



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
 - 1) Ken Hoover, Jeffco Public Schools, regarding construction use tax on school construction
 - 2) Mike Pakewicz, Adams 12 Five Star Schools, regarding construction use tax on school construction
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. 2005 Comprehensive Annual Financial Report
 - B. Cooling Tower Replacement at the former Police Department Building
 - C. Purebred Arabian Trust Open Space Acquisition Grant Agreement with Adams County
 - D. Holly Park IGA with WEDA re Reimbursement of Funds and Sharing of Tax Revenues
 - E. Second Reading Councillor's Bill No. 33 re Code Amendment to Comply with Clean Indoor Air Act
 - F. Second Reading Councillor's Bill No. 35 re Best In Class Economic Development Agreement
 - G. Second Reading Councillor's Bill No. 36 re Waive Recoveries for the Valle Vista Retail Center
9. Appointments and Resignations
 - A. Resolution No. 32 re Appointment to Boards and Commissions
10. Public Hearings and Other New Business
 - A. Public Meeting re the 2007 and 2008 City Budget
 - B. Public Hearing re the Village Homes Preliminary Development Plan
 - C. Preliminary Development Plan for Village Homes (Depew Street and 72nd Avenue)
 - D. Resolution No. 33 re Single-Family Attached Competition Service Commitment Award
 - E. Resolution No. 34 re Right-of-Way Acquisition for 104th Avenue and Sheridan Blvd Intersection Improvements
 - F. Councillor's Bill No. 37 re Westminster Armed Forces Tribute Garden Supplemental Appropriation
 - G. Councillor's Bill No. 38 re Creating an Alternate Member on the Human Services Board
11. Old Business and Passage of Ordinances on Second Reading
 - A. TABLED Councillor's Bill No. 34 re Agreement with The Bedrin Organization for Brookhill V Shopping Center
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, JUNE 12, 2006 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Dolph Carlson, a Scout working on his Eagle Scout designation, led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Pro Tem Kauffman and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. Mayor McNally was absent and excused. J. Brent McFall, City Manager, Jane Greenfield, Assistant City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Price, to approve the minutes of the regular meeting of May 22, 2006. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that the audio of Council meetings was being broadcast live on the City's Website. Anyone with internet access could tune in from this point forward and hear the business of the City being conducted. Mr. McFall described activities planned at City Park on July 4th to celebrate Independence Day and invited the community to attend. In conclusion, he announced that Council would conduct a meeting of the Westminster Economic Development Authority (WEDA) after adjourning the City Council meeting, and at the conclusion of the WEDA meeting, Council would hold its post-meeting briefing and discuss a separate WEDA item. The public was welcome to attend.

CITY COUNCIL COMMENTS

Councillor Major reported having participated with numerous volunteers in an open space project removing fence posts north of 128th Avenue. The turnout of volunteers had been remarkable, allowing for a couple of other open space projects in the City to be accomplished. He thanked staff for organizing the effort.

Councillor Kaiser reported that he and Councillor Lindsey had participated in a motivating Flag Day ceremony at the Westminster Elks Lodge. Councillor Lindsey added that the ceremony had been hosted by Westminster this year in recognition of the Lodge's 45th anniversary. After the ceremony a class in proper flag disposal was offered. The ceremony provided a perfect opportunity to remind those in attendance of the Armed Forces Tribute Garden that the City was going to build at City Park.

Councillor Lindsey reported having attended a ceremony to designate three young men, one being Todd Shinneman, as Eagle Scouts.

Councillor Price reported having toured Rocky Flats to observe its recovery. Roads were overgrown with foliage and wildlife roamed the area. The recovery plan was proceeding as planned.

PRESENTATIONS

Ken Hoover, Greg Bushey and Pete Doherty of Jeffco Public Schools and Mike Pakewicz of Adams 12 Five Star Schools addressed Council to request waiver of the City's use tax on construction relative to new schools each district

was building in Westminster.

CITIZEN COMMUNICATION

Vi June, 7500 Wilson Court, asked Council to revisit the concept of allowing burials in the Wesley Chapel Cemetery; applauded the pending update of Code Enforcement regulations; inquired about a hotline to report fireworks violations; and thanked Council for improvements to Lowell Boulevard in her neighborhood.

Ron Biehler, 14457 Jason Drive, presented a petition from residents of the Cheyenne Ridge development requesting installation of speed control devices on Jason Drive from 144th Avenue to 145th Way and on 145th Way from Jason Drive to Huron Street.

Dolph Carlson, the Scout who led the Pledge at the opening of this meeting, presented a petition on behalf of Arapahoe Ridge residents requesting installation of a three-way stop at the 132nd and Pecos Street intersection.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: acceptance of the 2005 Comprehensive Annual Financial Report; authority for the City Manager to execute a \$78,368 contract with Siemens Building Technologies for the replacement of the mechanical cooling tower system and associated pumps at the former Police Station and authorize an additional \$10,000 contingency to the project; authority for the City Manager to execute the grant agreement, conservation easement, and other documents to accept the Adams County grant of 50% of the purchase price, up to \$353,000, for the acquisition of the Purebred Arabian Trust property at the southwest corner of Federal Parkway and 122nd Avenue; authority for the Mayor to sign an Intergovernmental Agreement between the City and the Westminster Economic Development Authority (WEDA) that provides for the reimbursement by WEDA of funds previously allocated for the redevelopment of Holly Park from future land sale proceeds and tax increment revenue; final passage of Councillor's Bill No. 33 repealing Title VI, Chapter 13, Westminster Municipal Code Smoking in Public Places, and reenacting Title VI, Chapter 13, Westminster Municipal Code with the Clean Indoor Air Act; final passage of Councillor's Bill No. 35 authorizing the City Manager to execute and implement the Economic Development Agreement with Best In Class allowing a \$27,000-rebate of sales and use tax to be collected on equipment at move-in; and final adoption of Councillor's Bill No. 36 authorizing the City Manager to waive approximately \$325,000 in recoveries that had been assessed against the Valle Vista retail center property.

Mayor Pro Tem Kauffman 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 Major and seconded by Lindsey to approve the consent agenda, as presented. The motion passed unanimously.

RESOLUTION NO. 32 RE APPOINTMENT TO BOARDS AND COMMISSIONS

It was moved by Councillor Dittman and seconded by Councillor Major to adopt Resolution No. 32 to fill a vacancy on the Human Services Board. At roll call the motion passed by a 5:1 margin with Councillor Kaiser voting no.

PUBLIC MEETING RE THE 2007 AND 2008 CITY BUDGET

The Mayor Pro Tem recognized Mr. McFall, who announced that this was the first of three opportunities the public would have to present requests, comments and suggestions relative to the 2007 and 2008 budget.

Presenting requests were: Ken Harris, 11625 Shoshone Way, and Don Lewis 2459 Country Club Loop, requesting stormwater drainage improvements in The Ranch Country Club and provided pictures and detailed information

describing existing problems; Heather, Hunter, Ryan, and Emily Brown, 14467 Jason Drive, renewed their request for development of the Cheyenne Ridge Park and installation of playground and recreational amenities; Ron Biehler, 14457 Jason Drive concurred with the Browns' comments and offered labor of Cheyenne Ridge residents to assist in the park's development; and Vi June, 7500 Wilson Court, supported the addition of more Code Enforcement Officers to address problems in the City's aging neighborhoods.

No others wished to speak. The next opportunity to comment on the 2007 and 2008 budget would be during the July 10 regular City Council meeting. The public hearing on the budget would be held on September 18.

PUBLIC HEARING RE VILLAGE HOMES PDP

At 7:55 p.m., the Mayor Pro Tem opened a public hearing to consider the Village Homes Preliminary Development Plan (PDP). David Shinneman, Acting Community Development Director, advised that the proposed development, involving 18.3 acres, was located at the northeast corner of Depew Street and 72nd Avenue within the Shoenberg Farms Planned Unit Development. The project included 64 detached and 60 attached single-family units. He entered the agenda memorandum and attached documents into the record and informed Council that notice of this public hearing had been published in the *Westminster Window*, posted on the property, and mailed to property owners within 300 feet of the subject property.

Karen Holbert addressed Council on behalf of Village Homes, the applicant, and introduced other members of the development team. Ms. Holbert showed schematics of the layout, including landscaping, accesses, and traffic-calming techniques to be installed. Councillors had questions regarding stormwater drainage improvements and other infrastructure improvements, including the provision of adequate electricity.

In concluding remarks, Mr. Shinneman advised that the Planning Commission had reviewed this proposal on May 23, 2006, and voted to recommend approval. The Mayor Pro Tem closed the hearing at 8:22 p.m.

APPROVAL OF VILLAGE HOMES PDP

Councillor Price moved to approve the Village Homes Preliminary Development Plan within the Shoenberg Farms Planned Unit Development based on finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code had been met. Councillor Major seconded the motion, and after comments from Councillors Kaiser and Lindsey and Mayor Pro Tem Kauffman, the motion passed unanimously.

RESOLUTION NO. 33 RE SINGLE-FAMILY ATTACHED SERVICE COMMITMENT AWARD

It was moved by Councillor Dittman and seconded by Councillor Major to adopt Resolution No. 33 awarding Category B-2 Service Commitments to the Walnut Grove single-family attached project proposed for the southwest corner of West 108th Avenue and Wadsworth Parkway based on the findings established in Section 11-3-1 of the Westminster Municipal Code. At roll call, the motion passed unanimously.

RESOLUTION NO. 34 TO ACQUIRE RIGHT-OF-WAY FOR 104TH/SHERIDAN IMPROVEMENTS

It was moved by Councillor Major, seconded by Dittman, to adopt Resolution No. 34 authorizing City Staff to proceed with the acquisition of rights-of-way and easements necessary for the 104th Avenue and Sheridan Boulevard intersection improvement project, including the use of eminent domain, if necessary, and to authorize up to \$225,000 for acquisition costs and all related expenses. At roll call, the motion passed with all Council members voting yes.

COUNCILLOR'S BILL NO. 37 RE WESTMINSTER ARMED FORCES TRIBUTE GARDEN

Upon a motion by Councillor Lindsey, seconded by Councillor Major, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 37 on first reading authorizing a \$150,000 supplemental appropriation reflecting the

City's receipt of a Jefferson County Open Space Joint Venture Grant to be utilized for the Armed Forces Tribute Garden.

Bill Walenczak, Parks, Recreation and Libraries Director, announced plans to break ground for Phase I construction of the memorial on Veterans' Day, November 11, 2006.

COUNCILLOR'S BILL NO. 38 TO CREATE AN ALTERNATE MEMBERSHIP ON HUMAN SERVICE BOARD

Councillor Dittman moved to pass Councillor's Bill No. 38 on first reading amending the Westminster City Code by creating an alternate member on the Human Services Board. Councillor Price seconded the motion, and it passed unanimously on roll call vote.

COUNCILLOR'S BILL NO. 34 RE AGREEMENT WITH THE BEDRIN ORGANIZATION

It was moved by Councillor Price and seconded by Councillor Dittman to remove Councillor's Bill No. 34 from the table. The motion passed unanimously.

Councillor Price moved to pass Councillor's Bill No. 34 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement with the Bedrin Organization to assist with redevelopment of the Brookhill V retail center. Councillor Dittman seconded the motion. At roll call, the motion passed unanimously.

ADJOURNMENT:

There was no further business to come before City Council, and the meeting adjourned at 8:35 p.m.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: 2005 Comprehensive Annual Financial Report

Prepared By: Cherie Sanchez, Accounting Manager

Recommended City Council Action

Accept the 2005 Comprehensive Annual Financial Report (CAFR).

Summary Statement

- The 2005 CAFR represents the summary of the City's financial transactions that occurred during 2005 and its financial position at December 31, 2005. The financial statements can be used by Citizens, City Council, investors, creditors, and others in assessing the City's financial and economic condition.
- Section 9.10 of the City Charter mandates an annual audit of the City's financial statements by certified public accountants, experienced in municipal accounting. This audit was performed by the City's independent audit firm, Swanhorst & Company LLC. Swanhorst rendered an unqualified opinion on the City's financial statements. An unqualified opinion means that the City's financial statements are fairly presented in all material respects in conformity with Generally Accepted Accounting Principles (GAAP).
- Staff primarily responsible for completing the 2005 CAFR includes Accounting Manager Cherie Sanchez, Accountants Vicki Adams, Karen Creager, Sam Trevino and Gary Newcomb, Pension Benefits Specialist Kim McDaniel, Revenue Administrator Byron Jefferson, Financial Analyst Bob Byerhof, Accounting Technicians Leslie Krough and Karen Elrod, and Administrative Secretary Maggie Hunter. Every element of City SPIRIT underlies the final 2005 CAFR as a result the hard work and dedication of this highly qualified team.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should Council accept the 2005 Comprehensive Annual Financial Report as presented?

Alternative

Postpone acceptance of the 2005 Comprehensive Annual Financial Report to a later City Council meeting. Postponing the June 12 acceptance is not recommended due to the upcoming June 30 deadline to comply with Colorado State Statutes (section 29-1-606) on audits of local governments. Delaying the acceptance may make meeting the June 30 deadline prohibitive, particularly if changes are requested. Consequences for not complying with the State mandate range from receiving delinquent notices to deferment of tax distributions from the counties.

Background Information

The 2005 Comprehensive Annual Financial Report contains an abundance of information that can be utilized to evaluate the City's financial condition and its operational and fiscal accountability for the year. The Comprehensive Annual Financial Report provides a comprehensive summary of the City's finances and other relevant information for the 2005 audit year, including economic overviews, financial analyses, financial statements, note disclosure, budgetary compliance schedules, trend information and single audit information.

In compliance with the Section 9.10 of the City Charter, Swanhorst & Company LLC, conducted an independent audit of the City's financial statements for all funds reported in the Comprehensive Annual Financial Report and gave an unqualified opinion.

A financial analysis of the 2005 CAFR was presented to Council at the June 5, 2006 Study Session, at which time representatives from Swanhorst & Company were on hand to answer Council's questions and to discuss their recommendations to management. Council is now requested to officially accept the City's 2005 Comprehensive Annual Financial Report as presented.

Printed copies of the CAFR will be available in two to four weeks after City Council officially accepts the report.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Replacement of Cooling Tower in Former Police Department Building

Prepared By: Jerry Cinkosky, Facilities Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with Siemens Building Technologies for the replacement of the mechanical cooling tower system and associated pumps at the former Police Station in the amount of \$78,368, authorize an additional \$10,000 contingency to the project.

Summary Statement

- Over the past 3 years the former City of Westminster Police Station has been vacant having been used for storage and occasional Police and Fire Department trainings. To keep energy consumption costs for the vacant building at a minimum and to prevent the buildings aging mechanical and plumbing systems from freezing in the winter months the HVAC system was set to maintain the temperature of the building to at least 50 degrees in the winter months and 80 degrees in the summer months.
- During the past winter and subsequent cold spells in January of 2006, a mechanical damper motor failed in the open position allowing cold air to enter the mechanical room of the building. Having the temperature in the building set at 50 degrees and the exterior temperature dropping below zero, caused the copper tubing on the interior of the cooling tower to freeze and crack in numerous locations. The pumps that send water to the rest of the building were run dry and were damaged when they could not move the frozen water through the system.
- Due to the potential leasing of the building in the near future to the State Parole Board and the continued need to provide heating and cooling to the building, City Staff contacted Siemens Energy Company (the company that is currently working on the City's energy saving retrofits) to request assistance with their expertise in mechanical design as well as their knowledge of and experience with excellent subcontracting companies in the area. Siemens assisted the City with the design of the new system and bid the retrofit to mechanical subcontractors that Siemens had worked with in the past.

Expenditure required: \$78,368 project cost and \$10,000 contingency

Source of Funds: General Capital Improvement Fund – BO&M Project (\$44,184)
Property and Liability Self Insurance Fund (\$44,184)

Policy Issue

Should City Council award a contract to Siemens Building Technologies for the replacement of the cooling tower at the former Police Department building?

Alternative

Do not proceed with the replacement of the cooling tower mechanical system. Staff is not recommending this action based on the mechanical system being essential in providing cooling to the facility's 36 heat pump units. Moreover, the repairs must be made prior to the completion of the tenant finish remodel work planned for this summer.

Background Information

The former Westminster Police station was built in 1979 and the majority of the building's HVAC equipment was installed during the original construction of the facility. The building was vacated by the Police Department in November 2002 with the opening of the new Public Safety Center. Over the past 3 years City Staff has been working to find a suitable tenant to lease the facility. During this time period Building Operations and Maintenance Division staff have maintained the facility's essential plumbing, electrical and HVAC systems. In an attempt to hold down rising utility costs associated with a vacant facility, temperatures have been kept at 80 degrees for cooling in the summer months and 50 degrees for heating during the winter months.

During a routine maintenance check of the facility in January of 2006 it was noticed that the building temperature had dropped well below freezing. Upon further investigation, Staff found ice on the floor of the mechanical room, the cause of which was determined to be frozen and cracked copper tubing inside the buildings cooling tower mechanical system. At some point during the two week cold spell an actuator motor failed on the exterior dampers (while in the open position) to the mechanical room, causing the below zero air to infiltrate the building, which subsequently caused the pipes inside the cooling tower to freeze and burst. The end result was that the system's frozen condition caused the pumps to burn out and the bearing assemblies come apart when water was not able to run through the system.

American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASRAHE) building standards project mechanical cooling towers to have an effective life expectancy of 25 years. The mechanical cooling tower was 27 years old when it failed.

Staff is recommending that the cost be split between the Property and Liability Fund and the Building Operations and Maintenance Division CIP Fund as this was a one-time incident that was unforeseen and unpredictable and as such would typically be considered for Risk Management funds. Unfortunately, due to the fact that it was caused by freezing due to cold weather it is debatable as to whether it is a covered loss under any of the City's insurance policies. Therefore, Risk Management and BO&M have agreed to split the cost of repair. Replacement of the facilities cooling tower is essential in providing cooling to the buildings condenser water supply loop during the summer months. Adequate funds are available in the Property and Liability Fund and General Capital Improvement Building Operations and Maintenance Project to cover this cost.

SUBJECT: Replacement of Cooling Tower in Former Police Department Building Page 2

City staff is recommending that this project be awarded the lowest and most responsive bidder, Synergy Mechanical Company. The bid results are as follows:

CONTRACTOR	PRICE
Hurst and Burn Mechanical Company	\$83,127 (Cooling Tower) No bid (Pump Replacements) Total \$83,127
Synergy Mechanical Company (low bidder)	\$66,637 (Cooling Tower) \$11,731 (Pump replacement) Total \$78,368
U.S. Engineering	\$77,214 (Cooling Tower) \$12,335 (Pump Replacement) Total \$89,549

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Purebred Arabian Trust Open Space Acquisition Grant Agreement and Conservation Easement with Adams County

Prepared By: Ruth C. Becker, Open Space Coordinator

Recommended City Council Action

Authorize the City Manager to execute the grant agreement, conservation easement, and other documents in order to accept the Adams County grant of 50% of the purchase price, up to \$353,000, for the acquisition of the Purebred Arabian Trust property at the southwest corner of Federal Parkway and 122nd Avenue.

Summary Statement

- Council is requested to authorize the City Manager to execute the Grant Agreement with Adams County, in order to receive the \$353,000 grant for the acquisition of the Purebred Arabian Trust property located at the southwest corner of Federal Parkway and 122nd Avenue (extended).
- Adams County has added a new requirement to its open space grants. The grant agreement now requires the City to execute a conservation easement to Adams County at the time of closing on the purchase of the Purebred Arabian Trust property. The conservation easement will provide that the property will remain preserved for passive uses, and that it will not be used for parking lots, restroom facilities, picnic areas, or other similar improvements without the express approval of Adams County.
- Staff does not object to the conservation easement restrictions on this parcel as the restrictions are consistent with the proposed open space use of the property.
- Council is also requested to authorize the City Manager to execute a conservation easement over the Purebred Arabian Trust property to Adams County.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City accept the \$353,000 grant from Adams County, enter into the Grant Agreement, and encumber the property with a conservation easement that will permanently restrict its use to passive open space?

Alternative

Council could choose not to accept the \$353,000 grant from Adams County because restrictions must be placed on the uses of the property. Staff does not recommend this alternative because the \$353,000 grant is a significant award that is necessary to fund the purchase of the Purebred Arabian Trust property and the restrictions are consistent with the proposed open space use for the parcel.

Background Information

Council approved a purchase agreement for the Purebred Arabian Trust's 6.35 acre parcel at the southwest corner of Federal Parkway and 122nd Avenue (extended) on January 23, 2006. The agreement is expressly contingent on an award of 50% of the purchase price from Adams County. Closing is scheduled to occur not later than August 31, 2006.

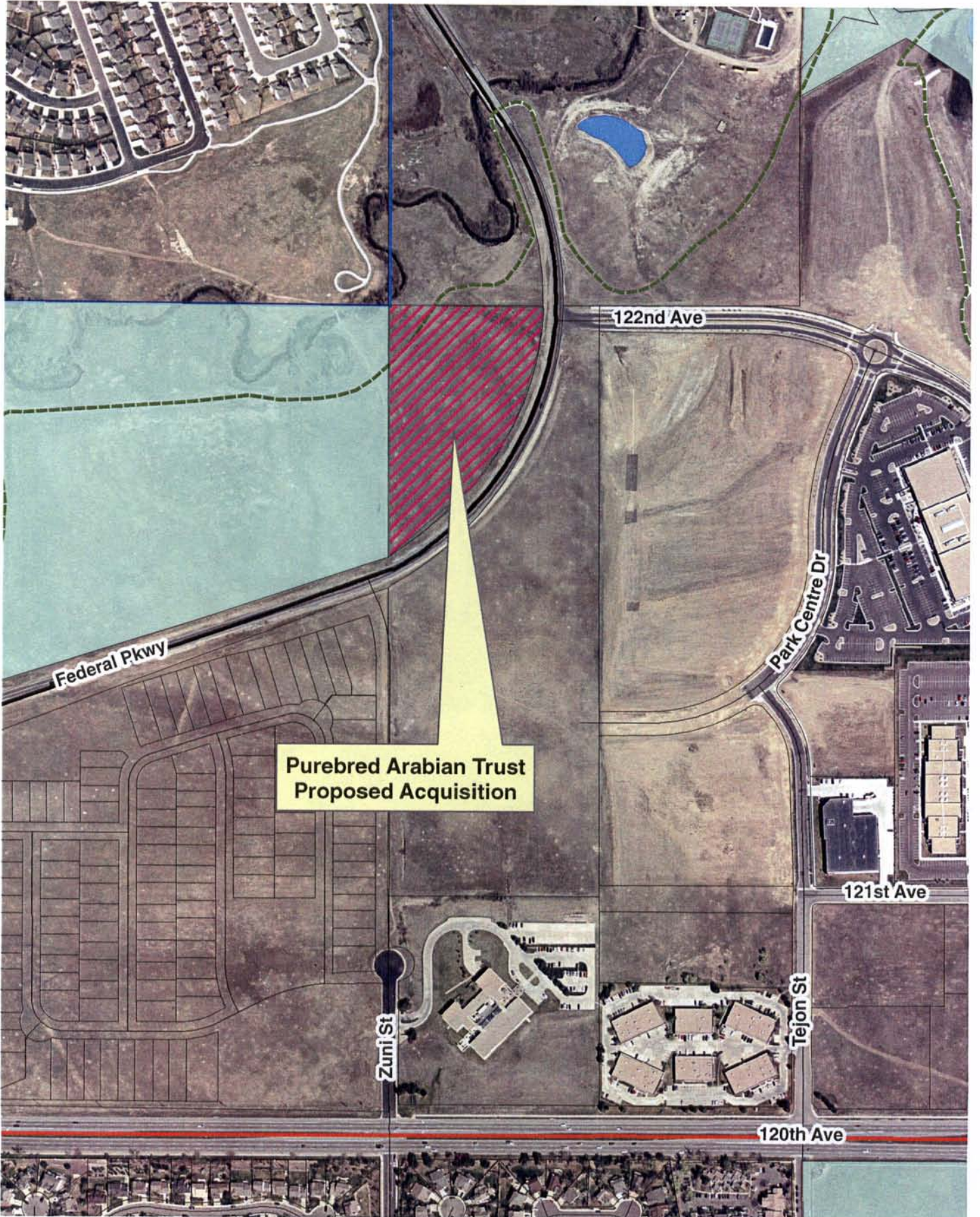
The Adams County Board of Commissioners approved the grant of 50% of the purchase price, not to exceed \$353,000, subject to execution of a grant agreement. Adams County's new form of grant agreement includes a requirement to ensure that properties purchased with open space funds will remain as open space, and not be converted to other uses. The mechanism they have chosen to ensure the property remains as open space is a conservation easement granted to Adams County. Under the conservation easement, Adams County is granted the right to enforce certain use restrictions on the property. Specifically, the conservation easement will provide that the property will remain preserved for passive uses, and that it will not be used for parking lots, restroom facilities, picnic areas, or other similar improvements without the express approval of Adams County.

Receipt of this \$353,000 grant from Adams County will be a critical piece of the funding needed to allow the City to purchase the Purebred Arabian Trust property. The Purebred Arabian Trust property has been designated a Priority One open space acquisition by the Westminster Open Space Advisory Board. It is a critical piece of the Big Dry Creek open space corridor.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Location Map



Purebred Arabian Trust
Proposed Acquisition



0 270 540 1,080 Feet



Agenda Item 8 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Intergovernmental Cooperation Agreement between the City and WEDA Regarding the Reimbursement of Allocated Funds in the Holly Park Urban Renewal Area and Sharing of Tax Increment Revenues to Re-pay these Funds

Prepared By: Aaron B. Gagné, Capital Projects Coordinator

Recommended City Council Action

Authorize the Mayor to sign an Intergovernmental Agreement between the City and the Westminister Economic Development Authority (WEDA) that provides for the reimbursement by WEDA of funds previously allocated for the redevelopment of Holly Park from future land sale proceeds and tax increment revenue.

Summary Statement

- The Holly Park Urban Renewal Area was created on February 23, 2004 to facilitate the redevelopment of property within its boundaries.
- On July 25, 2005, the City did allocate \$1.125 million in funds carried-over from the 2004 budget year expressly for the purpose of bringing about the redevelopment of the abandoned Holly Park townhome project on Federal Boulevard between 96th and 97th Avenues.
- After a protracted legal battle, on April 11, 2006 WEDA was granted title to the property and immediately thereafter moved to demolish the abandoned structures.
- WEDA will ultimately realize revenue from the redevelopment of the project, in the form of a purchase price from a to-be-named developer who will complete the project, and in the form of incremental tax revenue generated by the completed project.
- It has always been staff's intent that such revenue would be pledged to the City to refund 100% of the costs of the redevelopment.
- The IGA spells out the obligations of the City and WEDA regarding their mutual obligations and the obligations of repayment.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City of Westminster enter into an intergovernmental cooperation agreement with WEDA to outline repayment of funds advanced to WEDA by the City to bring about the redevelopment of Holly Park?

Alternative

Do not authorize the execution of the intergovernmental cooperation agreement between the City and WEDA regarding the repayment of funds advanced to WEDA by the City to bring about the redevelopment of Holly Park. This alternative is not recommended. Revenues will be available to repay the advanced funds to the City as a result of the property sale and future tax increment.

Background Information

City Council created the Holly Park Urban Renewal Area to effect the redevelopment of the abandoned Holly Park Townhome project. WEDA is the entity responsible for carrying out that redevelopment, and the body that has undertaken the protracted legal battle to gain control of the property.

The City budgeted and committed \$1.125 million in funds carried-over from the 2004 budget year expressly for the purpose of bringing about the redevelopment of Holly Park. While the specific actions and expenditures of redevelopment are being undertaken by WEDA, those actions will also generate certain revenues that will be able to re-pay the City funds. In this manner, the redevelopment can ultimately be self-funding. The projected revenues include those from the ultimate sale of the property to a new developer for completion of the project, and annual incremental tax revenues generated by the completion of the project.

An agreement between the City and WEDA in the form of the attached Intergovernmental Cooperation Agreement formalizes WEDA's commitment to use all available revenues from the Holly Park Urban Renewal Area to repay the \$1.125 million advanced by the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: City of Westminster / WEDA Intergovernmental Agreement – Holly Park Funding

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF WESTMINSTER AND
THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY CONCERNING
THE HOLLY PARK TOWNHOME URBAN RENEWAL PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this 12th day of June, 2006, by and between **THE CITY OF WESTMINSTER**, a home rule municipal corporation ("City"), and **THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY**, a Colorado urban renewal authority ("WEDA").

WHEREAS, the City is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its City Charter; and

WHEREAS, WEDA is a Colorado urban renewal authority, with all the powers and authority granted to it pursuant to sections 31-25-101 *et seq.*, and

WHEREAS, pursuant to Article XIV of the Colorado Constitution, and part 2 of Article I of Title 29, Colorado Revised Statutes, the City and WEDA are authorized to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each governmental entity; and

WHEREAS, the Constitution and the laws of the State of Colorado permit and encourage local government entities to cooperate with each other to make the most efficient and effective use of their powers and responsibilities; and

WHEREAS, pursuant to Section 31-25-112 of the Colorado Urban Renewal Law, the City is specifically authorized to do all things necessary to aid and cooperate with WEDA in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations, or activities of WEDA, and to enter into agreements with WEDA respecting such actions to be taken by the City; and

WHEREAS, on April 5, 2004, WEDA authorized the acquisition of the Holly Park Townhome Project Site ("the Site") through the exercise of the authority's eminent domain power, if necessary; and

WHEREAS, on May 9, 2005, WEDA filed a condemnation action to acquire the Site; and

WHEREAS, the Site is located at approximately 97th and Federal Boulevard in the City of Westminster; and

WHEREAS, the owner of the Site abandoned the construction of the Holly Park Townhome Project in approximately March of 2001; and

WHEREAS, the City Council previously determined that the Site was blighted and designated the Site as an urban renewal area and approved an urban renewal plan for the elimination of the conditions of blight at the Site, and the redevelopment of the Project; and

WHEREAS, the City has previously advanced all costs related to the condemnation and remediation of the Site, including but not limited to legal fees, appraisal costs, and a preliminary just compensation deposit in the amount of \$100,000.00, and intends to further advance to WEDA the amount of final just compensation for the Site and other costs in connection with the pending condemnation action and the ultimate redevelopment of the Site (the "Advances"); and

WHEREAS, C.R.S. § 31-25-107(9) authorizes an urban renewal authority to use tax increment financing to fund its urban renewal projects; and

WHEREAS, the urban renewal plan for the Holly Park Urban Renewal Area includes a provision for tax increment financing; and

WHEREAS, C.R.S. § 31-25-107 specifically authorizes an urban renewal authority to apply property tax increment revenues to pay the principal of and the interest on any advances to or indebtedness incurred by the Authority for financing or refinancing in urban renewal projects; and

WHEREAS, the City and Urban Renewal Authority find it to be in the public interest to cooperate with each other to finance the Holly Park Urban Renewal Project through the execution of this Agreement,

NOW, THEREFORE, the parties agree as follows:

1. The cumulative amount of the Advances by the City to WEDA is hereby designated a loan by the City to WEDA (the "Loan"). WEDA commits to pay property tax increment collected from the Site to the City until the Loan is repaid. WEDA also agrees to pay the proceeds of the sale of the Site to the City at the time that the Site is sold, which proceeds will be applied to the Loan. The Loan from the City to WEDA shall accrue interest at the rate of six percent (6%) per annum on the loan balance until paid.

2. A breach by any party to this Agreement shall entitle the non-breaching party to any and all remedies at law or in equity. In any action brought to enforce this Agreement, the prevailing party shall be entitled to recover from the other its reasonable attorneys fees and costs. Before bringing any such action, however, the parties agree to attempt in good faith a mediated resolution of their dispute using a mutually acceptable profession and independent mediator.

3. This Agreement may be amended at any time by mutual written agreement of the Parties.

4. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect, impair or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

CITY OF WESTMINSTER

By: _____
Nancy McNally, Mayor

Attest:

Linda Yeager, City Clerk

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Nancy McNally, Chair

Attest:

Linda Yeager, Secretary



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Second Reading of 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 second 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.
- This Councillor’s Bill was passed on first reading on May 22, 2006.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3289**

COUNCILLOR'S BILL NO. **33**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

Price - Major

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

6-13-8: SEVERABILITY

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
June 12, 2006



SUBJECT: Second Reading for 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 second 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

- This Councillor's Bill was passed on first reading on May 22, 2006.
- 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.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3290**

COUNCILLOR'S BILL NO. **35**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

Major - Dittman

**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 8 G

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Second Reading for 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 second 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

- This Councillor's Bill was passed on first reading on May 22, 2006.
- 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

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3291**

COUNCILLOR'S BILL NO. **36**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

Dittman - Price

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)



Agenda Item 9 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Resolution No. 32 re Appointment to Boards and Commissions

Prepared by: Linda Yeager, City Clerk

Recommended City Council Action

Adopt Resolution No. 32 to fill a vacancy on the Human Services Board.

Summary Statement

- City Council action is requested to appoint an eligible citizen to fill a vacancy on the Human Services Board that was created by the resignation of Ida Whitelaw Pandit.
- The term of this appointment will expire on December 31, 2006.
- If Council approves the recommended appointment, the Boards and Commissions pool of eligible applicants will be reduced to 11.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council want to fill a vacancy on the Human Services Board so the Board has benefit of a full complement of members?

Alternative

No alternatives identified

Background Information

The recent resignation of Ida Whitelow Pandit has created a vacancy on the Human Services Board. To avoid the possibility of not having a quorum at a time when the Board is carrying out its duties for the 2007-2008 budget cycles, it is recommended that Samantha Dixon be appointed to fill Ms. Pandit's term, which will expire December 31, 2006. Ms. Dixon applied for appointment to this Board and remains interested in serving the City in this capacity.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **32**

INTRODUCED BY COUNCILLORS

SERIES OF 2006

DITTMAN - MAJOR

CITY OF WESTMINSTER BOARD AND COMMISSION APPOINTMENT

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized members to carry out the business of the City of Westminster with citizen representation; and

WHEREAS, The City Council has been notified of the resignation of Ida Whitelow Pandit, a member of the Human Services Board; and

WHEREAS, An eligible citizen of Westminster who has previously expressed interest in serving on one or more of the City's Boards and Commissions has been contacted and has voiced specific interest in being appointed to fill the vacancy created by Ms. Pandit's resignation.

NOW THEREFORE, the City Council of the City of Westminster does hereby resolve that:

Section 1. Samantha Dixon is hereby appointed to regular membership on the Human Services Board, term to expire December 31, 2006, to fill the vacancy created by the resignation of Ida Whitelow Pandit.

PASSED AND ADOPTED this 12th day of June, 2006.

ATTEST:

Mayor

City Clerk



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Public Meeting on 2007 and 2008 City Budget

Prepared By: Barbara Opie, Assistant to the City Manager

Recommended City Council Action

Hold a public meeting on the 2007 and 2008 City Budget and receive citizen comments.

Summary Statement

- City Staff is currently preparing budget information for both 2007 and 2008, and this meeting is intended to focus on both 2007 and 2008 citizen requests, comments and suggestions. The public meeting is an informal opportunity for the public to provide input to the City Council on the City Budget.
- City Council officially adopted the City's second two-year budget with the 2005/2006 Budget in October 2004; a mid-year review and amendment process occurred in October 2005. Departments prepare their proposed 2007 and 2008 Budgets through the summer, working to reflect the current economic conditions and community needs. The Departments' efforts culminate in the distribution of the Proposed Budget to City Council at the beginning of September. A second public meeting is scheduled for July 10 and a public hearing is scheduled for September 18 so that citizens will have two more opportunities to comment and provide feedback on the 2007 and 2008 City Budget. City Council must adopt the budget by the October 23 City Council meeting, in accordance with the City Charter.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Listen to citizen requests, comments and suggestions as they pertain to the 2007 and 2008 budget.

Alternative

Council could choose to not conduct a public meeting at this time. This is not recommended as providing citizens an opportunity for input early on in the budget process plays an important role in assuring that the budget reflects community needs.

Background Information

In April, City Council reviewed the goals for 2007 and 2008. The City Council Goals are listed below:

- Financially Sound City Government
- Safe and Secure Community
- Vibrant Neighborhoods and Commercial Areas
- Balanced, Sustainable Local Economy
- Beautiful City

The direction provided by City Council assists City Staff as they develop the 2007 and 2008 City Budget. Other considerations that go into developing a comprehensive budget are department priorities that strive to achieve Council goals identified in the Strategic Plan, maintain existing service levels and citizen or neighborhood input.

In November of 2000, Westminster voters approved a City Charter amendment that allows the City Council to adopt a formal two-year budget. City Council officially adopted the City's first two-year budget with the 2003/2004 Budget and second two-year budget with the 2005/2006 Budget. Staff is again preparing a two-year budget for City Council's consideration for 2007/2008.

A Proposed Budget will be submitted to City Council at the beginning of September for review. After reviewing the Proposed Budget for several weeks, City Council is scheduled to conduct a full-day Budget Retreat on Saturday, September 23. City Council will deliberate on final funding decisions on staffing levels, programs, services, and capital projects at this Budget Retreat.

Two public meetings and one formal public hearing will be held on the 2007 and 2008 Proposed City Budget to solicit citizen input. The public meetings are scheduled for June 12 and July 10 and a public hearing is scheduled for September 18.

Monday's public meeting was advertised in the *Westminster Window* and *Westsider*; on cable Channel 8 and the City's website; and at various public meetings.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 10 B&C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Public Hearing and Action on the Village Homes Preliminary Development Plan

Prepared By: David Falconieri, Planner III

City Council Action

1. Hold a public hearing.
2. Approve the Village Homes Preliminary Development Plan (PDP) within the Shoenberg Farms Planned Unit Development (PUD). This action is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.

Summary Statement

- The Village Homes project within the Shoenberg Farms PUD is an 18.3 acre site located at the northeast corner of Depew Street and 72nd Avenue. The proposed project consists of 64 detached and 60 attached single-family units.
- The Official Development Plan for this development has been approved by the Planning Commission on the condition that the City Council approves the Preliminary Development Plan.
- As part of this project, Depew Street will be completed through to the Wood Creek subdivision, and improvements made to the Faversham Park/Tepper Fields street frontage.
- The project as proposed will be developed in accordance with all applicable Traditional Mixed Use Neighborhood Development (TMUND) design guidelines, except for the building setback along 72nd Avenue that is proposed as 50 feet instead of the required 100 feet. This reduced setback will be mitigated with a 6-foot high masonry wall and a six-foot berm, with higher density landscaping.

Expenditure Required: \$0

Source of Funds: N/A

Planning Commission Recommendation

The Planning Commission reviewed this proposal on May 23, 2006, and voted unanimously (7-0) to recommend the City Council approve the Village Homes Preliminary Development Plan within the Shoenberg Farms Planned Unit Development. This recommendation is based on a determination that the findings set forth in Section 11-5-14 of the Westminster Municipal Code have been met.

Two people spoke at the hearing, one in favor of the proposal, and the other for clarification. The latter asked about improvements to the Tepper Fields parking lot and about the types of street lights to be installed. The Tepper Fields parking lot will be improved using the Park Development fee from this project, and the City will install the standard “Cobra head” type street lights along Depew Street.

Policy Issue

Should the City approve the Village Homes Preliminary Development Plan within the Shoenberg Farms Planned Unit Development?

Alternative

Deny the Village Homes Preliminary Development Plan within the Shoenberg Farms Planned Unit Development. If this action is taken, the Official Development Plan cannot be approved as proposed.

Background Information

Nature of Request

The proposed Village Homes project within the Shoenberg Farms PUD is designed as a Traditional Mixed Use Neighborhood Development, and the design therefore incorporates the design elements required within those guidelines. These include 64 alley loaded single-family detached units, a .7 acre private open area with a tot lot and picnic shelters, 60 single-family attached units in 9 buildings, and a new connection for 73rd Avenue that will connect Favershaw Park with this development and points east. As a part of this project, Depew Street will be completed to the north. A number of traffic mitigation installations have been included in the design of those streets to restrict speeds. The applicant will construct the entire width of Depew Street including installation of curb, gutter, sidewalk and landscaping abutting Tepper Fields on the west side of the street.

Location

The site is located at the northeast corner of Depew Street and 72nd Avenue. (Please see attached vicinity map).

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice was published in the Westminster Window on May 11, 2006.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. One sign was posted on the property on May 12, 2006.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on May 11, 2006.

Applicant/Property Owner
 Village Homes of Colorado

Surrounding Land Use and Comprehensive Land Use Plan Designations

Development Name	Zoning	CLUP Designation	Use
North; Wood Creek Subdivision	PUD	R-3.5 Residential	Residential
West; Tepper Fields and The Farms Subdivision	PUD	Public Park and R-3.5 Residential	Public Park and Residential
East; Shoenburg Farms	PUD	Retail Commercial and R-8 Residential	Vacant /Historic Farm Buildings
South; Shoenburg Shopping Center Redevelopment Property, South	PUD	Retail Commercial	Retail Commercial

Site Plan Information

The following site plan information provides a few examples of how the proposals comply with the City’s land development regulations and guidelines; and the criteria contained in Section 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached).

- **Traffic and Transportation:** The proposed development will facilitate the connection of Depew Street from 72nd Avenue north to the existing Wood Creek subdivision and the connection of 73rd Avenue from Depew Street east to Sheridan Boulevard. This development will generate approximately 980 vehicle trips on a typical weekday with 75 of these trips occurring during the AM peak and 98 trips occurring during the PM peak. The traffic in the vicinity will increase about 1 to 5 percent during peak times due to the proposed development. The total forecasted traffic volume for Depew Street north of 72nd Avenue, which includes the anticipated traffic from the Wood Creek neighborhood, is estimated to be 2,100 vehicles per day compared to 770 per day currently. Three hundred and forty-two out of the 2100 vehicles will be generated from the proposed development. The projected level of traffic for Depew Street is not uncommon for a street that serves a broad area and intersects an arterial street such as 72nd Avenue. Traffic calming strategies will be incorporated into the design of Depew Street in an effort to alleviate traffic flow issues. Traffic activity at the intersection of 72nd Avenue and Depew Street will be monitored as the area develops to determine if a traffic signal is warranted. According to the Traffic Impact Report, the existing and proposed road improvements will adequately handle the increased traffic demand.
- **Site Design:** The proposed project will have 64 single-family detached units and 60 single-family attached units with the latter located at the north end of the project. All units will meet the architectural and site layout requirements of the TMUND guidelines. The design will feature a centrally located 31,800 square foot (.7 acre) private park with tot lot and picnic area.

As part of this project the developers will construct the missing portion of Depew Street between 73rd Avenue and the Wood Creek subdivision. Both sides will be completed and landscaped. That street will be constructed with “bulbs,” or narrowed sections, at the intersections to help regulate traffic speed through the neighborhood. Similar mitigation devices will be constructed along the new 73rd Avenue connection. Parking will be permitted on both sides of both streets. City staff has also agreed to support the installation of a 4-way stop sign at the intersection of 73rd Avenue and Depew Street. This was requested by the nearby residents who attended the neighborhood meeting for this project.

- **Landscape Design:** As required by the Design Guidelines, a brick wall will be constructed along the 72nd Avenue frontage to match the other walls that will be installed as part of the Wal-Mart development. A vinyl fence with brick pillars will be constructed at the north property line. For that wall, Village Homes has met with the adjacent homeowners in Wood Creek and determined together the best locations for the new brick posts of wall. That agreement is reflected in the proposed ODP. There will also be a vinyl fence with brick pillars erected along the eastern boundary. The 72nd Avenue frontage will be heavily landscaped with a double row of trees along the new walk and a 6-foot berm. The developer will be responsible for installing the right-of-way landscaping on both sides of the new portion of Depew Street. There is a total of 3.5 acres of landscaped area within the development including all buffer areas and the central private park. All requirements of the landscaping guidelines have been met for this development.
- **Public Land Dedication/School Land Dedication:** Public Land Dedication shall be paid as cash-in-lieu of land in the amount of \$143,862. School Land Dedication shall also be paid as cash-in-lieu of land in the amount of \$82,980.
- **Parks/Trails/Open Space:** There are no trails or open space associated with this project. As previously noted, a private park with a tot lot will be constructed by the developer and maintained by the HOA. There is also excellent connectivity via the sidewalk system to Faversham Park and Tepper Fields.
- **Architecture/Building Materials:** There are 5 different detached, single-family models proposed for the development, each with two different front facades. The TMUND guidelines require 30% brick as an average front elevation coverage, the average to be maintained on a block by block basis. The detached units are all alley loaded as required by the TMUND guidelines. The attached units are arranged in 9 buildings, three 8-plexes and six 6-plexes. The buildings are constructed of stone (at least 30%) and horizontal siding. Visual interest is provided with numerous roof breaks, some vertical siding, and balconies with gable roofs.
- **Signage:** As permitted by Code, two monument signs are proposed for this development. The main sign is to be located at the corner of Depew Street and 72nd Avenue and a secondary sign at the corner of Depew Street and 73rd Avenue. Both are constructed almost entirely of brick.
- **Lighting:** Ornamental pedestrian light fixtures, nine feet above grade, are provided in various locations where pedestrian traffic is expected to be heaviest, such as walkways between buildings, where walkways join streets and in the private park area. The street lights will be the standard post type that are 17 feet above ground.

Service Commitment Category

Because this project is located in the south Westminster improvement area, Service Commitments will be allocated out of Category A-1 for the detached units and out of Category A-2 for the attached units.

Referral Agency Responses

The following agencies were sent a referral: Jefferson County, School District R-1, and XCEL Energy. School District R-1 responded by stating that current school capacities are already strained and requested the School Land Dedication fee be paid as cash-in-lieu of land. This has been stipulated in the ODP. XCEL responded without concerns. No other comments were received.

Neighborhood Meeting and Public Comments

The neighborhood meeting for this project was held on November 17, 2005. Twenty five area residents attended the meeting. There was significant concern expressed about the increase of traffic in the area, and many requested traffic speeds to be mitigated. The ODP as proposed requires the construction of curb “bulbs” to be constructed at the two intersections along Depew Street. This will serve to reduce speeds. As stated above, Staff has also agreed to support the placement of a 4-way stop sign at Depew Street and 73rd Avenue. This was also specifically requested. The neighbors also requested a stop sign at 74th Avenue. This will be reviewed by the City’s traffic engineer for future installation if warranted.

Questions were also raised about site lighting, concern over how the park adjacent to the new portion of Depew Street would be improved and accessed, how the new development would be screened from the houses to the north, and general questions about the design of the project. These issues have all been discussed above.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Vicinity Map
- Criteria and Standards for Land Use Applications
- Preliminary and Official Development Plans (available for review in the City Clerk’s office at City Hall)

Criteria and Standards for Land Use Applications

Comprehensive Land Use Plan Amendments

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

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

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

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

1. The Planned Unit Development (P.U.D.) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The P.U.D. exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The P.U.D. is compatible and harmonious with existing public and private development in the surrounding area.
5. The P.U.D. provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The P.U.D. has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

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

Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)

11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

City Initiated Rezoning

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

Official Development Plan (ODP) Application

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

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

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.

5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

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

Shoenberg Farm Village Homes

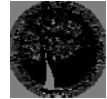




WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Resolution No. 33 re Single-Family Attached Competition Service Commitment Award

Prepared By: Shannon Sweeney, Planning Coordinator

Recommended City Council Action

Adopt Resolution No. 33 awarding Category B-2 Service Commitments to the Walnut Grove single-family attached project proposed for the southwest corner of W. 108th Avenue and Wadsworth Parkway. This resolution relates to the City's Growth Management Program and is based on the findings established in Section 11-3-1 of the Westminster Municipal Code.

Summary Statement

- On March 13, 2006, City Council awarded Service Commitments (SCs) to three new projects as a result of the residential competition process. City Council withheld an award, in accordance with Staff's recommendation, for the Walnut Grove multi-family project proposed for the southwest corner of 108th Avenue and Wadsworth Parkway.
- The original submittal proposed a Comprehensive Land Use Plan (CLUP) amendment changing the Retail Commercial designation to R-18 Residential that would allow up to 18 dwelling units per acre (du/a). While Staff did not support the high density, Staff did discuss that a lower-density R-8 designation (with an 8 du/a maximum) might be acceptable if the plan submitted was well-designed and offered amenities to the residents.
- The applicant requested an extension so they could redesign their plans and re-apply for the competition process in the lower-density Single-Family Attached (SFA) competition. Since no other submittals were received in that category, the City agreed to give the applicant until May 1, 2006 to submit a revised application.
- Staff received the revised SFA proposal by the deadline and now recommends a SC award to allow the project to proceed to the City's development review process.
- The attached resolution for the project awards a total of 67.2 SCs (8.4 in 2007, 33.6 in 2008, and 25.2 in 2009 as requested by the applicant).
- The award resolution is contingent upon ultimate City approval of any necessary documents and does not commit the City to approve any document or project as a result of these awards. Should the project not receive approval of any required documents, the SCs would be returned to the water supply figures.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City award Service Commitments to the Walnut Grove project as a result of the Single-Family Attached competition process?

Alternative

Do not adopt the attached resolution awarding Service Commitments to the Walnut Grove project. With this alternative, the developer for this project would not be allowed to proceed to the Official Development Plan review process. The developer has made improvements and enhancements as desired in the revised application, and as a result, Staff recommends a Service Commitment award to allow the project to be submitted for the development review process.

Background Information

The intent of the City's Service Commitment (SC) competition process is for a limited number of new residential projects to proceed to the City's development review process. Any project awarded SCs must process any required documents, including Comprehensive Land Use Plan (CLUP) amendments, if necessary. The City does not require that applications for the competitions comply with the CLUP designation for the site, but a CLUP amendment must be submitted with the competition application if a change is proposed. The SC awards do not obligate the City to approve any required plan or document as a result of the award.

In March 2006, City Council awarded SCs to one new single-family detached project and two new traditional mixed use neighborhood projects as a result of the competition process and withheld an award, in accordance with Staff's recommendation, for the Walnut Grove project proposed for the southwest corner of 108th Avenue and Wadsworth Parkway.

The project was originally submitted for the Multi-Family competition with a request to change the CLUP designation on the 15-acre site from Retail Commercial to R-18 Residential to allow up to 18 dwelling units per acre (du/a). Staff reviewed the CLUP amendment request and did not support the high density proposed. Staff did discuss that a lower-density R-8 designation (with an 8 du/a maximum) might be acceptable if the plan submitted were well-designed and offered amenities to the residents. Under those circumstances, the applicant asked for the City to consider an extension for them to resubmit a plan for the Single-Family Attached (SFA) competition. Given that no other projects had been submitted in the SFA category, the applicant was given a May 1, 2006 deadline to revise their proposal and resubmit in the SFA competition.

The developer, DR Horton Trimark Series, submitted a revised plan in the lower-density SFA competition by the deadline. The overall gross density proposed is 6.4 du/a. The project proposes a total of 96 units to be constructed over a three-year period (2007-2009). Single-family attached SCs are calculated at 0.7 SCs per unit, so the number of SCs needed is 67.2. Because SCs are not needed by the project until the utility permit is paid (typically at the very end of the construction process), DR Horton did not request any SCs in 2006 and plans to begin construction on the initial 12 units in 2007.

In the competition submittal, the developer committed to a total of 3,280 points in incentive items that go beyond the City's minimum design requirements. Some of these items include: 100% of the required parking (other than guest parking) will be within attached garages; the project will provide an indoor clubhouse/meeting facility; public land dedication is proposed to exceed the minimum requirement; 25% or more of the units will be ranch homes or two-story homes with a first-floor master bedroom and bath will be built; the private park area will be increased above the minimum 4% requirement; private landscaped area will be increased with a greater concentration of plant material, etc.

Because detailed site development plans have not been reviewed through the City's development review process, and significant changes can occur, the sketch plans submitted for the competitions are not reviewed with City Council as part of the competition process. A presentation is not scheduled for the City Council meeting on June 12, since the applicant would tend to focus on site plans not yet through the City's review process. The developer for this project has been notified that, while it is not required for them to attend the City Council meeting, they are welcome to attend.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

- Resolution Category B-2 Competition and Service Commitment Award

RESOLUTION

RESOLUTION NO. 33

INTRODUCED BY COUNCILLORS

SERIES OF 2006

DITTMAN - MAJOR

**CATEGORY B-2 (NEW SINGLE-FAMILY ATTACHED)
COMPETITION AND SERVICE COMMITMENT AWARD**

WHEREAS, the City of Westminster has adopted by Ordinance No. 2848 a Growth Management Program for the period 2000 through 2010; and

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

WHEREAS, within the Growth Management Program there is a provision that Service Commitments for residential projects shall be awarded in Category B-2 (new single-family attached) on a competitive basis through criteria adopted periodically by resolution of the City Council and that each development shall be ranked within each standard by the degree to which it meets and exceeds the said criteria; and

WHEREAS, the City's ability to absorb and serve new single-family attached development is limited, and the City of Westminster has previously adopted Resolution No. 55, Series of 2003, specifying the various standards for new single-family attached projects based upon their relative impact on the health, safety and welfare interests of the community, and has announced to the development community procedures for weighing and ranking projects prior to receiving the competition applications; and

WHEREAS, the City of Westminster has previously allocated 18 Service Commitments for the year 2006 for use in servicing one new single-family attached project based on the criteria set forth in Section 11-3-1 of the Westminster Municipal Code; and

WHEREAS, one application was received for the single-family attached competition with a total of 67.2 Service Commitments requested over a three-year period beginning in 2007 for the total build-out of the 96 single-family attached units proposed.

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

1. Category B-2 Service Commitment awards are hereby made to the specific projects listed below as follows:

<u>Project</u>	<u>Location</u>	<u># SCs per Year</u>			
		<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Total</u>
Walnut Grove	Southwest corner of W. 108th Ave. & Wadsworth Pky.	8.4	33.6	25.2	67.2

2. These Service Commitment awards to the projects listed above are conditional and subject to the following:

- a. For each project, the applicant must complete and submit proposed development plans to the City for the required development review processes. All minimum requirements and all incentive items indicated by the applicant as specified within the competition shall be included as part of the proposed development and listed on the Official Development Plan for the project.
- b. Service Commitment awards for the projects listed above, if approved by the City, may only be used within the projects specified above.
- c. These Service Commitment awards shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.
- d. Each Service Commitment award is conditional upon City approval of each project listed above and does not guarantee City approval of any project, proposed density, and proposed number of units.

- e. The City of Westminster shall not be required to approve any Comprehensive Land Use Plan amendment, Preliminary Development Plan or amendment, Official Development Plan or amendment, or rezoning action necessary for development of property involved in this Category B-2 award nor shall any other binding effect be interpreted or construed to occur in the City as a part of the Category B-2 award.
 - f. Any and all projects that do not receive City approval are not entitled to the Service Commitment awards, and the Service Commitments shall be returned to the water supply figures.
 - g. The Growth Management Program does not permit City Staff to review any new residential development plans until Service Commitments have been awarded to the project. During the competition process the City Staff does not conduct any formal or technical reviews of any sketch plans submitted by applicants. It should be expected that significant changes to any such plans will be required once the City's development review process begins for any project.
 - h. Awards shown for the year 2006 are effective as of the date of this Resolution (June 12, 2006). Future year awards are effective as of January 1 of the specified year and cannot be drawn prior to that date. If fewer Service Commitments are needed for a project in any given year, the unused amount in that year will be carried over to the following year(s) provided the Service Commitments have not expired.
 - i. In order to demonstrate continued progress on a project, the following deadlines and expiration provisions apply:
 - 1) The project must proceed with the development review process and receive Official Development Plan approval by December 31, 2009, or the entire Service Commitment award for the project shall expire.
 - 2) The project must be issued at least one building permit within one year of Official Development Plan approval, or the entire Service Commitment award for the project shall expire.
 - 3) Following the issuance of the first building permit for the project, all remaining Service Commitments for a project shall expire if no building permit is issued for the project during any consecutive 12-month period.
 - j. If Service Commitments are allowed to expire, or if the applicant chooses not to pursue the development, the Service Commitment award shall be returned to the Service Commitment supply figures. The award recipient shall lose all entitlement to the Service Commitment award under those conditions.
 - k. This award resolution shall supersede all previous Service Commitment award resolutions for the specified project locations.
3. The Category B-2 Service Commitment awards shall be reviewed and updated each year. If it is shown that additional or fewer Service Commitments are needed in the year specified, the City reserves the right to make the necessary modifications.

PASSED AND ADOPTED this 12th day of June, 2006.

ATTEST:

Mayor

City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Resolution No. 34 re Right-of-Way Acquisition for the 104th Avenue and Sheridan Boulevard Intersection Improvement Project

Prepared by: David W. Loseman, Senior Projects Engineer

Recommended City Council Action

Adopt Resolution No. 34 authorizing City Staff to proceed with the acquisition of rights-of-way and easements necessary for the 104th Avenue and Sheridan Boulevard Intersection improvement project, including the use of eminent domain, if necessary; and authorize up to \$225,000 for acquisition costs and all related expenses.

Summary

- The 104th Avenue and Sheridan Boulevard intersection has been experiencing significant increases in left-turn movements for northbound and southbound Sheridan Boulevard traffic wanting to turn onto 104th Avenue for several years. Peak left-turn movements of over 300 vehicles per hour indicate a need to install double left-turn lanes for these movements. In addition, three through lanes for northbound Sheridan Boulevard and eastbound 104th Avenue are planned to better alleviate congestion approaching the intersection in these directions. The project will also improve the severely degraded Middle Branch of Hyland Creek on the south side of 104th Avenue so it doesn't cause a road failure in the future.
- Final design of the 104th Avenue and Sheridan Boulevard Intersection improvement project is nearly complete. All environmental reports and permits have been completed and the Colorado Department of Transportation has "cleared" the project environmentally, which allows right-of-way acquisitions to begin.
- There are two private parcels affected by the improvements. The parcel at the northwest corner of the intersection is owned by R. Dean Hawn Interest and William D. Hewit and the one at the southwest corner of the intersection is owned by R. Dean Hawn Interest. From these parcels it is necessary to acquire three fee simple parcels, two permanent easements and three temporary easements to construct the project.
- Funds are available and were specifically authorized by City Council for this project.

Expenditure Required: \$ 225,000

Source of Funds: General Capital Improvement Fund – 104th Avenue and Sheridan Boulevard Intersection Project

Policy Issue

Should the City proceed with right-of-way acquisitions for the 104th Avenue and Sheridan Boulevard intersection improvement project?

Alternative

The City could decide to not proceed with these acquisitions at this time. Staff does not recommend this action as this would probably eliminate the Federal funds (\$1,532,000) and Urban Drainage and Flood Control District funds that are being contributed by each of these entities to construct this project.

Background Information

The design of the widening of Sheridan Boulevard approximately 600 feet north and south of 104th Avenue and the widening of the south side of 104th Avenue approximately 1000 feet west of the intersection is an effort to improve left turns from Sheridan Boulevard onto 104th Avenue and the through movements through the intersection. Recent development along 104th Avenue including the Westminster Promenade, The Shops at Walnut Creek, City Park Recreation Center additions and filings of the Legacy Ridge development are increasing the number of vehicles turning from Sheridan Boulevard onto 104th Avenue as well as going through the intersection. Current peak left turn movements of over 300 vehicles per hour indicate the need for double left turn lanes at this location. Installing these double left turn lanes will also improve the through movements on Sheridan Boulevard since the queuing of turning vehicles would no longer “back-up” into the through lanes. In addition, the project includes improvements that will allow three through lanes through the intersection for northbound Sheridan Boulevard and eastbound 104th Avenue. Finally, the project includes improvements to the Middle Branch of Hyland Creek that parallels 104th Avenue on the south side of the road. This channel has severely degraded over the years to the point that the road could be negatively impacted in the future. The Urban Drainage and Flood Control District has agreed to contribute \$250,000 towards the cost of rehabilitating this channel.

Possession of the necessary right-of-way is a prerequisite to awarding the construction contract. The schedule calls for construction of the project to begin in 2007 and be completed by September of 2007. The acquisition effort will be aimed at a negotiated settlement for purchase or voluntary agreement for possession of the property necessary for construction by September 2006 so that advertising of the construction of the project can begin in late 2006.

The attached resolution authorizes Staff to proceed with the activities and expenditures necessary to secure legal possession and acquire right-of-way for the 104th Avenue and Sheridan Boulevard intersection project.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **34**

INTRODUCED BY COUNCILLORS

SERIES OF 2006

MAJOR - DITTMAN

WHEREAS, the Westminster City Council has determined that it is necessary to the public health, safety and welfare to acquire certain parcels of land to accommodate the construction of the 104th Avenue and Sheridan Boulevard Intersection Improvement Project; and

WHEREAS, property appraisals prepared by a professional appraisal company experienced in performing appraisals, will be submitted to the Colorado Department of Transportation who will then determine the fair market value of the property rights being acquired in each of the parcels; and

WHEREAS, the City will make an earnest good faith offer to purchase each of the subject parcels; and

WHEREAS, a delay in the acquisition of any of the parcels could result in a delay of the 104th Avenue and Sheridan Boulevard Intersection Project, thus creating a hardship on the general population of the City of Westminster wishing to utilize the proposed improvements; and

WHEREAS, the City Attorney has advised that the City may exercise its right of eminent domain should normal negotiations fail; and

WHEREAS, City Council finds that if acquisition by condemnation of any parcel described in this resolution is commenced, immediate possession by the City may be necessary for the public health, safety and welfare in order to keep the 104th Avenue and Sheridan Boulevard Intersection Project on the desired schedule.

NOW, THEREFORE, the Westminster City Council resolves that:

1. The City Manager is hereby authorized to establish minimum just compensation for acquisition of the property interests necessary to build the 104th Avenue and Sheridan Boulevard Intersection Project.

2. City Staff is authorized to proceed with negotiations to acquire the necessary property interests in the area shown on Exhibit A, including remainders pursuant to W.M.C section 15-1-11, on the basis of the appraised value, or such higher value as is considered just and necessary to facilitate the acquisition and avoid the necessity of condemnation.

3. The City Manager is hereby authorized to acquire such property interests consistent with applicable law, including the execution of all documents necessary to complete these purchases.

4. The City Attorney is authorized to take all necessary legal measures to acquire the property interests in question, including proceeding with condemnation of the properties in question against the owner or owners and any other persons or entities claiming an interest therein or thereto, and to take such further action as may be reasonably necessary for or incidental to the filing and diligent prosecution of any litigation or proceedings required to obtain property interests should normal negotiations fail or exceed the time constraints of the overall project. In the event that acquisition by condemnation is commenced, the City Attorney is further authorized to request a grant of immediate possession of the necessary property interests.

5. The City Manager shall be further authorized to incur reasonable costs associated with acquiring the properties in question, including, without limitations, contractual services, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filings fees and charges and all other related or incidental costs or expenses customarily associated with the acquisition or condemnation of property. The cost shall be charged to the General Capital Improvement Fund.

6. The Senior Projects Engineer managing the project is hereby authorized to call for amendment of the legal descriptions of the parcel interests to be acquired, and the nature of the interests to be acquired, including the commencement date and duration of any temporary easement, if necessary in the course of the project.

PASSED AND ADOPTED this 12th day of June, 2006.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Councillor's Bill No. 37 re Westminster Armed Forces Tribute Garden Supplemental Appropriation

Prepared By: Brad Chronowski, Landscape Architect II

Recommended City Council Action:

Pass Councillor's Bill No. 37 on first reading authorizing a supplemental appropriation in the amount of \$150,000 reflecting the City's receipt of a Jefferson County Open Space Joint Venture Grant to be utilized for the Armed Forces Tribute Garden.

Summary Statement:

- On November 28, 2005, Staff received City Council's approval to pursue a Jefferson County Open Space grant for the Armed Forces Tribute Garden.
- In January of 2006, Staff received notice that the Open Space Advisory Committee recommended a grant award in the amount of \$150,000 to the Jefferson County Commissioners. The resolution was adopted on February 14, 2006.
- The City of Westminster has successfully partnered with Jefferson County Open Space for several years, improving parks and facilities for our residents.
- Jefferson County Open Space supported the Armed Forces Tribute Garden in 2005 with a grant of \$144,000.
- This grant will allow the City to begin the first phase of construction for the project.
- With the addition of this grant the current CIP project funds total \$880,000 including design and the icon sculpture that has been commissioned.

Expenditure Required: \$150,000

Source of Funds: General Capital Improvement Fund, Jefferson County Open Space Joint Venture Grant

Policy Issue

Should the City accept the grant money from Jefferson County Open Space?

Alternative

City Council could choose not to accept the grant funds, but City Council has already approved a unanimous resolution authorizing Staff to pursue the grant.

Background Information

Staff received approval from City Council on November 28, 2005, to pursue a Jefferson County Open Space Joint Venture grant. Staff chose to focus its efforts on the Armed Forces Tribute Garden for this grant cycle. A total of \$250,000 was requested and \$150,000 was awarded. The Jefferson County Board of County Commissioners adopted the resolution to award this grant on February 14, 2006. This fund-raising effort will allow the City to begin the first phase of construction in 2006. Coupled with the 2005 Jefferson County Open Space grant of \$144,000, the Westminster CIP allocation of \$442,000, and the Community Enhancement expenditure of \$144,000 this grant of \$150,000 will bring the total funding available to \$880,000. In addition, the City has over \$300,000 to date in pledges to assist with the development of the project. Brick sales, site element sales and service club contributions are examples of the partnerships that have been developed. The project's major benefactor, Jim Sullivan, has pledged a sculpture donation for the project that is valued at \$250,000.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **37**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2006 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2006 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3162 in the amount of \$7,608,000 is hereby increased by \$150,000 which, when added to the fund balance as of the City Council action on June 12th, 2006 will equal \$7,758,000. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This is an appropriation of a grant from Jefferson County Open Space.

Section 2. The \$150,000 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Grants - Jeffco	7501.40630.0000	\$0	<u>\$150,000</u>	\$150,000
Total Change to Revenue			<u>\$150,000</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Armed Services Memorial Garden	80575050406.80400.8888	\$367,000	<u>\$150,000</u>	\$517,000
Total Change to Expenses			<u>\$150,000</u>	

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

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

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

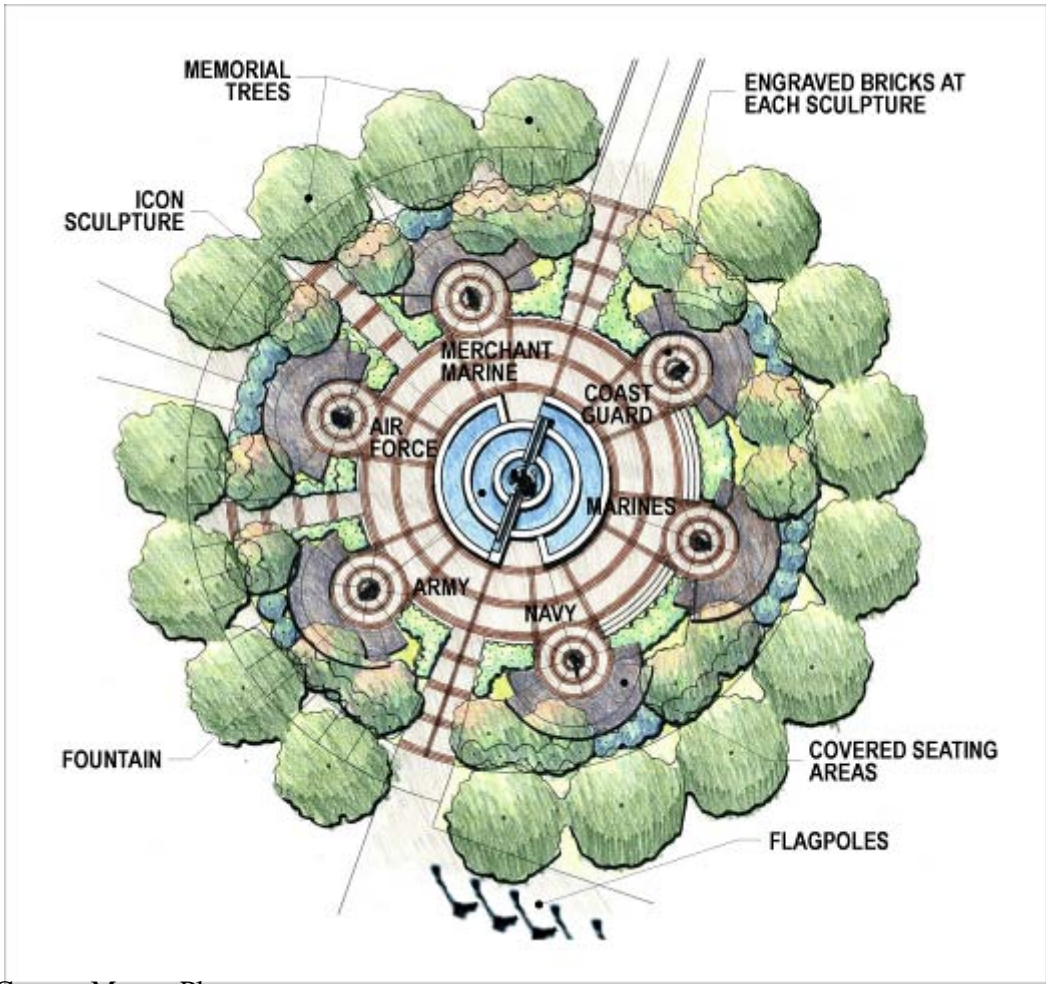
INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of June, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of June, 2006.

ATTEST:

Mayor

City Clerk



Current Master Plan



Aerial perspective of core area



Agenda Item 10 G

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 2006



SUBJECT: Councillor's Bill No. 38 re Creating an Alternate Member on the Human Services Board

Prepared By: Steve Smithers, Assistant City Manager

Recommended City Council Action

Pass Councillor's Bill No. 38 on first reading amending the Westminster City Code creating an alternate member on the Human Services Board.

Summary Statement

- The Human Services Board currently consists of five members with no alternate member.
- The creation of an alternate member will help to attain a quorum for Human Service Board meetings.
- City Council directed Staff to bring this item forward for action at the June 5, 2006 Study Session.
- If City Council approves this action, the appointment of the alternate to the Human Services Board will be brought forward for City Council action at a later date.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should City Council adopt this change to the City Code adding an alternate member to the Human Services Board?

Alternative

City Council could choose to leave the current composition of the Human Services Board as is. Staff believes that the addition of an alternate is a positive change because it will help avoid meetings where a quorum is not present.

Background Information

The Human Services Board was originally configured in the 1980s without an alternate because at the time it was assumed that this was unnecessary. Over the years the Board's meeting schedule has intensified in order to review the growing number of agencies who submit for human services funding each year. This schedule can present challenges for Board members to attend all of the meetings required. This experience has shown that an alternate would assist the Board in making sure that it can complete the review process in a timely fashion.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **38**

SERIES OF 2006

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CREATING
AN ALTERNATE MEMBER ON THE HUMAN SERVICES BOARD**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2-8-1, W.M.C., is hereby AMENDED to read as follows:

2-8-1: CREATION: There is hereby created a Human Services Board, hereinafter referred to as "The Board," consisting of five (5) regular members AND ONE (1) ALTERNATE MEMBER.

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 12th day of June, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of June, 2006.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
June 12, 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

- Remove Councillor's Bill No. 34 from the table.
- 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 the Brookhill V retail center.
- 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 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 not because of lack of market, but because of decisions 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, and will relocate upon completion of construction.

The Bedrin Organization is actively pursuing users for the shopping center. Recently, Bicycle Village approached them about opening a 20,000 square foot store. The store would be at least triple the size of the current store and result in sales significantly greater than 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 \$4.0 million, it is anticipated that Bicycle Village will generate over \$657,000 in new revenue (includes permit fees, use tax and sales tax) to the City in the first 5 years of operation. These projections are based on current sales of an equivalent store in south Denver.

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
<u>Building Permit-Fee Rebate</u> 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)	\$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 in their existing store.

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 12th day of June, 2006.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th 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 (excluding the City's .25% open space tax and .6% public safety tax), 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 three 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 three 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

Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, June 12, 2006. Mayor Pro Tem Kauffman and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. Mayor McNally was absent.

The minutes of the May 22, 2006 regular meeting were approved.

Council heard presentations from officials of Jeffco Public Schools and Adams 12 Five Star Schools regarding waiver of construction use tax on school construction.

Council approved the following: 2005 Comprehensive Annual Financial Report; cooling tower replacement at the former Police Department Building; Purebred Arabian Trust Open Space Acquisition Grant Agreement with Adams County; Holly Park IGA with WEDA re reimbursement of funds and sharing of tax revenues; PDP for Village Homes (Depew Street & 72nd Avenue); final passage of Councillor's Bill No. 33 re Code Amendment to Comply with Clean Indoor Air Act; final passage of Councillor's Bill No. 35 re Best In Class Economic Development Agreement; and final passage of Councillor's Bill No. 36 re Waive Recoveries for the Valle Vista Retail Center.

Council adopted the following resolutions: Resolution No. 32 re appointment to Boards and Commissions; Resolution No. 33 re single-family attached competition Service Commitment Award; and Resolution No. 34 re right-of-way acquisition for 104th Avenue & Sheridan Blvd Intersection Improvements.

Council conducted a public meeting to receive citizen input on the 2007-2008 City Budget.

Council conducted a public hearing re the Village Homes PDP.

The following Councillors' Bills were passed on first reading:

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. Purpose: authorize the City Manager to execute and implement an Economic Development Agreement with The Bedrin Organization.

A BILL FOR AN ORDINANCE AMENDING THE 2006 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2006 ESTIMATED REVENUES IN THE FUND. Purpose: authorize a \$150,000 supplemental appropriation for a Jefferson County Open Space Joint Venture grant to be used for the Armed Forces Tribute Garden.

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CREATING AN ALTERNATE MEMBER ON THE HUMAN SERVICES BOARD. Purpose: Create an alternate membership on the Human Services Board to ensure a quorum.

The meeting adjourned at 8:35 p.m.

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

Published in the Westminster Window on June 22, 2006

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

6-13-8: SEVERABILITY

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.

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.

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.

ORDINANCE NO. **3291**
SERIES OF 2006

COUNCILLOR'S BILL NO. **36**
INTRODUCED BY COUNCILLORS
Dittman - Price

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.

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)