead of waiver recoveries. This alternative would require the developer to pay the City immediately \$325,000 for recoveries instead of investing the funds in the project.

Background Information

Triumph Real Estate Corporation is proposing to build an “Italian Hillside Village” at the Northwest corner of 104th Avenue and Federal Boulevard. This approximately 40,000 s.f. project will be a mixture of retail uses, restaurants and professional office. Announced tenants, include LoDo’s Restaurant and Chase Bank.

The combination of topography, limited traffic accessibility to the site, compliance with the City’s enhanced design requirements, vision for the site, and desire to retain mountain views from 104th Avenue, as well as increased infrastructure costs because of retaining walls and upgraded architecture, all add up to pricing the parcel out of the market place for development. The developers estimate the incremental cost of the items outlined is approximately \$1,200,000. The project could be developed at less cost without retaining walls, reduced set backs, less view protection, and less distinctive architecture. Doing so would keep costs down to meet the market rental rates, but would not meet the City’s goals for this site and certainly not meet the high standards the City believes should be applied to this very visible site.

Over 5 years, the project is expected to generate \$1,950,000 in sales tax revenue. This is in addition to construction permit fees and use tax estimated to be \$184,000.

Currently, there is a \$325,000 recovery due to the City from this parcel. The recovery is owed to the City for costs and accrued interest associated with the widening of 104th Avenue initiated in 1997, as well as, utility improvements built in 1977. These improvements were built years ago and have already been paid for by the City.

In reviewing options for the assistance to this project, staff reviewed the 5 year revenue projection for the City as well as the expected need for cash by the developers. Typically for retail projects, Staff recommends a rebate of a portion of the fees and taxes over a period of only 3 years. At a 30 % rebate of permit fees and taxes over 3 years, the dollar amount of the Economic Development Agreement (EDA) would equate to approximately \$406,000. The recovery however, must be paid in-full prior to the start of development. Therefore, staff proposed to the developers (and they have agreed to accept) the following economic development agreement:

| Proposed Assistance | Approximate <u>Value</u> |
|---|-------------------------------------|
| <u>Recovery – waiver</u> 100% of the recoveries due against the parcel and payable to the City will be waived. | \$325,000 |
| Total Proposed Assistance Package | \$325,000 |

As Council will note, the assistance being proposed is 15% (\$325,000 total assistance divided by \$2,133,938 Projected Revenue = 15%) of the total permit fees, construction use tax and sales tax revenue projected from the project in the first 5 years of operation. The City is expected to be made whole on this investment within the first year of operation, and the proposal results in no cash outlay or rebate by the City.

Conclusion

This assistance package supports the City's goals to attract high quality development as well as promote infill development within the City. The developers have been responsive in working with staff to meet specific development goals for this parcel. The waiver of the recovery, as proposed to assist this development, aides the developer, minimizes staff involvement in managing the EDA and encourages what is expected to be a very unique and well designed development.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. _____

COUNCILLOR'S BILL NO. **36**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

A BILL

**FOR AN ORDINANCE ALLOWING THE WAIVER OF COST RECOVERIES FOR CITY-
CONSTRUCTED IMPROVEMENTS AT 104TH AVENUE AND FEDERAL BOULEVARD**

WHEREAS, Westminster Municipal Code § 11-6-7(B)(1) provides that the City shall have the authority to allocate and recover the costs of construction of public improvements or facilities to property owners based on the benefit of such improvement, facility, or service to said owners; and

WHEREAS, Westminster Municipal Code § 11-6-7(B)(3) provides that the City Council shall provide by ordinance for the recovery of appropriate costs for public improvements, facilities, or services constructed by the City, and that said ordinance shall establish the nature and extent of the recoveries due to the City, and that such ordinance may include provisions for simple interest payable to the City; and

WHEREAS, the City previously completed the installation of significant roadway improvements at the intersection of 104th Avenue and Federal Boulevard and City waterline project W72-4 along West 104th Avenue (the "Recoverable Costs"); and

WHEREAS, the City is unaware of any other such Recoverable Costs due against this property; and

WHEREAS, the City, through this ordinance, now wishes to waive the Recoverable Costs, as defined herein, owed to the City by the owner of the northwest corner of the intersection of 104th Avenue and Federal Boulevard; and

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The property located at the northwest corner of 104th Avenue and Federal Boulevard, as described on Exhibit "A" hereto and incorporated herein by this reference (the "Assessed Property"), is hereby released from paying the Recoverable Costs as herein defined.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of May, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of June, 2006.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit A

Legal Description of Valle Vista Shopping Center

LEGAL DESCRIPTION

Part of the southwest one-quarter of section 8, T2S, R68 W of the 6th P.M. in the City of Westminster, County of Adams, State of Colorado.

Block 1, Wandering View Subdivision Filing No. 4.

Total Acreage: 8.35

(Filing No. 18 Map No. 17, and Reception No. C0585985 on 09-01-99)

Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, May 22, 2006. Mayor McNally and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. Mayor Pro Tem Kauffman was absent.

The minutes of the May 8, 2006 regular meeting were approved.

Council recognized employees with 20, 25, and 30 years of service and issued proclamations to honor Sam LaConte and to recognize Mental Health Month.

Council approved the following: April 2006 Financial Report; 1st Qtr Insurance Report; banking service contract; lockbox services for processing utility bill and sales tax payments; construction contract for the 88th & Zuni Lift Station; an IGA with the City of Arvada re resurfacing of 88th Ave. and Garrison St.; and reappointed Curtis Aldstadt to the Metro Wastewater Reclamation District Board of Directors.

The following Councillors' Bills were passed on first reading:

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING SMOKING IN PUBLIC PLACES AND CLEAN INDOOR AIR. Purpose: adopt state law to minimize confusion for businesses and citizens.

A BILL FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH BEST IN CLASS TO AID IN THEIR RELOCATION AND EXPANSION IN SHERIDAN PARK. Purpose: to assist in relocation of Best In Class headquarters to Westminster.

A BILL FOR AN ORDINANCE ALLOWING THE WAIVER OF COST RECOVERIES FOR CITY-CONSTRUCTED IMPROVEMENTS AT 104TH AVENUE AND FEDERAL BOULEVARD. Purpose: waive 104th/Federal intersection improvement recovery costs for Valle Vista Retail Center.

The meeting adjourned at 8:10 p.m.

By Order of the Westminster City Council
Linda Yeager, City Clerk

Published in the Westminster Window on June 1, 2006