

June 24, 1996
7:00 PM

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

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Presentations**
 - A. GFOA 1996 Award for Excellence in Government Finance
 - B. City Council Service Recognition Pins
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
 - A. City Manager's Report
7. **City Council Comments**

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

8. **Consent Agenda**
 - A. Digital Mugshot System
 - B. CB No. 33 re Maple Place Rezoning (Dixion-Allen)
 - C. CB No. 34 re Goetz Property Annexation (Harris-Scott)
 - D. CB No. 35 re Goetz Property Rezoning (Harris-Scott)
 - E. CB No. 36 re Church Ranch Center Assistance Package (Scott-Smith)
 - F. CB No. 37 re ConferTech Assistance Agreement (Allen-Harris)
 - G. CB No. 38 re ConferTech Easement Vacation (Dixion-Allen)
 - H. CB No. 39 re Navajo Street Storm Sewer Appropriation (Allen-Dixion)
 - I. CB No. 40 re Church Ditch Company Power of Attorney (Harris-Allen)
 - J. CB No. 41 re Policy on Recreation Fee Adjustments (Dixion-Allen)
9. **Appointments and Resignations**
 - A. Resolution No. 29 re P&R Advisory Board Appointment
10. **Public Hearings and Other New Business**
 - A. Public Hearing re Green Acres PDP Amendment
 - B. Green Acres PDP Amendment
 - C. Councillor's Bill No. 42 re 104th Avenue Bonds Reassessment
 - D. Councillor's Bill No. 43 re Protogenic Assistance Package
 - E. Comprehensive Annual Financial Report
 - F. Pierce Street Amended Engineering Design Contract
 - G. Councillor's Bill No. 44 re Salary Transfer
 - H. Councillor's Bill No. 45 re 1995 Park Carryover Appropriation
 - I. City Park Revised Master Plan
 - J. Councillor's Bill No. 46 re Metro Regulation Amendments
 - K. Waiver of 1981 Water Right Stipulation
 - L. IGA re Winter Effluent Supply to Northglenn
11. **Old Business and Passage of Ordinances on Second Reading**
 - A. CB No. 28 re 1995 Model Traffic Code (Scott-Dixion)
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
 - A. Financial Report
 - B. City Council
 - C. Request for Executive Session
 1. Economic Development Prospect Update
 2. Personnel Matters
13. **Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY JUNE 24, 1996 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Present at roll call were Mayor Heil and Councillors Allen, Harris, Merkel, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michael Allen, Deputy City Clerk. Absent was Mayor Pro Tem Dixon.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Scott to accept the minutes of the meeting of June 10, 1996 with no additions or corrections. Councillor Merkel requested to abstain as she was not present at the meeting. The motion carried with Councillor Merkel abstaining.

PRESENTATIONS:

Bobbie Wilson, past GFOA Board Member, presented the Government Finance Officers Association Award for Excellence in Government Finance for the City's Taxpayer Service Program to the City which was accepted by Sales Tax Manager Barb Dolan, Sales Tax Specialist Ed Kaiser and Sales Tax Specialist Pam Darula.

City Manager Bill Christopher presented a Council Service Recognition Pin to Mayor Nancy Heil in recognition of her 12 years of service on City Council.

Mayor Heil presented Council Service Recognition pins to Councillors Fred Allen, 22 years; Ken Harris, 20 years; Ann Merkel, 2 years; and Gary Smith, 2 years.

CITY COUNCIL COMMENTS:

Councillor Merkel stated she has received several compliments on Marge Salter, Volunteer Coordinator for the City and also thanked the Police Department for the job they are doing.

Mayor Heil reported that the City has received one of the top awards presented by Governor Romer at the recent CML conference for the City's COG Program and complimented Councillor Scott who drafted a policy change to the CML Bylaws that was adopted by CML concerning funding for federally owned or managed environmentally contaminated sites in Colorado.

CONSENT AGENDA:

The following items were considered as part of the Consent Agenda: Digital Mugshot System purchase; Councillor's Bill No. 33 re Maple Place Rezoning; Councillor's Bill No. 34 re Goetz Property Annexation; Councillor's Bill No. 35 re Goetz Property Rezoning; Councillor's Bill No. 36 re Church Ranch Center Assistance Package; Councillor's Bill No. 37 re ConferTech Assistance Agreement; Councillor's Bill No. 38 re ConferTech Easement Vacation; Councillor's Bill No. 39 re Navajo Street Storm Sewer Appropriation; Councillor's Bill No. 40 re Church Ditch Company Power of Attorney; and Councillor's Bill No. 41 re Policy on Recreation Fee Adjustments.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

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

APPOINTMENTS AND RESIGNATIONS:

A motion was made by Merkel and seconded by Harris to adopt Resolution No. 29 which accepts the resignation of George Bird from the Parks and Recreation Advisory Board and appoints Jane Kober to the Parks and Recreation Advisory Board as an alternate member with term of office to expire December 31, 1997. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING ON GREEN ACRES THIRD AMENDED PDP:

At 7:23 P.M. the meeting was opened to a public hearing on the proposed third amended Preliminary Development Plan for the Green Acres PUD, generally located at the northeast corner of Sheridan Boulevard and 112th Avenue. Planning Manager Larry Hulse entered a copy of the Agenda Memorandum, Planning Commission Report and other related items as exhibits. Don Slack, representing the applicant, was present to address Council. No one spoke in opposition. At 7:26 P.M. the public hearing was declared closed.

GREEN ACRES THIRD AMENDED PRELIMINARY DEVELOPMENT PLAN:

A motion was made by Harris and seconded by Merkel to approve the proposed Third Amendment to the Green Acres PDP to allow "Day Care Use" as an approved use within the office/commercial portion of the PUD on lots which do not front onto arterial streets. The recommendation is based on a finding that the proposed PDP meets the requirements of Sections 11-2-2, 11-2-3, 12-2-2, and 12-8-7 of the City of Westminster Municipal Code, and is consistent with all adopted general plans and policies of the City of Westminster. The motion carried unanimously.

COUNCILLOR'S BILL NO. 42 - 104TH AVENUE BOND REASSESSMENT:

A motion was made by Allen and seconded by Harris to pass Councillor's Bill No. 42 on first reading amending the interest rate on the assessments for the 104th Avenue SID project to reflect the interest cost savings from the recent refunding less that portion of the additional bond savings attributable to the use of the City's AA- bond rating. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 43 - PROTOGENIC INC. ASSISTANCE PACKAGE:

A motion was made by Smith and seconded by Allen to pass Councillor's Bill No. 43 on first reading which authorizes the execution, implementation, and funding of the Assistance Agreement with Protogenic Inc. for the construction of their building. Upon roll call vote, the motion carried unanimously.

1995 COMPREHENSIVE ANNUAL FINANCIAL REPORT:

A motion was made by Harris and seconded by Scott to accept the 1995 Comprehensive Annual Financial Report of the City of Westminster as audited by Grant Thornton, Certified Public Accountants. The motion carried unanimously.

PIERCE STREET, 104TH TO 112TH AVENUE, DESIGN CONTRACT:

A motion was made by Merkel and seconded by Allen to authorize the City Manager to sign an amended Engineering Services Contract with Martin/Martin, Inc. for the preparation of construction bid documents for Pierce Street from 104th Avenue to 112th Avenue in an amount not to exceed \$186,720; and charge this expense to the appropriate project account in the General Capital Improvement Fund. The motion carried unanimously.

COUNCILLOR'S BILL NO. 44 - SALARY SUPPLEMENTAL APPROPRIATION:

A motion was made by Harris and seconded by Merkel to pass Councillor's Bill No. 44 on first reading appropriating \$43,320 from the Police Department Support Services salaries account to the Finance Department, Data Processing Division, salaries account. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 45 - 1995 PARK CARRYOVER APPROPRIATION:

A motion was made by Harris and seconded by Merkel to pass Councillor's Bill No. 45 on first reading appropriating \$80,080 from 1995 park designated carryover funds into the General Capital Improvement fund. Upon roll call vote, the motion carried unanimously.

CITY PARK REVISED MASTER PLAN:

A motion was made by Harris and seconded by Merkel to authorize the City Manager to sign a contract with EDAW*HRV in the amount of \$72,800 along with a 10% contingency to perform design services to revise the City Park master plan, and charge this expense to the appropriate General Capital Improvement Fund account from 1995 carryover funds. The motion carried unanimously.

COUNCILLOR'S BILL NO. 46 - PRETREATMENT/INDUSTRIAL WASTE CONTROL:

A motion was made by Allen and seconded by Merkel to pass Councillor's Bill No. 46 on first reading amending Section 8-10-4, subsection (H) of the Westminster Municipal Code, adopting Section 6 of Metro Districts Rules and Regulations in its entirety. Upon roll call vote, the motion carried unanimously.

WAIVER OF 1981 WATER RIGHT:

A motion was made by Scott and seconded by Allen to authorize the Mayor to execute a waiver of rights for the City of Thornton for water rights owned by the City of Westminster acquired from Broomfield in the Category 1 water rights purchase. The motion carried unanimously.

IGA FOR WINTER EFFLUENT SUPPLY TO NORTHGLENN:

A motion was made by Scott and seconded by Allen to authorize the Mayor to sign the Intergovernmental Agreement that formalizes the purchase of Broomfield's one-third interest in the Church Ditch by Westminster. The motion carried unanimously.

ORDINANCE NO. 2432 - 1995 MODEL TRAFFIC CODE:

A motion was made by Scott and seconded by Allen to adopt Councillor's Bill No. 28 on second reading, as amended, repealing and reenacting Chapter 1 of Title X of the Westminster Municipal Code and adopting by reference the 1995 edition of the Model Traffic Code for Colorado Municipalities. Upon roll call vote, the motion carried unanimously.

MISCELLANEOUS BUSINESS:

Council reviewed the Financial Report for May, 1996.

The Mayor stated there would be an Executive Session concerning an Economic Development prospect update, personnel matters, annexation possibility and a pending lawsuit.

ADJOURNMENT:

The meeting was adjourned at 7:39 P.M.

ATTEST:

Mayor

City Clerk

Date: June 24, 1996

Subject: Government Finance Officers Association Award for Excellence in Government Finance

Prepared by: Barb Dolan, Sales Tax Manager

Introduction

City Council is requested to accept the Government Finance Officers Association (GFOA) Award for Excellence in Government Finance for the City's Taxpayer Service Program from Bobbie Wilson, past GFOA Board Member.

Summary

The Government Finance Officers Association of the United States and Canada has named Westminster's Taxpayer Service Program the winner of a 1996 Award for Excellence. The GFOA Awards for Excellence program recognizes the most valuable contributions to the field of government finance. Westminster won top honors in the Financial Management category, Communications and Reporting subcategory. The award was presented to Staff at the National GFOA Conference in Portland, Oregon on May 19th. Barb Dolan, Sales Tax Manager, will attend the Council meeting to represent City Staff as this award is presented to the Mayor and City Council.

Staff Recommendation

Accept the 1996 Award for Excellence from Bobbie Wilson.

Background Information

The GFOA Awards for Excellence program annually recognizes the most valuable contributions to the field of government finance.

Particular focus is given to a project's transferability, creativity, technical significance and overall value to the profession.

Westminster's Taxpayer Service Program was implemented two years ago as a result of input from a focus group of local business representatives. It has addressed business' desires for enhanced taxpayer education, reduced the number of delinquent sales and use tax accounts, and increased business satisfaction with the City's Sales Tax Division. It has also helped to maximize City sales and use tax revenues by increasing voluntary compliance by local businesses. The result has been a win-win situation for both the City and the business community.

Respectfully submitted,

William M. Christopher
City Manager

Date: June 24, 1996
Subject: Presentation of Council Service Recognition Pins
Prepared by: Michele Gallegos, City Clerk

Introduction

A presentation of City service pins to eligible City Council members has been scheduled for Monday night's meeting.

Summary

In January, 1990 City Council implemented a recognition program for City Council members to reflect their years of service as Council members. The recognition program for Council members is in 2 year increments to reflect elected terms of office increments. In 1990 service pins were presented to all eligible Council members for the first time.

There are members of City Council who have served a considerable number of years as City Council members. Length of service for the present City Council ranges from approximately seven months to over 22 years.

The intent of the presentation of Service Pins is to provide formal recognition to Council members who have achieved at least two years of service.

Staff Recommendation

City Manager presents City Service Recognition Pin to Mayor.

Mayor presents City Council City Service Recognition Pins to other Council eligible recipients.

Background Information

The City Council service pins are the same design as employee service pins which are made of high polished brass and are in the shape/design of the City logo. Each individual pin reflects the number of years of service on City Council for each recipient. The aggregate City service represented among the Council members is over 64 years. The following service pins are to be presented to Council members at Monday night's Council meeting:

Mayor Nancy Heil - 12 Yrs	Mayor Pro Tem Sam Dixon - 6 Yrs
Councillor Fred Allen - 22 Yrs	Councillor Ken Harris - 20 Yrs
Councillor Ann Merkel - 2 Yrs	Councillor Gary Smith - 2 Yrs

Respectfully submitted,

William M. Christopher
City Manager

Date: June 24, 1996
Subject: Digital Mugshot System
Prepared by: Chris Pardo, Criminalist; Matt Raia, Captain

Introduction

City Council action is requested to approve the purchase of an Optical Image Digital Mugshot System for the Police Department.

Funds in the amount of \$55,000 are available and have been specifically allocated in the 1996 Police Department Budget for this equipment.

Summary

City Council previously allocated funds in the 1996 Police Department budget in the amount of \$55,000 for the purchase of a Digital Mugshot System. A committee was formed by the Police Department to research the purchase of this system and after extensive research, the Instant Image system by Technology For Productivity was recommended by the committee.

Staff Recommendation

Authorize the City Manager to enter into a contract with Technology For Productivity (TFP) in the amount of \$54,899, for the purchase of a digital mugshot system and charge the expenditure to the appropriate 1996 Police Department budget account.

Alternatives

Do not purchase the Digital Mugshot System and purchase a replacement mugshot camera which uses conventional film for the cost of approximately \$3,750. This alternative, however, would not allow Staff to take advantage of the new technology which is much more cost effective, improves employee efficiency, and provides for instant photos and photo lineups.

Background Information

At this time, the Police Department is using a 15 year old mugshot camera that has become unreliable and unserviceable due to its age. The department initiated preliminary research into the digital mugshot system in 1995 and included the cost for this system in the 1996 Police Department budget.

The Digital Mugshot system uses a high resolution video camera to capture the image which is then converted to a compressed digital form and stored in standard computer memory. The system's 2.1 gigabyte hard drive is capable of storing approximately 42,000 mugshots and holds this information for approximately 12 years. Any captured image can be instantly recalled and printed on 4" x 5" paper from a color video printer. The images are comparable in quality to those made using conventional photography.

A six person photo lineup can be generated by a detective in a fraction of the time it takes them now, and the large files of mugshot photos currently maintained would be eliminated. The elimination of film developing/printing/filing produces a savings of approximately \$3,000 per year in supplies. The elimination of labor costs to produce mugshots saves approximately \$4,000 per year.

Colorado law enforcement agencies now using the Technology For Productivity system include the Denver Police Department, Denver Sheriff's Office, Fort Collins Police Department, Larimer County Sheriff's Office, Broomfield Police Department, and just recently, the Boulder Sheriff's Office. Several other metro agencies are looking into the purchase of this system in the near future, including the Adams County Sheriff's Office, Thornton Police Department, Federal Heights Police Department, and the Arvada Police Department. Any agency using the TFP system, with the required software, will have the ability to access a copy of a mugshot taken by another agency via a computer modem. This will save the detectives a considerable amount of time because they will not have to run around picking up mugshots from these agencies.

The system allows for photos to be printed instantly, and in multiple copies. With the video-digital imaging mug shot system, the quality of the photo is known immediately, rather than after the period of time it takes to develop the film and print the photo. This instant photo capability will eliminate poor quality photos.

Respectfully submitted,

William M. Christopher
City Manager

Date: June 24, 1996
Subject: Resolution No. re Parks and Recreation Advisory Board
Prepared by: Bill Christopher, City Manager

Introduction

City Council action is requested to adopt the attached Resolution which accepts the resignation of George Bird from the Parks and Recreation Advisory Board and to fill this vacancy from the current "pool" of applicants.

Summary

George Bird has submitted a letter of resignation from the Parks and Recreation Advisory Board, effective immediately. A copy of his letter of resignation is attached.

City Council is to appoint an individual to the Parks and Recreation Advisory Board which would be an alternate position.

Staff Recommendation

Adopt Resolution No. which accepts the resignation of George Bird from the Parks and Recreation Advisory Board and fill this vacancy on the Board.

Background Information

George Bird was originally appointed to the Parks and Recreation Advisory Board on March 6, 1995. His term of office would expire December 31, 1997.

A Resolution has been prepared per City Council's procedure to formally accept Mr. Bird's resignation and to make the appointment to the Parks and Recreation Advisory Board at this time. City Council will need to insert the name of the person to be appointed in the attached Resolution.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1996

CITY OF WESTMINSTER PARKS AND RECREATION
ADVISORY BOARD APPOINTMENT

WHEREAS, City Council has been notified of the resignation of George Bird from the Parks and Recreation Advisory Board; and

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

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

1. City Council does hereby accept the resignation of George Bird from the Parks and Recreation Advisory Board; and
2. City Council does hereby appoint the following individual to the City of Westminster Parks and Recreation Advisory Board as a Alternate member with the term of office to expire as stated.

<u>NAME</u>	<u>BOARD/COMMISSION</u>	<u>TERM EXPIRE</u>
Jane Kober	Parks and Recreation Advisory Board	12-31-97

Passed and adopted this 24th day of June, 1996.

ATTEST

Mayor

City Clerk

Date: June 24, 1996
Subject: Public Hearing re Green Acres Amended PDP
Prepared by: Margo Schultz, Planner II

Introduction

City Council action is requested to hold a public hearing and, later on the agenda, take action on the proposed Third Amended Preliminary Development Plan (PDP) for the Green Acres Planned Unit Development.

Summary:

Applicant/Property Owner: Gerry Starika and Al Blum, Trustee

Location: NE corner of Sheridan Boulevard and 112th Avenue (See Vicinity Map)

Size of Site: Office/Commercial portion of the Planned Unit Development (PUD) - 8.25 acres; Total PUD area - 60 acres

Description of Proposed Use: The existing approved uses for the 8.25 acre office/commercial portion of the PDP include retail business, personal service shops, service stations, clinics, offices, financial institutions, restaurants, membership clubs and multi-family residential. The applicants are proposing to amend the office/commercial portion of the PUD to add "Day Care Center" as an approved use for future lots within that area which do not have frontage along a major arterial street (Sheridan Boulevard or 112th Avenue).

If approved, the applicants are proposing to amend the existing approved Official Development Plan (ODP) to allow day care use only on the lots which do not have frontage on a major arterial street (Lots 3 and 4 of the approved ODP), thereby reserving the lots along the arterial streets for office and commercial use.

Major Issues: The applicants have had several interested parties inquiring about the possibility of locating a day care center at the Green Acres Commercial Center. Although there is no specific user under contract, the applicants have requested that "Day Care Center" be added as an approved use for two of the lots identified on the approved Official Development Plan (ODP).

Staff is in favor of approving the "Day Care Center" as an allowed use for the interior lots since this would reserve the lots along the arterial streets for office and commercial use, and allow day care services close to the residential neighborhoods. The placement of a day care center on future interior lots would also provide opportunity for outdoor recreation space for children, and would take advantage of the 110' wide detention pond area as a natural barrier between a day care use and the neighboring residences.

Staff Recommendation:

1. Hold a public hearing.
2. Approve the proposed Third Amendment to the Green Acres Preliminary Development Plan to allow "Day Care Use" as an approved use within the office/commercial portion of the Planned Unit Development on lots which do not front onto arterial streets. The recommendation is based on a finding that the proposed Preliminary Development Plan meets the requirements of Sections 11-2-2, 11-2-3, 12-2-2, and 12-8-7 of the City of Westminster Municipal Code, and is consistent with all adopted general plans and policies of the City of Westminster.

Planning Commission Recommendation:

After a public hearing, with no testimony in favor or in opposition to the request, the Planning Commission voted unanimously to approve the proposed Third Amendment to the Green Acres Preliminary Development Plan to allow "Day Care Use" as an approved use within the office/commercial portion of the PUD on lots which do not front onto arterial streets.

The recommendation was based on a finding that the proposed Preliminary Development Plan meets the requirements of Sections 11-2-2, 11-2-3, 12-2-2, and 12-8-7 of the City of Westminster Municipal Code, and is consistent with all adopted general plans and policies of the City of Westminster.

Background Information

An Official Development Plan for the 8.25 acre office/commercial area of the Green Acres PUD was approved by the Planning Commission on May 14, 1996. In order to close on the sale of Lot 1 (the Conoco property) in a timely manner, the applicant felt it was necessary to receive approval on the ODP prior to seeking approval for the addition of the "Day Care Use" by the Planning Commission and City Council. The applicant is, therefore, now asking that the use be approved for the interior lots. Should the request be approved, the applicant will request an amendment to the ODP to include day care use for Lots 3 and 4.

Should the use be approved, applications will still need to be made to the City in order to obtain a business license for any specific day care centers proposed. As is the standard requirement, applications for business licenses will need to include a copy of a current State license for the day care including the number of children, outside area of recreation required per child, and other specifics of the proposed day care center.

Public Comments

Three neighborhood meetings were held during the review of the ODP for the site. A "Day Care Center" was identified as a use which might possibly be proposed for the site along with the other previously approved uses. No objections to the "Day Care Center" use were expressed by the neighbors in attendance. Several of the adjacent neighbors did, however, indicate that they would prefer that day care center use (with the accompanying outside play area) be restricted to the lots which are separated from the residential area by the detention pond in order to minimize the possible noise.

The Official Development Plan which was approved includes a wide detention area which will act as the buffer.

Surrounding Zoning

North: 11.2 acre undeveloped area of the Green Acres Planned Unit Development zoned for multi-family/single-family attached residential

South: 112th Avenue and undeveloped commercial portion of the Westminster Golf Course Planned Unit Development (West Area) - Legacy Ridge

East: Westfield Village Subdivision (Single-family detached area of the Green Acres Planned Unit Development)

West: Sheridan Boulevard and undeveloped agricultural lot in unincorporated Jefferson County

Respectfully submitted,

William M. Christopher
City Manager

Attachments

Date: June 24, 1996

Subject: Councillor's Bill No. 42 re 104th Avenue Bonds Reassessment

Prepared by: Martin R. McCullough, City Attorney

Introduction

City Council action is requested to pass the attached Councillor's Bill on first reading amending the assessments for the 104th Avenue Special Improvement District based on City Council's previous refunding of the 104th Avenue Special Improvement District bonds.

Summary

- > City Council has previously authorized the refunding of the 104th Avenue Special Improvement District bonds that were issued in 1988 for the financing of the 104th Avenue interchange project.
- > The 1988 bonds were in the form of special assessment bonds which were secured with a pledge of City General Fund revenues up to an amount equivalent to a 2 mill property tax levy. The "new" refunded bonds were issued in the form of sales and use tax revenue refunding bonds, which obtained a AA-rating.
- > Since the original bonds were issued, the City has now become a 55% participant in the 104th Avenue SID. Any savings, therefore, will benefit both the private property owners as well as the City.
- > City Council has previously discussed different approaches to setting the new assessment rate within the district depending on how much of the savings resulting from the refunding that City Council believes is appropriate to share with the private property owners.
- > City Council will need to specify a new interest rate for the ordinance amending these assessments which will reflect City Council's wishes as to the amount of the savings it believes is appropriate to pass on to the private property owners.
- > Attached to this Agenda Memorandum is a report from the City's Financial Advisor, Hanifen, Imhoff Inc., which estimates the amount of savings attributable to the City sales and use tax pledge compared to the savings that would have been realized due solely to current market conditions. The difference determined by Hanifen, Imhoff is \$260,788.

Staff Recommendation

Pass Councillor's Bill No. 42 on first reading amending the interest rate on the assessments for the 104th Avenue Special Improvement District project to reflect the interest cost savings from the recent refunding less that portion of the additional bond savings attributable to the use of the City's AA- bond rating.

Background Information

The 104th Avenue SID bonds were issued in 1988 to finance the construction of the 104th Avenue improvements from Sheridan Boulevard to Wadsworth Boulevard (old Wadsworth), including the U.S. 36 interchange. The 1988 bonds were secured by assessments against the benefited property owners within the special improvement district. The district was formed, the bonds were issued, and assessments were fixed pursuant to a Memorandum of Agreement between the City and the private property owners. The City is a major owner within the District, as City Park abuts a portion of the project. Also, subsequent to the issuance of the bonds, the City has acquired additional land within the District. The City's portion of the total annual assessments is now 55%.

Late last year, Hanifen, Imhoff Inc. apprised the City that rates in the municipal bond market were low enough to offer significant savings on the existing 104th Avenue SID bond issue. Since the passage of Amendment One, the continuation of the City's 2 mill pledge would not be permitted without an election, since such a pledge would be construed under Amendment One as a multiple fiscal year obligation. In order to achieve the lowest possible interest rate on the refunded bonds, and to avoid the Amendment One problem with continuing the 2 mill pledge, Hanifen, Imhoff recommended that the refunding bonds be issued in the form of sales and use tax revenue refunding bonds, instead of non-rated special assessment bonds. As a result, the interest rate for the sales and use tax refunding bonds is approximately 4 1/2%, compared to the approximately 9% interest rate for the original bonds. The original bonds were not rated by a credit agency, which resulted in having to pay higher interest rates than rated or insured bond issues. Also, the original bonds were issued at a time when interest rates were higher.

There are several points City Council may wish to consider when setting the interest rate on these assessments, depending on individual views of the issues.

1. According to the City's Financial Advisor, there is definitely a portion of the refunding savings that would not exist but for the replacement of the 2 mill pledge with the sales/use tax security.
2. Some City Council members may believe that the portion of the savings attributable to the sales and use tax credit enhancement is a benefit that rightfully belongs to the public, and not to the private property owners. Others may believe that, under the original Memorandum of Agreement, the construction of the 104th Avenue interchange project was a public/private partnership and both the original financing as well as future refinancings were intended to proceed at the lowest possible cost to all participants.
3. Following previous City Council discussions in Study Session concerning this matter, letters were sent to the affected property owners indicating the City's intent to share the entire refunding savings on a pro-rated basis.
4. If City Council decides to set aside all or a portion of the savings realized by the City sales tax pledge, it is recommended to defer to the Budget Retreat how the savings would be earmarked. There are a number of potential uses either within the influence of the 104th Avenue project or on a Citywide basis.

5. The actual interest rates for the total versus the partial pass-through of the interest cost savings will be available to Council on Monday evening. If Council elects to pass on the entire interest savings to the private property owners, Council should adopt the lower of the two possible interest rates. If Council elects to pass on only that portion which includes the approximately \$261,000 in savings due to the use of the City's AA- rating, Council should adopt the higher of the two rates.

Respectfully submitted,

William M. Christopher
City Manager

Attachments:

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 42

SERIES OF 1996

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING THE AMENDMENT OF ORDINANCE NO. 2027, SERIES OF 1991, AND ORDINANCE NO. 2073, SERIES OF 1992 OF THE CITY OF WESTMINSTER, COLORADO, FOR THE PURPOSE OF AMENDING THE INTEREST RATE RELATING TO ASSESSMENTS FOR THE CITY'S 104TH AVENUE SPECIAL IMPROVEMENT DISTRICT, AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the City of Westminster, Adams and Jefferson Counties, Colorado (the "City"), is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Colorado Constitution and the home rule Charter of the City (the "Charter"); and

WHEREAS, the City has heretofore issued its City of Westminster, Colorado, 104th Avenue Special Improvement District, Special Assessment Bonds, Series 1988, in the original principal amount of \$13,100,000 (the "1988 Bonds"), for the purpose of financing certain local improvements located with 104th Avenue Special Improvement District (the "District"); and

WHEREAS, the City adopted Ordinance No. 1906, Series of 1989 (the "Assessing Ordinance"), which approved the cost of the improvements in the District, the apportionment of the cost, and assessed a share of said cost to each lot or tract of land in the District; and

WHEREAS, the Assessing Ordinance was amended by Ordinance No. 1948, Series of 1990, Ordinance No. 2027, Series of 1991, and Ordinance No. 2073 Series of 1992 (collectively, the "Amended Assessing Ordinance"), for the purpose of amending and confirming the assessment roll to reflect the final cost of the improvements and the apportionment of the final amounts of the cost against the benefitted properties within the District (the "Assessments"), and providing for the payment of the Assessments, in full, or in installments, with interest, and providing for other details in connection therewith; and

WHEREAS, due to defaults by certain owners in the payment of Assessments and the acquisition of land in the District by foreclosure or in lieu of foreclosure, the City is now directly responsible for the payment of approximately 55% of the principal and interest on the 1988 Bonds; and

WHEREAS, pursuant to Section 12.3 of the Charter, the City: (i) agreed to levy annual taxes at a rate not exceeding two mills for the purpose of advancing money to maintain current payments of interest and equal payments of the principal amount of the 1988 Bonds, and (ii) agreed to appropriate annually amounts to pay a portion of the principal and interest on the 1988 Bonds in consideration of general benefits received by the City from the construction of the improvements financed by the 1988 Bonds; and

WHEREAS, the Council determined that it was necessary to refund the 1988 Bonds in order to lower the interest rate paid by the City and by those property owners responsible for paying the Assessments, and that it was in the best interests of the City and the inhabitants thereof to refund said bonds; and

WHEREAS, pursuant to Chapter XI of the Charter, on May 20, 1996, the Council adopted Ordinance No. 2418, Series of 1996, authorizing the issuance of sales and use tax revenue refunding bonds in the principal amount of \$8,770,000 (the "1996 Bonds") for the purpose of refunding the 1988 Bonds and lowering the interest rate thereon; and

WHEREAS, closing on the 1996 Bonds was held on May 30, 1996; and

WHEREAS, it is necessary to amend the Amended Assessing Ordinance for the purpose of allocating the savings generated by the 1996 refunding between the City and the other owners of property; and

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Short Title. This Ordinance shall be known as and may be cited by the short title "1996 Amendment to 104th Avenue SID Amended Assessing Ordinance."

Section 2. Authorization of Amendment. Section 4 of Ordinance No. 2027, Series of 1991, is amended to read, as follows:

"Section 5. Payment of Installments. All installment payments of the assessments shall be payable at the office of the County Treasurer of Jefferson County, Colorado, in the same manner as general property taxes are payable and collectible in Jefferson County, Colorado, in twelve (12) annual installments of principal beginning on January 1, 1992, and continuing on the same day of each year thereafter to and including January 1, 2003, together with interest on the unpaid principal amount from January 1, 1990, at the rate of 9.27% per annum, payable on January 1, 1992, and on each principal payment date thereafter as set forth above; provided that on and after January 1, 1997, the interest rate shall be 6.9% per annum, and that on and after January 1, 1998, the interest rate shall be 6.42%. If the balance of the assessment is paid in full anytime after January 1, 1992, interest on such amount to the next installment payment date shall also be due and payable."

Section 3. Amendment of Ordinance No. 2073. Exhibits A-1(i), A-1(ii), A-2 and A-3 and Exhibit B to Ordinance No. 2073 are hereby amended to read as set forth in Exhibits A-1(i), A-1(ii), A-2 and A-3, and Exhibit B to this Ordinance.

Section 4. Delegation. The Director of Finance is hereby authorized and directed to certify a revised assessment roll to the County Treasurer of Jefferson County, Colorado, based upon Exhibits A-1(i), A-1(ii), A-2 and A-3. Such assessment roll shall assess the costs set forth in such assessments against all tracts or parcels in the District, except as otherwise provided in the Assessing Ordinance or the Agreement and Waiver. Nothing herein shall effect the priority of the perpetual lien as set forth in the Assessing Ordinance.

Section 5. Amendments. All provisions of Ordinance No. 1906, Series of 1989, Ordinance No. 2027, Series of 1991 and Ordinance No. 2073, Series of 1992, not amended hereby shall remain in full force and effect.

Section 6. Ratification. All actions (not inconsistent with the provisions of this Ordinance) taken by the City Council and officers and employees of the City in connection with the District, the 1988 Bonds, the 1996 Bonds and the Assessments are hereby ratified, approved, and confirmed.

Section 7. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 8. Repealer. All orders, ordinances, resolutions, bylaws, and regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 9. Effective Date, Recording and Authentication. This Ordinance shall be in full force and effect immediately upon enactment following final passage. This Ordinance shall be recorded in the City Book of Ordinances kept for that purpose, and shall be authenticated by the signatures of the Mayor and City Clerk, and published in accordance with law.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of June, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of July, 1996.

ATTEST:

Mayor

City Clerk

Date: June 24, 1996

Subject: Councillor's Bill No. re Protogenic Inc. Assistance Package

Prepared by: Susan Grafton, Economic Development Manager

Introduction

City Council action is requested on the attached Councillor's Bill to approve a business assistance package for Protogenic's new 35,000 square foot building.

Summary

Protogenic will be building a new 2 story 35,000 square foot building at the southeast corner of Osage Street and 121st Avenue in Park Centre (see attached map and site plan). Construction will begin in July and move-in is expected to begin by the end of 1996. The attached assistance package is designed to help defray some of the initial costs of the project.

Staff Recommendation

Pass Councillor's Bill No. on first reading which authorizes the execution, implementation, and funding of the Assistance Agreement with Protogenic Incorporated for the construction of their building.

Background Information

Protogenic, Inc. is currently located in Boulder and is planning to build a 35,000 square foot, \$2.6 million building in Park Centre at the southeast corner of 121st Avenue and Osage Street in Westminster. Anticipated move-in is planned for late fall of this year.

Protogenic manufactures three dimensional plastic prototypes from three dimensional computer generated images. The company's primary clients are in the medical and electronics industries. For the past five years, the company has grown at a rate of 50% per year. Annual growth is expected to continue at a 35% to 50% rate in the near future. Protogenic currently employs 24 people with an average salary of \$39,600.

Horst Lambrecht, the founder and part owner of Protogenic, decided to move the business from Boulder because of the strong anti-growth and anti-business climate in that community. Staff has been working with this client since August of 1995.

Protogenic will be bringing a sister company with them which is CAD Potential. Founded by Ken Lambrecht in 1988, the company provides products and services to end users of CAD/CAM software. The company employs 11 people at an average salary of \$51,000.

With the 24 Protogenic employees and CAD Potential's 11 employees, this project will initially generate a total of 35 new jobs for the City. However at a 35% minimum growth rate, employment projections for the two companies over the next five years show that approximately 122 additional jobs will be created.

Revenue to the City from these two companies would total approximately \$152,373 over five years. Equipment purchases for the two companies are expected to be about \$350,000 to \$650,000 per year. That level of purchases would generate approximately \$11,375 to \$21,125 in use tax at 3.25%. Property tax would be about \$2,752 per year. Construction related permit fees and use tax for the new building total \$81,738. A summary of the revenue projection follows:

	<u>Annual</u>	Total over <u>5 years</u>
Use tax on equipment	\$11,375	\$56,875
Property tax	2,752	13,760
Building permits	N/A	15,472
Use tax on construction	N/A	43,517
Tap fees	<u>N/A</u>	<u>22,749</u>
Total	\$14,127	\$152,373

Proposed Business Assistance Package

Protogenic has asked for assistance in relocating to Westminster. Staff recommends the following for Council's consideration:

	<u>Approximate Value</u>
Permit fee waiver - 40% waiver of building related permit fees, excluding tap fees (\$15,472 x 40%)	\$6,200
Construction use tax waiver - 40% waiver of the use tax collected on construction (\$43,517 x 40%)	17,400
Training funds - \$3,000 per year for 3 years for specialized training of new employees	<u>9,000</u>
Total	\$32,600

When combining projected revenues to the City, this business assistance package would be recouped in approximately two years.

Conclusion

Staff believes that Protogenic is the type of company that is desirable to have locate in the City. It is a high tech, computer related, growing business which pays its employees good wages. The company's ties to Boulder are strong and could potentially help the City in attracting similar type businesses to Westminster.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

ASSISTANCE AGREEMENT
FOR THE CONSTRUCTION OF PROTOGENIC INCORPORATED
OFFICE BUILDING IN THE CITY OF WESTMINSTER

THIS AGREEMENT is made and entered into this _____ day of _____, 1996, between the CITY OF WESTMINSTER (the "City"), and PROTOGENIC INCORPORATED.

WHEREAS, the City wishes to provide certain assistance to Protogenic to aid in the construction of their new office building within the City on property on 121st Avenue in Park Centre; and

WHEREAS, the proposed facility will employ approximately 35 employees with an annual payroll of over \$1.5 million; 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 Protogenic agree as follows:

1. The City shall waive the payment of 40% of the building and related permit fees, not including tap fees, required under W.M.C. Section 11-10-3(E), which will result from the construction of a 35,000 square foot building to be completed no later than June 30, 1997. The value of the permit fee waiver is estimated to be \$6,200.

2. The City shall waive the payment of 40% of the building Use Taxes on the construction materials, which are to be used in the construction of the 35,000 square foot building, required under W.M.C. sections 4-2-9 and 4-2-3. The value of the waiver is estimated to be \$17,400.

3. The City shall provide to Protogenic \$3,000 per year for three years for specialized training of new employees at the Westminster facility.

4. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Protogenic has not completed construction or moved into its new building by June 30, 1997.

5. In the event Protogenic ceases business operations within the City within three (3) years after the new operations commence, then in such event Protogenic shall pay to the City the total amount of fees and taxes which were due and payable by Protogenic to the City but were waived by the City, as well as reimburse the City for all funds provided to Protogenic pursuant to this Agreement.

6. This instrument shall constitute the entire agreement between the City and Protogenic, 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.

7. 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 Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

8. 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.

PROTOGENIC INCORPORATED

CITY OF WESTMINSTER

By _____

Bill Christopher
City Manager

4800 West 92nd Avenue
Westminster, CO 80030

ATTEST:

ATTEST:

Title

Michele Kelley, City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 1996

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH PROTOGENIC INCORPORATED

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

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

WHEREAS, Protogenic Incorporated has indicated an interest in building a new 35,000 square foot building in the City of Westminster at the southeast corner of Osage Street and 121st Avenue in Park Center; and

WHEREAS, Protogenic Incorporated, and other related businesses will employ approximately 35 at this new facility with an annual payroll of over \$1.5 million; and

WHEREAS, a proposed Assistance Agreement between the City and Protogenic 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 members of the City Council of the City of Westminster direct and authorize the following actions by the City Staff:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with Protogenic Incorporated 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 24th day of June, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ___ day of _____, 1996.

ATTEST:

Mayor

City Clerk

Date: June 24, 1996
Subject: 1995 Comprehensive Annual Financial Report
Prepared by: Karen Creager, Accountant

Introduction

City Council has received copies of the Comprehensive Annual Financial Report (CAFR) for the year ended December 31, 1995 as prepared by the Finance Department and as examined by Grant Thornton, Certified Public Accountants. At this time, the CAFR is submitted to City Council for acceptance.

Summary

The 1995 CAFR is presented for acceptance by City Council. The 1995 CAFR received an unqualified opinion from Grant Thornton, the City's external auditors. An unqualified opinion indicates the financial data of the City is fairly presented according to generally accepted accounting principles.

Staff Recommendation

Accept the 1995 Comprehensive Annual Financial Report of the City of Westminster as audited by Grant Thornton, Certified Public Accountants.

Background Information

The City Charter requires that an independent audit be conducted at least annually by certified public accountants selected by the City. In addition, the City Manager is required to prepare an annual report of the City, including a financial report. The City's outside auditors, Grant Thornton, performed their examination and expressed an unqualified opinion on the financial statements for the year ended December 31, 1995. This opinion is included as part of the CAFR.

The CAFR is divided into four sections as follows:

1. Introductory Section. Pages 1 through 10 contain the letter of transmittal by the City Manager and Director of Finance which describes significant events of the City which occurred during the year and gives a summary of activity for 1995.

2. Financial Section.

a) Pages 18 through 29 contain the General Purpose Financial Statements for the various fund types and account groups. These statements provide an overview and broad perspective of the financial position and results of operations for the City as a whole in a standardized, generically labeled format. In addition, they are designed to be "liftable" from the financial section for inclusion in official statements or for widespread distribution.

b) Pages 31 through 69 contain the notes to the financial statements, which are necessary for a fair presentation of the financial position and results of operations of the City in conformity with generally accepted accounting principles. The notes are an integral part of the financial statements and include a summary of the City's significant accounting policies.

c) Pages 71 through 168 provide combining, individual fund and account group financial statements. They present more detailed information than is presented at the overview level such as individual fund budgetary comparisons, and prior year comparative data.

d) Pages 169 through 172 contain the Road & Bridge Report required by the State of Colorado.

e) Pages 173 through 175 contain supplementary information on the Volunteer Firefighter Pension Fund required by the Governmental Accounting Standards Board.

3. Statistical Section. Pages 176 through 197 contain ten-year historical data and additional background on the City.

4. Single Audit Section. Pages 199 through 210 include reports and schedules related to federal financial assistance. This information is required by the U.S. government under the provisions of the Single Audit Act of 1984.

The 1995 CAFR reflects a stable financial position consistent with information supplied to Council on a monthly basis throughout the year. As noted in the auditor's opinion, the CAFR fairly presents 1995 financial activity of the City of Westminster. Consideration by City Council for acceptance of the 1995 CAFR is requested.

Respectfully submitted,

William M. Christopher
City Manager

Date: June 24, 1996

Subject: Pierce Street, 104th to 112th Avenue, Design Contract

Prepared by: David W. Loseman, Senior Projects Engineer

Introduction

City Council action is requested to authorize the City Manager to execute an amended engineering design contract with Martin/Martin, Inc. in the amount of \$133,720_ raising the total contract amount for the Pierce Street, 104th Avenue to 112th Avenue project to \$186,720. Funds for this expense are available in the Pierce Street, 104th Avenue to 112th Avenue project of the General Capital Improvement Fund.

Summary

- > The original scope of this project included the final design of Pierce Street from 104th Avenue to approximately 107th Avenue and the preliminary design from 107th Avenue to 112th Avenue.
- > The revised Scope of Services includes the following additional items of work:
 - Final design of Pierce Street from 107th Avenue to 112th Avenue;
 - Final design of a pedestrian bridge crossing over Pierce Street approximately 1,000 feet north of 104th Avenue;
 - Final design of the lowering of an existing 24-inch water line in the vicinity of the pedestrian bridge;
 - Final design of storm sewer improvements associated with the pedestrian bridge as well as a separate storm sewer along the south line of Sheridan Green Subdivision;
 - Final design of three additional traffic signals;
 - Final design of a re-use water line from 107th Avenue to 112th Avenue for the eventual connection to the re-use water line from Big Dry Creek Wastewater Treatment Plant.
- > The cost for these additional design services is \$133,720 which raises the total design cost to \$186,720.
- > This total design cost is approximately five percent (5%) of the expected cost of construction. This compares favorably with past capital projects whose design fees typically range between five percent (5%) and eight percent (8%).

Staff Recommendation

Authorize the City Manager to sign an amended Engineering Services Contract with Martin/Martin, Inc. for the preparation of construction bid documents for Pierce Street from 104th Avenue to 112th Avenue in an amount not to exceed \$186,720; and charge this expense to the appropriate project account in the General Capital Improvement Fund.

Background Information

Since the opening of the 104th Avenue/U.S. 36 Interchange, the City has considered the feasibility of a roadway connection that would provide quick access to the highway for residents of Sheridan Green Subdivision and other subdivisions to the north of 112th Avenue. Currently, motorists from these areas must travel east to Sheridan Boulevard, south to 104th Avenue, then west to U.S. 36, thus adding distance to their trips and contributing to the air pollution problems of the Denver-metro area.

A logical, more direct route to U.S. 36 would be provided by an extension of Pierce Street from 104th Avenue (at the west side of the Butterfly Pavilion) through Northpoint Subdivision and along the west side of Sheridan Green Subdivision to 112th Avenue. On August 28, 1995, Council authorized the execution of a design contract with Martin/Martin, Inc. for the Pierce Street Project. Since that time, the scope of the project has changed significantly which necessitates an amendment to the Engineering Services Contract with Martin/Martin.

The most significant changes in the scope include the final design of Pierce Street from 104th Avenue to 112th Avenue in anticipation of constructing this entire stretch rather than just the portion between 104th Avenue and 107th Avenue as originally planned. Another significant addition is the design of a pedestrian bridge to "link" the private parcel with the parcel on the east side of Pierce Street as well as City Park. The intent of these changes in the scope is to not only provide the traffic benefits mentioned above, but to coordinate the master planning of the parcel on the east side of Pierce Street with the parcel on the west side of Pierce Street.

Staff believes that Martin/Martin is the most logical choice to perform these services due to their strong familiarity with the Northpoint Subdivision and the original Pierce Street project. The requested additional fee, while significantly higher than the original contract amount, is reasonable considering the significant changes in the amount of work to be performed.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Map

Date: June 24, 1996
Subject: Councillor's Bill No. re Salary Supplemental Appropriation
Prepared by: Patrick F. Casey, Lieutenant

Introduction

City Council is requested to pass the attached Councillor's Bill on first reading which provides for a supplemental appropriation transferring \$43,320 from the Police Department salaries account to the Finance Department, Data Processing Division, salaries account.

Summary

A housekeeping supplemental appropriation is necessary in order to accurately reflect the salary for Dan Stadler, Programmer/Analyst, in the proper City salaries account.

Staff Recommendation

Pass Councillor's Bill No. on first reading appropriating \$43,320 from the Police Department Support Services salaries account to the Finance Department, Data Processing Division, salaries account.

Background Information

Effective January 1, 1996, Dan Stadler, the Records Administrator for the Police Department, was transferred to the Finance Department, Data Processing Division. This transfer was part of a reorganization between the two departments in an effort to better utilize the skills of Dan Stadler in the capacity of Programmer/Analyst. With this transfer, Dan's salary needs to be reflected in the appropriate budget. Therefore, \$43,320 should be moved from the Police Department Support Services Division salary account and placed into the Finance Department's Data Processing Division salary account.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Councillors Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1996

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1996 BUDGET OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1996 ESTIMATED REVENUES IN THE VARIOUS FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1996 appropriation for the Utility Fund - Water Portion, initially appropriated by Ordinance No. 2385 in the amount of \$18,276,156 is hereby increased by \$43,320 which, when added to the fund balance as of the City Council action on June 24, 1996, will equal \$18,876,089. The actual amount in the General 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 increase is due to the transfer of salaries to the Utility Fund, Finance Department, Data Processing Division from the General Fund, Police Department, Support Services Division.

Section 2. The \$43,320 increase in the Utility Fund - Water Portion shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUE</u>			
Carryover \$(413,945) 20-0090-000	\$(457,265)	<u>\$43,320</u>	
<u>EXPENSES</u>			
Salaries 20-15-23-100-000	\$399,798	<u>\$43,320</u>	\$443,118

Section 3. The 1996 appropriation for the General Fund, initially appropriated by Ordinance No. 2385 in the amount of \$42,517,000 is hereby decreased by \$43,320 which, when added to the fund balance as of the City Council action on June 24, 1996, will equal \$44,316,050. The actual amount in the General 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 decrease is due to the transfer of salaries to the Utility Fund, Finance Department, Data Processing Division from the General Fund, Police Department, Support Services Division.

Section 4. The \$43,320 decrease in the General Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Decrease</u>	
<u>REVENUE</u>			
General Fund Carryover 10-0090-000 \$2,367,050	\$2,410,370	<u>\$(43,320)</u>	
<u>EXPENSES</u>			
Support Services Salaries			

10-20-29-100-000

\$1,015,090

\$(43,320)

\$971,770

Section 5 - 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 6. This ordinance shall take effect upon its passage after the second reading.

Section 7. 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 24th day of June, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 1996.

ATTEST:

Mayor

City Clerk

Date: June 24, 1996

Subject: City Park Revised Master Plan

Prepared by: Kirk Haines, Park Development Manager

Introduction

City Council action is requested to pass the attached Councillor's Bill on first reading appropriating \$80,080 from 1995 park designated carryover funds into the General Capital Improvement Fund and authorize the City Manager to sign a contract with EDAW*HRV to revise the City Park Recreation Complex master plan and authorize funds in the amount of \$80,080 for this expense.

Summary

Over the past 12 years, the City Park master plan has been adjusted and improved to meet the changing recreational needs of the community. In addition to the increasing recreational needs, land acquisitions have occurred which have increased the size of City Park from 50 acres to over 200 acres. The City is also considering additional land acquisitions for park and recreation uses. While land acquisitions have increased the size of City Park, the City has also acquired additional land west of City Park (the Northpoint property) for future economic development opportunities.

Staff believes the time is right to begin to plan the future development of Westminster City Park based on current and future land acquisitions, as well as the changing recreational demands which have been identified and approved by City Council for further study and analysis. Some of the notable changes from the 1993 (revised) City Park Master Plan include the construction of a glass conservatory to house a wide variety of plants, an arboretum and formal gardens area, environmental interpretive areas and wildlife habitat corridor along Big Dry Creek, a nature interpretive center, and active recreation areas.

DHM Inc. and EDAW*HRV were requested to submit proposals for this project because of their high standards of professional quality and because both firms had previously helped on major components of the park, making them very familiar with the City's goals and objectives for this project. Both proposals were similar in their scope of services to be provided and fee range. An interview team consisting of Mayor Pro Tem Sam Dixon, Alan Miller, John Carpenter, Bill Walenczak and Kirk Haines interviewed both firms. Both firms were qualified to perform the work, however, EDAW*HRV was the preferred consultant due to their previous experience with these unique park elements and the outstanding team of consultants assembled to perform the work.

Staff is also requesting a partial appropriation of 1995 carryover funds at this time to fund the consultant master planning services. Staff will be requesting City Council to consider additional appropriations of remaining 1995 carryover funds in July for other projects.

Staff Recommendation

1. Pass Councillor's Bill No. on first reading appropriating \$80,080 from 1995 park designated carryover funds into the General Capital Improvement Fund.
2. Authorize the City Manager to sign a contract with EDAW*HRV in the amount of \$72,800 along with a 10% contingency to perform design services to revise the City Park master plan, and charge this expense to the appropriate General Capital Improvement Fund account from 1995 carryover funds.

Background Information

In December, 1995, Westminster submitted a concept paper to the Great Outdoors Colorado (GOCO) Board for consideration of a Legacy Project at City Park. The City Park project was not selected by GOCO as one of the Legacy projects. However, City Council enthusiastically supported many unique concepts that were part of the Legacy Grant request, including the construction of a glass conservatory, arboretum, formal gardens, environmental interpretive areas and wildlife habitat corridor and additional land acquisitions.

While many of the unique concepts at City Park were being evaluated by Council, economic development of the Northpoint property, directly west of the City Park complex, was also being evaluated to determine future growth within this area of the City. It is important to evaluate all of the potential land uses within this area including business, commercial, residential and recreational to determine the amount of land mass needed to accommodate each of the uses being considered. City Council will be making some decisions in the near future to determine how the land will be developed. Therefore, the proposed master planning services by EDAW*HRV will provide significant information about the future development of City Park Regional Park and provide factual information with which those decisions can be formulated.

Currently, the Jefferson County Board of County Commissioners are evaluating a resolution to approve funds as part of the Jefferson County Open Space (JCOS) Joint Venture grant program.

The JCOS Advisory Committee supported a \$25,000 grant request from the City to assist in funding the revised City Park Master Plan project. Once the County Commissioners adopt this recommended action, the County will assist with funding this proposed project.

City Council could decide not to approve the proposed contract with EDAW*HRV toward revising the City Park Recreation Complex Master Plan. However, due to the current goal of planning the entire Northpoint business area and recreation activities and programs at City Park, as well as the pending JCOS Joint Venture development grant submittal, staff feels that the timing is right to proceed with this work.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Councillors Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1996

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1996 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1996 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1996 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 2385 in the amount of \$14,590,129 is hereby increased by \$80,080 which, when added to the fund balance as of the City Council action on June 24, 1996, will equal \$15,721,873. 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 increase is due to the appropriation of 1995 carryover funds for the City Park Recreation Complex Master Plan.

Section 2. The \$80,080 increase in the Capital Improvement Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Carryover			
75-0090-000	\$756,537	<u>\$80,080</u>	\$836,617
<u>EXPENSES</u>			
Project #034			
75-50-88-555-034	\$0	<u>\$80,080</u>	\$80,080

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 24th day of June, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 1996.

ATTEST:

Mayor

City Clerk

Date: June 24, 1996

Subject: Councillor's Bill No. re Pretreatment/Industrial Waste Control

Prepared by: Carl Hill, Utilities Operations Plants Coordinator

Introduction

City Council action is requested to pass on first reading the attached Councillor's Bill amending Westminster Municipal Code, Section 8-10-4(H) regarding pretreatment/industrial waste control. The attached revision was requested by the Metro Wastewater Reclamation District (Metro District) and reviewed by the City Attorney's Office (CAO) who also discussed it with Metro District.

Summary

On April 2, the United States Environmental Protection Agency (EPA) approved a substantial modification to the Metro District's approved Pretreatment Program or Section 6 of Metro Districts Rules and Regulations. Since a portion of the City's sanitary sewer flow goes to Metro District, they have requested the City adopt Section 6 of their rules and regulations. The City wishes to incorporate this revision into the City's ordinance so as to comply with the Metro District's rules.

Staff Recommendation

Pass Councillor's Bill No. on first reading amending Section 8-10-4, Subsection (H), adopting Section 6 of Metro Districts Rules and Regulations in its entirety.

Background Information

The City's Industrial Pretreatment Program was approved by EPA in May 1983. Chapters 8 and 10 of Title VIII constitutes the legal authority to implement and enforce the program. Since a portion of the City's sanitary sewer flow discharges to Metro District, they have requested that the City adopt Section 6 of their rules and regulations to assure their legal authority to control the quality of wastewater discharged into their facility. The Metro District also wishes to ensure that future regulatory updates to their program are automatically incorporated as required. Please see the attached copy of Metro District's revised Section 6.

Respectfully submitted,

William M. Christopher
City Manager

Attachments: Councillor's Bill
Metro District's Section 6 Revision

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1996

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE
CONCERNING PRETREATMENT/INDUSTRIAL WASTE CONTROL

THE CITY OF WESTMINSTER ORDAINS:

Section 1. W.M.C. section 8-10-4, subsection (H), is hereby AMENDED to read as follows:

8-10-4: REGULATIONS:

(H) Industrial users which discharge to Metro District must comply with specific discharge limitations provided in the Metro District rules and regulations ~~that are~~ AS amended from time to time. FOR PURPOSES OF THIS SECTION (H), SECTION 6 OF THE METRO WASTEWATER RECLAMATION DISTRICT RULES AND REGULATIONS, AS AMENDED FROM TIME TO TIME, IS HEREBY ADOPTED IN ITS ENTIRETY.

Industrial users which discharge to the City of Westminster **POTW** must comply with specific discharge limitations set forth in Schedule 8-10 (A) below. Dilution of a discharge shall not be used as a method for achieving compliance with all applicable pretreatment standards.

SCHEDULE 8-10(A)
SPECIFIC POLLUTANT LIMITATIONS

Pollutant/Pollutant Property	Maximum Concentration (mg/l)	
	Grab Sample	Composite Sample
Ammonia-Nitrogen (as N)	120	60
Arsenic	1.2	0.6
Boron, total	0.6	0.3
BOD ₅ (averaged during any 12 hour period)	---	1,000
Cadmium, total	0.12	0.06
Calcium	16,000	8,000
Chromium, hexavalent	0.8	0.4
_____, total	10.0	5.0
Copper, total	5.6	2.8
Cyanide, amenable to chlorination	5.0	2.7
_____, total (as hydrogen cyanide)	2.0	2.0
Fluorides (as F)	20.0	10.0
Iron, total	60	30
Lead, total	0.8	0.4
Manganese, total	20.0	10.0
Mercury, total	0.2	0.1
Nickel, total	3.8	1.9
pH, minimum greater than	5.5	
pH, maximum less than	10.0	
Selenium	0.12	0.06
Silver, total	0.4	0.2
Sulfides (as hydrogen sulfide)	10.0	10.0
Zinc, total	11.0	5.5
Total Metals (sum of copper, nickel,	20.0	10.0

total chromium, and zinc)

Chlorinated Hydrocarbons	2.0	1.0
Endrin (1,2,3,4,10,10-hexchloro-6, 7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1, 4 endo, endo-5, 8-dimethano naphthalene)	0.0010 0.0007	
Lindane (1,2,3,4,5,6-hexachloro- cyclohexane, gamma isomer)	0.020 0.010	
Methoxychlor (1,1,1-trichloroethane -2, 2-bis 1/4p-methoxypheny)	0.60	0.30
Oil/Grease	75.0	75.0
Organic Solvents	50.0	25.0
PCB's, total	0.006 0.003	
Phenolic Compounds (as phenol)	10.0	10.0
Toxaphene (C ₁₀ H ₁₀ C ₁₈ -Technical chlorinated camphene, 67-69 percent chlorine)	0.030 0.017	
2,4-D, (2,4-Dichlorophenoxyacetic acid	0.60	0.30
2,4,5-TP Silvex (2,4,5-Tricholoro- phenoxy-propionic acid)	0.06	0.03

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 _____ day of _____, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 1996.

Mayor

ATTEST:

City Clerk

Date: June 24, 1996
Subject: Waiver of 1981 Water Right
Prepared by: Dan Strietelmeier, Water Resources Engineer

Introduction

City Council action is requested to authorize the Mayor to execute waiver of rights for the City of Thornton waiving all rights the City of Westminster may enjoy pursuant to Paragraph 2 of the stipulation dated August 31, 1990 between the City of Broomfield and the City of Thornton in Case No. 89-CW-132, District Court in and for Water Division 1, State of Colorado.

Summary

Westminster submitted a joint bid with Arvada, Northglenn and Black Hawk to the City of Broomfield in January 1993 to purchase its Category 1 water rights. After lengthy negotiations, an agreement on the Church Ditch water rights was reached, and the respective Councils approved the purchase in June 1995 and closed the purchase on October 20, 1995.

Among the water rights conveyed to Westminster by Broomfield was its 1981 direct flow water right.

Westminster agreed to use this junior water right only in connection with and for the benefit of the U.S. Department of Energy (DOE) Wetlands Project component of the Standley Lake Protection Project.

Broomfield also agreed to waive any and all rights it enjoyed from previous stipulations with Westminster and Thornton which allowed for curtailment of Farmers Reservoir and Irrigation Company (FRICO) decree water in order to produce water for Broomfield's junior rights.

Since Westminster became an owner of the 1981 junior right at the October 20, 1995 closing, Thornton is requesting a waiver of any and all rights Westminster may enjoy pursuant to the previous stipulations.

Westminster may still use the 1981 water right for the benefit of the DOE Wetlands, but may not require Thornton to curtail their FRICO diversions to produce water for the 1981 right.

The 1981 water right of which 38 cubic feet per second is absolute and produces no additional firm yield for Westminster because of its junior priority date.

Staff Recommendation

Authorize the Mayor to execute a waiver of rights for the City of Thornton for water rights owned by the City of Westminster acquired from Broomfield in the Category 1 water rights purchase.

Background Information

Westminster and its Consortium partners negotiated over the last three years with Broomfield to complete the sale of the Category 1 water rights owned by Broomfield. Westminster put in a joint bid with Arvada, Black Hawk and Northglenn to purchase the rights, (Black Hawk later dropped out) and Westminster also bid on Broomfield's one-third ownership in the Church Ditch. Westminster purchased a portion of the ditch because the City now owns approximately one-third of the inches in the ditch. Ownership of the ditch itself gave Westminster a voice in ditch operations, crucial to protecting the City's water rights' interests. The ditch may also be used to solve storm water related water quality problems at Standley Lake in the future. Northglenn will continue to own the remaining two-thirds of the ditch.

Westminster, Northglenn, and Arvada reached an agreement with Broomfield on the Church inches portion of Category 1 previously, and Council had approved that purchase in June 1995. The purchase of ownership in the Church Ditch Company was approved by Council in September 1995 and the closing occurred on October 20, 1995. Among the components of the Church Ditch Company purchase was the conveyance of the 1981 water right, together with the waiver of all previous Broomfield stipulations associated with this water right.

The City of Thornton is requesting a waiver of rights that the City of Westminster may have acquired with the purchase of the 1981 water right. Broomfield had stipulated out of Thornton's FRICO Change of Use case if Thornton agreed to curtail its FRICO diversions above certain limits, if water could be produced for the 1981 water. Thornton now wants to ensure that Westminster will not require the same limits on Thornton's FRICO decree. This waiver of rights will not have any impact on Westminster's firm yield water supply.

Westminster and Thornton have negotiated several versions of stipulations and waivers before finally agreeing on the attached version. If Council decides not to approve executing the waiver of rights, the alternative for Thornton could be to file dismissal through water court and ask for attorney's fees.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: June 24, 1996
Subject: IGA re Winter Effluent Supply to Northglenn
Prepared by: Dan Strietelmeier, Water Resources Engineer

Introduction

City Council action is requested to authorize the Mayor to sign the Intergovernmental Agreement (IGA) between the City of Northglenn, the City of Westminster and the Church Ditch Company that formalizes the acquisition of one-third interest of the Church Ditch Company from the City of Broomfield.

Summary

Westminster submitted a joint bid with Arvada, Northglenn and Black Hawk to the City of Broomfield in January 1993 to purchase its Category 1 water rights. After lengthy negotiations, an agreement on the Church Ditch water rights was reached, and the respective Councils approved the purchase agreement in September, 1995 and closed the purchase on October 20, 1995.

In exchange for receiving Broomfield's ownership of the Church Ditch, Westminster agreed to assume Broomfield's obligation to allocate 370 acre feet of effluent during the winter months for use by Northglenn.

The effluent obligation was set forth in a previous IGA between Broomfield and Northglenn that was part of conveyance of one-third ownership of the Church Ditch to Broomfield.

All rights, title and interest contained in the previous IGA were conveyed to Westminster at the October 20, 1995 closing.

The revised IGA also addresses issues such as excess carrying capacity in the Church Ditch, operation and maintenance, and Westminster representation on the Church Ditch Company board of directors.

Westminster is able to assume Broomfield's effluent obligation to Northglenn with excess winter effluent that can be delivered to Big Dry Creek from the Big Dry Creek Water Reclamation Facility.

Staff Recommendation

Authorize the Mayor to sign the Intergovernmental Agreement that formalizes the purchase of Broomfield's one-third interest in the Church Ditch by Westminster.

Background Information

Westminster and its Consortium partners negotiated over the last three years with Broomfield to complete the sale of the Category 1 water rights owned by Broomfield. Westminster put in a joint bid with Arvada, Black Hawk and Northglenn to purchase the rights, (Black Hawk later dropped out) and Westminster also bid on Broomfield's one-third ownership in the Church Ditch.

Westminster purchased a portion of the ditch because the City now owns approximately one-third of the inches in the ditch. Ownership of the ditch itself gave Westminster a voice in ditch operations, crucial to protecting the City's water rights' interests. The ditch may also be used to solve storm water related water quality problems at Standley Lake in the future. Northglenn will continue to own the remaining two-thirds of the ditch.

Westminster, Northglenn, and Arvada reached an agreement with Broomfield on the Church inches portion of Category 1 previously, and Council had approved that purchase in June 1995. The purchase agreement for ownership in the Church Ditch Company was approved by Council in September, 1995 and the closing occurred on October 20, 1995. Among the components of the Church Ditch Company purchase was the conveyance of all rights, title and interest in a previous IGA between Northglenn and Broomfield dated February 28, 1983.

A revised version of the IGA has been negotiated with Northglenn that provides for formal embodiment of Westminster's one-third ownership interest in the Church Ditch. Northglenn was needed as a partner in the Category 1 water purchase and one of the terms of the purchase agreement executed on October 20, 1995 was for Westminster to assume the obligation set forth in the 1983 IGA. The new IGA (attached) also gives Westminster the right to use excess carrying capacity in the Church Ditch and formalizes Westminster's representation on the Church Ditch board of directors.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: IGA

Date: June 24, 1996

Subject: Second Reading of Councillor's Bill No. 28 re 1995 Model Traffic Code

Prepared by: Tami Berry, Legal Assistant

Introduction

City Council action is requested to adopt Councillor's Bill No. 28 on second reading with amendments.

Summary

At the May 20, 1996, City Council meeting, the attached Councillor's Bill was passed on first reading. Recent amendments to Chapter 1 of Title X of the Westminster Municipal Code concerning parking within City cul-de-sacs were not reflected in the ordinance considered by City Council on first reading. Those amendments are now included in the attached Councillor's Bill within section 10-1-3.

In addition, a violation of section 1409 of the revised Model Traffic Code concerning compulsory insurance has been added as a "criminal" offense under the penalties provision of the City's ordinance.

Staff Recommendation

Adopt Councillor's Bill No. 28 on second reading as amended repealing and reenacting Chapter 1 of Title X of the Westminster Municipal Code and adopting by reference the 1995 edition of the Model Traffic Code for Colorado Municipalities.

Background Information

At the May 20 City Council meeting, there was some discussion by City Council and City Staff concerning the issue of seat belt laws. To clarify, two state statutes address the seat belt law. C.R.S. section 42-4-237(5) governs the use of seat belts by adults. A police officer may not use an observed violation of this section as probable cause to cite a motorist. The officer may cite this violation only if he or she contacts the driver for any other reason and then observes the seat belt violation. C.R.S. section 42-4-236, on the other hand, addresses the use of seat belts by persons under the age of 16. Pursuant to this section, it is a primary violation and the driver can be cited for this violation at any time.

Also at the May 20 meeting, Councillor Smith had requested City Staff research whether the City could remove license plates from a vehicle upon issuing the driver a summons for a compulsory insurance violation. C.R.S. section 42-4-110(1)(d) states that "in no event shall local authorities have the power to enact by ordinance regulations governing . . . the registration of vehicles"

In addition, there is no mention of vehicle registration or licensure within C.R.S. section 42-4-111, which is the state statute that sets forth those powers granted to local authorities by the state legislature concerning the regulation of vehicles and traffic. Thus, it appears that cities do not have authority to enact laws affecting the registration and licensing of a motor vehicle.

Finally, any offense that has imprisonment as a penalty in the state law has to be a "criminal offense" in the City's ordinance, which means a violator is entitled to a jury trial and also subject to arrest and imprisonment as a penalty. Therefore, section 1409 of the revised Model Traffic Code concerning compulsory insurance has been added to section 10-1-4(C) of the City's ordinance, which lists those offenses which may be punished with a jail sentence.

Approval by the Colorado Department of Transportation is required by law for all regulations pertaining to streets which are also state highways, including Sheridan and Federal Boulevards. The Department has reviewed a copy of the City's proposed ordinance and indicated it would be able to provide formal approval upon receipt of a copy indicating adoption by the Westminster City Council.

If City Council passes the attached Councillor's Bill on second reading, the proposed ordinance will be published in full on July 3, 1996, and the effective date of the ordinance will be August 2, 1996. Any tickets written on August 2, 1996, and thereafter will be issued under the provisions of the revised Model Traffic Code and Title X of the Westminster Municipal Code.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 28

SERIES OF 1995

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE CITY OF WESTMINSTER, COLORADO; ADOPTING BY REFERENCE THE 1995 EDITION OF THE "MODEL TRAFFIC CODE FOR COLORADO MUNICIPALITIES;" REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 1 of Title X, Westminster Municipal Code, is hereby REPEALED AND REENACTED as follows:

10-1-1: ADOPTION: Pursuant to parts 1 and 2 of Article 16 of Title 31, C.R.S., as amended, there is hereby adopted by reference Articles I and II, inclusive, of the 1995 edition of the "Model Traffic Code for Colorado Municipalities," promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, CO 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City of Westminster. The purpose of this Ordinance and the Code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the City Clerk of the City of Westminster, Colorado, and may be inspected during regular business hours.

10-1-2: DELETIONS: The 1995 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections which are expressly deleted:

Section 235. Minimum standards for commercial vehicles.

Section 508. Gross weight of vehicles and loads.

Section 1202. Parking or abandonment of vehicles.

Section 1408. Operation of motor vehicles on property under
control of or owned by parks and recreation
districts.

10-1-3: ADDITIONS OR MODIFICATIONS: The said adopted Code is subject to the additions or modifications as set forth in this Chapter 1 of Title X of the Westminster Municipal Code, INCLUDING THE FOLLOWING:

(A) SECTION 1204. STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, IN ADDITION TO THE RESTRICTIONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, NO PERSON SHALL STAND OR PARK A VEHICLE, EXCEPT WHEN NECESSARY TO AVOID CONFLICT WITH OTHER TRAFFIC OR IN COMPLIANCE WITH THE DIRECTIONS OF A POLICE OFFICER OR OFFICIAL TRAFFIC CONTROL DEVICE, IN ANY OF THE FOLLOWING PLACES:

(A) WITHIN FIVE FEET OF A PUBLIC OR PRIVATE DRIVEWAY; EXCEPT THIS SUBSECTION SHALL NOT APPLY TO FRANKLIN SQUARE SUBDIVISION NOR THE BULB PORTION OF A CUL-DE-SAC ANYWHERE IN THE CITY.

10-1-4: PENALTIES:

(A) It shall be unlawful to violate any provision of this Chapter or any provision of the Model Traffic Code for Colorado Municipalities, as adopted or amended by this Code. Such violations are traffic infractions and are hereby deemed civil matters, except those violations stated in subsection (C) of this section.

(B) Any violation of this Code which is a noncriminal traffic infraction shall be punishable by a fine of not more than five hundred dollars (\$500).

(C) Any defendant charged with a violation of any of the following provisions of the Model Traffic Code for Colorado Municipalities, as adopted and amended by the City, shall be punished by a fine or by imprisonment or by both as specified in section 1-8-1 of this Code.

1. Section 1903, School buses - stops - signs - passing;
2. Section 1101, Speed limits, but only when the speed alleged is greater than 24 miles per hour over the reasonable and prudent speed;
3. Section 1105, Speed contest;
4. Section 1401, Reckless driving;
5. Section 1402, Careless driving; ~~and~~
6. Section 1413, Eluding or attempting to elude a police officer; AND
7. SECTION 1409, COMPULSORY INSURANCE.

(D) In the event that a defendant is charged with more than one traffic offense arising out of the same incident and at least one of the charged offenses is listed in subsection (C) above, the defendant shall have the right to demand a trial by jury as to all such offenses, which shall be consolidated for purposes of trial.

10-1-5: APPLICATION: This ordinance shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of sections 1401, 1402, 1413, and part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer, and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality.

10-1-6: VALIDITY: If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

10-1-7: REPEAL: Existing or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

10-1-8: INTERPRETATION: This ordinance shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of the ordinance and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

10-1-9: CERTIFICATION: The City Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

10-1-10: REPRINTING: Because the Model Traffic Code for Colorado Municipalities is published by an agency of the State of Colorado in a separate bound volume, the said Code shall not be reprinted at length and inserted in the existing loose leaf binder of the Municipal Code of the City of Westminster. Reference to the Model Traffic Code as printed and bound by the State of Colorado shall have the same force and effect as if said Model Traffic Code were set forth at length and inserted within the Official Code of the City of Westminster, subject to the amendments set forth herein.

10-1-11: REGULATION OF COMMERCIAL VEHICLES:

(A) No person or motor carrier shall operate a commercial vehicle, as defined in subsection (B) of this section, on any street within the City unless such vehicle is in compliance with the rules and regulations concerning minimum standards for the operation of commercial vehicles promulgated by the Colorado State Patrol, 8 C.C.R. 1507-1, as the same may from time to time be amended, which are hereby adopted by reference pursuant to Section 1-1-4 of this Code, subject to any deletions, amendments and additions contained in this Section. The incorporation by reference of 8 C.C.R. 1507-1, as revised on November 8, 1995, does not include later amendments to or editions of the incorporated materials in this code.

(B) DEFINITIONS:

(1) "COMMERCIAL VEHICLE" means any self-propelled or towed vehicle bearing an apportioned plate or having a manufacturer's gross vehicle weight rating (GVWR) of ten thousand one pounds or more, which vehicle is used in commerce on the public highways of the State or is used to transport sixteen or more passengers including the driver or is used to transport hazardous materials in a quantity requiring placarding under State or Federal law.

(2) "MOTOR CARRIER" means every person, lessee, receiver, or trustee appointed by any court whatsoever owning, controlling, operating, or managing any commercial vehicle as defined in this Subsection.

(C) This section may be enforced by any City Police Officer or Firefighter who meets the inspector qualifications set forth in the Federal Regulations referenced by the Colorado State Patrol Regulations adopted in subsection (A) of this Section.

(D) It shall be unlawful for any person to operate a motor vehicle in violation of subsection (A) of this section. Violation of this Section is a noncriminal traffic infraction, punishable as provided in Section 1-8-1 of this code.

(E) Copies of the State Regulations adopted by reference in this Section are available for inspection at the office of the City Clerk.

10-1-12: PARKING RESTRICTIONS:

(A) The following definitions shall be used in this section:

1. BUS: A motor vehicle designed to seat more than ten (10) passengers and used for the transportation of persons, either for compensation or not, including but not limited to motor vehicles operated for profit by governmental agencies and motor vehicles used for the transportation of children to and from school.

2. **CAMPER:** A non-wheeled, detachable piece of vehicular equipment which weighs over 500 pounds, used for temporary or permanent habitation, which has no independent motor power and which is capable of being placed on a vehicle but which is not capable of being towed.
3. **CONSTRUCTION EQUIPMENT:** A vehicle, whether self-propelled or not, designed for the use in the construction, maintenance, or repair of roadways, structures, and ditches, or modified for use in the construction, maintenance, or repair of roadways, structures, and ditches, the use of which on public roadways is incidental to its primary use.
4. **FRONT YARD OR SIDE YARD ON STREET:** That part of a lot which exists between any lot line which runs parallel to a street and the extension of the nearest exterior wall of the building located upon that lot.
5. **MOBILE HOME:** Any vehicle used, or constructed so as to permit its use as a conveyance upon streets and highways, constructed in such a manner as to permit occupancy as a dwelling or sleeping place for one or more persons.
6. **MOTOR HOME:** A motorized vehicle designed or used as a conveyance upon streets and highways and constructed so as to provide temporary occupancy as a dwelling or sleeping place for one or more persons, but excluding pick-up trucks with attached campers.
7. **RESIDENTIAL DISTRICT:** Any area zoned RE, R1, RA, R2, R3, R4 or R5 under Title XII of this Code, or designated as a residential area in the Official Development Plan for any Planned Unit Development, along with all land within three hundred feet (300') of such area.
8. **SEMI-TRACTOR:** A motor vehicle with a manufacturer's gross combination weight rating (GCWR) in excess of 26,001 pounds, which is designed and commonly used to draw a semi-trailer and its cargo load over the public roadways.
9. **TRAILER:** Any wheeled vehicle without motor power which may be drawn over the roadway by a motor vehicle, including camping trailers and boat trailers.
10. **TRUCK:** A motor vehicle with a manufacturer's gross vehicle weight rating (GVWR) over 11,000 pounds, equipped with a body designed to carry cargo or special permanently mounted equipment.
11. **TRUCK TRAILER:** A wheeled vehicle, the empty weight of which is more than two thousand (2,000) pounds or the length of which is greater than twenty-five feet (25'), which has no motor power and is designed to be used in conjunction with a semi-tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such semi-tractor.
12. **VEHICLE ASSOCIATED WITH A BUSINESS:** Any vehicle which has a sign affixed to it referring to a business, or any vehicle displaying special tags or insignia identified with a particular occupation.
13. **LOADING AND UNLOADING:** The uninterrupted activity of continuously moving material, equipment, goods or other items of personal property from or to a vehicle during an eight (8) hour maximum period.
14. **RECREATION VEHICLE (RV):** A motor home, mobile home, or camping trailer.

15. **CAMPING TRAILER:** A trailer constructed so as to provide temporary occupancy as a dwelling or sleeping place for one or more persons.

(B) The following restrictions shall apply to the parking of vehicles on public streets within the City of Westminster:

1. It shall be unlawful to park any trailer, boat, mobile home or motor home which is less than thirty-five feet (35') long on any public street or highway within any residential district of the City.

(a) It shall be an affirmative defense to a violation of this subsection that the vehicle is a recreational vehicle (RV) which is being loaded or unloaded; loading and unloading of an RV includes trip preparation or post-trip clean up or minor maintenance, but loading and unloading shall not in any event exceed 72 hours.

(b) It shall be an affirmative defense to a violation of this subsection that the vehicle is a boat or trailer (other than a camping trailer) which is being loaded or unloaded as defined in subsection (A) 13 above, but such loading and unloading shall not in any event exceed 8 hours.

2. It shall be unlawful to park any vehicle, including but not limited to those listed in (1) above, which is thirty-five feet (35') or more long, on any public street or highway within any residential district of the City, except for the purpose of loading and unloading.

3. It shall be unlawful to park truck trailers, semi-tractors, trucks, buses and construction equipment on any public street or highway within any residential district of the City; provided, however, that parking next to a construction site for which a valid permit exists shall be allowed for the purpose of loading and unloading materials.

4. It shall be unlawful to park any vehicle upon any public street, highway, public right-of-way, or public property in the City for the principal purpose of: (a) displaying such vehicle for sale or lease; (b) washing, greasing, painting, or repairing such vehicle except repairs necessitated by an emergency; or (c) displaying advertising.

5. It shall be unlawful for any camper not mounted upon a vehicle to be left upon any street or highway within the City.

6. It shall be unlawful to park any vehicle which is required to be licensed by Colorado Statute upon any street or highway within the City unless a valid license is properly displayed on the vehicle.

7. It shall be unlawful to park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance.

8. It shall be unlawful to park any vehicle in such a manner as to leave available less than two feet (2') clearance between vehicles when parked.

9. No person shall stop, stand or park a vehicle upon a street or highway in a manner as to block the driveway entrance to any property abutting the street or highway.

(C) The following restrictions shall apply to the parking of vehicles on private property within the City of Westminster:

1. It shall be unlawful to park any vehicle which is thirty-five feet (35') or more in length on any private street within any residential district of the City, or upon any residential lot within the City, except for the purpose of loading and unloading.

2. It shall be unlawful to park trailers, boats, automobiles, mounted or unmounted campers, or any motor vehicle in any front yard or side yard on street, unless such vehicles are parked on a driveway paved with concrete, asphalt, rock or gravel or in a side yard behind a lawfully constructed 6 foot privacy fence.

3. It shall be unlawful to park any vehicle or combination of vehicles on private property so that the public sidewalk is obstructed.

4. It shall be unlawful to park truck trailers, semi-tractors, trucks, buses and construction equipment on any private street in a residential district, on any driveway in a residential district, on a vacant lot in a residential district or in a front yard or side yard on street; provided, however, that parking on a construction site for which a valid building permit exists is allowed for the purpose of loading and unloading materials.

5. It shall be unlawful to park a vehicle on any private street or private property within the City displaying that vehicle for sale or lease, except that a property owner may display one vehicle per residential dwelling unit with a "For Sale" sign or a "For Lease" sign listing the owner's address in the driveway of his residence, provided that the vehicle does not violate the requirements contained in this section. This subsection shall not apply to car sales lots approved for such use pursuant to this Code.

6. Churches located in a residential district may park one multi-passenger bus on the church parking lot. Said bus is to be locked when not in use. Additional buses owned by such church shall not be parked or stored on the church parking lot, but shall be parked or stored at a location having appropriate zoning to permit such use.

(D) It shall be unlawful to park more than one vehicle associated with a business in any residential district of the City where such vehicle is visible from public or private property.

(E) Any person who fails to comply with any provision of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine as specified in Section 1-8-1 of this Code.

(F) The parking of any vehicle in violation of this section is declared to be a public nuisance which may be abated pursuant to the provisions of Chapter 4 of Title IX of this Code.

(G) It shall be unlawful to park any vehicle within a designated fire lane as approved by the Westminster Fire Department.

10-1-13: GROSS WEIGHT OF VEHICLES AND LOADS:

(A) No vehicle or combination of vehicles shall be moved or operated on any highway or bridge when the gross weight thereof exceeds the limits specified below:

1.(a) The gross weight upon any one axle of a vehicle shall not exceed the limits prescribed in section 507 of the Model Traffic Code.

(b) Subject to the limitations prescribed in section 507, the gross weight of a vehicle having two axles shall not exceed thirty-six thousand pounds.

(c) Subject to the limitations prescribed in section 507, the gross weight of a single vehicle having three or more axles shall not exceed fifty-four thousand pounds.

2. Subject to the limitations prescribed in section 507, the maximum gross weight of any vehicle or combination of vehicles shall not exceed that determined by the formula W equals $1,000(L + 40)$, W = gross weight in pounds, L = the length in feet between the centers of the first and last axles of such vehicle or combination of vehicles, but in computation of this formula no gross vehicle weight shall exceed eighty-five thousand pounds. For the purposes of this section, where a combination of vehicles is used, no vehicle shall carry a gross weight of less than ten percent of the overall gross weight of the combination of vehicles; except that these limitations shall not apply to specialized trailers of fixed public utilities whose axles may carry less than ten percent of the weight of the combination. The limitations provided in this section shall be strictly construed and enforced.

3. Notwithstanding any other provisions of this section, except as may be authorized under section 510, no vehicle or combination of vehicles shall be moved or operated on any highway or bridge which is part of the national system of interstate and defense highways, also known as the interstate system, when the gross weight of such vehicle or combination of vehicles exceeds the following specified limits:

(a) Subject to the limitations prescribed in section 507, the gross weight of a vehicle having two axles shall not exceed thirty-six thousand pounds.

(b) Subject to the limitations prescribed in section 507, the gross weight of a single vehicle having three or more axles shall not exceed fifty-four thousand pounds.

(c) 1. Subject to the limitations prescribed in section 507, the maximum gross weight of any vehicle or combination of vehicles shall not exceed that determined by the formula $W = 500 [(LN/N-1) + 12N + 36]$.

2. In using the formula in sub-subparagraph 1. of this subparagraph (c), W equals overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in the group under consideration; but in computation of this formula no gross vehicle weight shall exceed eighty thousand pounds, except as may be authorized under section 510.

(d) For the purposes of this section, where a combination of vehicles is used, no vehicle shall carry a gross weight of less than ten percent of the overall gross weight of the combination of vehicles; except that this limitation shall not apply to specialized trailers whose specific use is to haul poles and whose axles may carry less than ten percent of the weight of the combination.

(B) Tandem axle solid waste collection vehicles shall be prohibited on residential streets. (2017)

(C) Vehicles equipped with lift axles are required to meet weight restrictions as defined within the Model Traffic Code applicable to two-axle vehicles.

(D) "Residential street" means any area zoned residential under Title XII of this Code, or designated as a residential area in the Official Development Plan for any Planned Unit Development or a residential district as defined in section 10-1-12(A)(7) of this Code.

10-1-14: OPERATION OF MOTORCYCLES AND OTHER VEHICULAR DEVICES:

(A) It shall be unlawful for any person to operate a motorcycle, motor powered bike or scooter, all terrain vehicle, snowmobile or other vehicle device powered by an internal combustion engine in any of the following places without first obtaining the permission or authorization hereinafter required:

1. On any property owned by the City, other than public streets and parks as specified in subsection 2., below, except where such operation is specially permitted by written order of the City Manager or his designated representative.
2. Upon or within any City park property or other publicly held or controlled park or recreational property within the City of Westminster, except in areas specifically posted for such use or designated parking lots when used for that purpose or where such operation is specifically permitted by written order of the respective Director of Parks, Recreation and Libraries or his designated representative.
3. On any property owned by a school district, or any public school grounds or campus, except a designated parking lot when used for that purpose, unless such operation is specifically permitted by written order of the district superintendent of schools or his designated representative, or, in the case of a college or university, by the president thereof or his designated representative.
4. On any private property within the City of Westminster, except parking lots open to the public, unless specific written permission has been given by the owner or designated representative of the owner of such property to the individual operating said vehicle.

(B) It shall be unlawful for any person to operate an unlicensed vehicle on any public street or public or private parking lot within the City. (883)

10-1-15: DRIVING THROUGH PRIVATE PROPERTY OR DRIVEWAYS:

(A) It is unlawful for any person to drive from a public street or public way of this City over, across or through any private property or driveway to avoid traffic-control signals, stop signs, or other traffic-control devices or as a route or shortcut from one public street or public way to another.

(B) As used in Subsection (A) of this Section, "Private Property" includes but is not limited to any property not dedicated as a public street or public way, alley, right-of-way or easement.

(C) The following shall be affirmative defenses to a charge of violation of Subsection (A) of this Section:

1. That the person charged is the owner of the property or driveway through or across which the motor vehicle is driven or of leasehold or easement rights therein, or of the right to the possession or use thereof.
2. That at the time of the violation, the action was in response to an emergency which the driver reasonably perceived was necessary to avoid a risk of substantial harm to himself or others.

3. The vehicle came to a complete stop and the ignition was turned off prior to the reentry of the vehicle onto public right-of-way.

4. The action was in response to a mechanical failure or malfunction of the vehicle.

10-1-16: PARKING PERMITS:

(A) Parking Permits Authorized. The City Clerk is hereby authorized to issue parking permits in accordance with the provisions of this section to allow the on-street parking of motor vehicles by residents of blocks designated by the Traffic Engineer as restricted parking areas.

(B) Description of Restriction.

1. In a block which has been designated as a restricted parking area and in which have been erected signs that conform to the requirements of law, on-street parking of motor vehicles shall be prohibited unless there is properly displayed in the vehicle the permit provided for in subsection (E). For purposes of this section, such a permit is properly displayed only when it is located on the dashboard of the vehicle in front of the driver's seat and the date of expiration of the permit is clearly visible through the windshield of the vehicle.

2. The owner, driver, or both, of any vehicle that is parked in violation of this section shall be subject to the penalty provided for in subsection (H).

3. Motorcycles, mopeds, and other two-wheeled vehicles shall be exempt from this section.

4. The Traffic Engineer shall determine the dates and times of day that the restrictions are in effect based upon the dates and hours of operation of the senior high school in the neighborhood.

(C) Restricted Parking Area Defined. In order to qualify as a "restricted parking area," the block shall meet the following criteria:

1. The block or some part thereof shall fall within 1/2 mile of the closest property line of a senior high school; and

2. A written petition signed by the owners or residents of approximately two-thirds of the lots with frontage on the block shall be submitted to the City Clerk requesting that the block be designated as a restricted parking area; and

3. The block cannot be part of the state highway system as that term is defined in C.R.S. section 43-2-101, as amended.

If all of the above criteria are met, the Traffic Engineer may designate the block as a restricted parking area.

(D) Signs. Signs indicating the parking restrictions shall be erected in a block designated by the Traffic Engineer as a restricted parking area. The signs shall give notice that parking is prohibited unless there is properly displayed in the motor vehicle a permit that is issued pursuant to subsection (E) and shall indicate the dates and times of day that the restrictions apply.

(E) Permit Application and Fees.

1. Upon application to the City Clerk on forms provided by the City, the City Clerk shall issue no more than five (5) permits per residence when the address of the applicant is within a restricted parking area. The applicant shall on request provide a currently valid Colorado drivers license to establish that his or her residence is within the restricted parking area.

2. The first two (2) permits are free and a fee of \$5.00 shall be charged for each permit thereafter up to five (5) permits.

(F) Removal of Designation as Restricted Parking Area. The Traffic Engineer shall have the discretion to remove the designation of a block as a restricted parking area if any one of the following conditions occurs:

1. By virtue of closure of the school or change in use of the property, the block or some part thereof is no longer located within 1/2 mile of the closest property line of a senior high school; or

2. A written petition signed by the owners or residents of approximately two-thirds of the lots with frontage on the block is submitted to the City Clerk requesting that designation of the block as a restricted parking area be removed; or

3. The block becomes part of the state highway system as that term is defined in C.R.S. section 43-2-101, as amended.

(G) Violation. Vehicles parked in violation of this section shall be towed and impounded pursuant to section 10-1-17 of this Code. In any prosecution of the provisions of this section, proof that the vehicle described in the complaint was parking or stopped in violation of this section, together with proof that the defendant named in the complaint was at the time of such stopping or parking, the registered owner of the vehicle, shall constitute prima facie evidence that the defendant was the person who parked or stopped, or knowingly permitted to be parked or stopped, such unattended vehicle at the place where and for the time in which such violation occurred.

(H) Penalty. A violation of this section shall be punishable by a fine not to exceed the limits established in section 1-8-1.

(I) Permit Cancellation. The City Clerk shall cancel permits held by residents who repeatedly allow a permit to be used by nonresidents. Occasional use of a permit by a resident's invited guests shall be allowed.

10-1-17: IMPOUNDMENT OF VEHICLES; AUTHORITY; PROCEDURE:

(A) No person shall abandon any vehicle upon private property other than his own without the written consent of the owner or lessee thereof. The City may request that the property owner furnish a copy of the written consent. The following sign shall be posted prominently on commercial locations: Vehicles abandoned for 24 hours on this property, without the consent of the owner or lessee, will be towed away at the discretion of this property owner or lessee.

(B) Subject to the procedures specified in this section, a police officer shall require a vehicle to be removed or cause it to be removed and placed in storage in a garage or other place of safety designated or maintained by this municipality when:

1. The vehicle is found, attended or unattended, standing or parked upon any portion of a street, highway, or public thoroughfare within this municipality in such manner as to constitute a violation of this Code or

2. The vehicle has been left unattended on any portion of a street, highway or public thoroughfare and is presumed to be abandoned; or

3. The vehicle has been left unattended on private property or City property, the vehicle is presumed to be abandoned, and the owner or lessee of such property has notified the Police Department about the vehicle.

(4) For purposes of this subsection (B), a vehicle left unattended on any portion of a street, highway or public thoroughfare for a period of twenty-four hours or more shall be presumed abandoned unless the owner or operator thereof has conspicuously affixed thereto information indicating his intention to return to the vehicle or has otherwise notified the Police Department of his intention to remove the vehicle. Notwithstanding such notification of intent to return and to remove the vehicle, if the vehicle has been left unattended for longer than forty-eight hours it shall be presumed to be abandoned. A vehicle left unattended on property other than a street or public thoroughfare for a period longer than twenty-four (24) hours shall be presumed to be abandoned unless prior arrangements with the owner or lessee of the property have been made regarding the vehicle. A bona fide effort shall be made by the police officer to contact the owner or operator of the vehicle prior to towing or impoundment.

(C) Notice: Whenever a police officer orders the impoundment of a vehicle, and the police officer knows or is able to ascertain the name and address of the owner thereof, the police officer shall give or cause to be given notice in writing to the owner of the fact of the removal, the reasons therefor, and of the place to which the vehicle has been removed. In the event the vehicle is stored in a designated garage, a copy of the notice shall be given to the proprietor of the garage. The written notice shall also contain the following statement:

"A police officer has ordered the towing of your vehicle. If you believe that the impoundment was improper, you have seven (7) days from the date of this notice to file a written request with the Westminster Municipal Court located at 3030 Turnpike Drive, Westminster, Colorado 80030, for a hearing regarding the propriety of this impoundment. Such hearing shall be scheduled within three (3) days (excluding Saturday, Sunday and City holidays) of the date your written request is received by the Westminster Municipal Court. The court may waive the towing and storage fees if it is found that the impoundment was improper. If you retrieve your vehicle from impoundment you still have the right to a subsequent hearing and reimbursement if you make a timely request. You are also encouraged to also contact the Watch Commander of the Westminster Police Department for purposes of resolving the dispute concerning the impoundment of your vehicle without the necessity of having a formal hearing".

The written notice shall either be deposited in the United States Mail within twenty-four (24) hours from the time of the impoundment of the vehicle, excluding Saturday, Sunday and holidays or personally handed to the owner.

(D) Hearing. A hearing shall be conducted before the Westminster Municipal Court within three (3) days of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to a speedy hearing in writing. Saturdays, Sundays and city holidays are to be excluded from the calculation of the three-day period. The sole issue before the court shall be whether there was probable cause to impound the vehicle in question. "Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of law to grant legal authority for the removal of the vehicle.

The court shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The City of Westminster shall carry the burden of establishing that there was probable cause to impound the vehicle in question. The burden of proof shall be by a preponderance of the evidence. The decision shall be a final decision of the Westminster Municipal Court. Failure of the registered or legal owner, or their agent, to request or attend a scheduled post seizure hearing shall be deemed a waiver of the right to such hearing.

(E) Reimbursement for improper impoundment. Upon a determination by the court that the subject vehicle was improperly impounded, the City of Westminster shall either fully reimburse the owner of the impounded vehicle for all towing and storage fees paid by the owner, or directly pay the towing and storage company for accrued fees.

(F) The hearing and reimbursement provisions contained in this section shall only be applicable to vehicles which have been impounded by order of a police officer.

(G) No impounded vehicle shall be released to its owner until all towing charges, storage charges and administrative fees have been paid to the City, or in the case of towing and storage charges, to such private person or firm as may have performed such services at the request of the City. The owner of the vehicle may also be issued a citation for a parking violation or abandoned vehicle violation.

(H) The requirements contained within this section relating to compliance with time periods are directory in nature. Failure of the City to strictly comply with said time periods shall not cause an automatic forfeiture of the City's rights under the Code.

Section 2. The title and purpose of this ordinance shall be published prior to its consideration on first reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

Section 3. This ordinance shall take effect thirty (30) days following its publication in full.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 20th day of May, 1996.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of June, 1996.

Mayor

ATTEST:

City Clerk

Date: June 24, 1996
Subject: Financial Report for May 1996
Prepared by: Nancy Alberts, Accounting Manager

Introduction

City Council action is requested to review the attached financial statements which reflect 1996 transactions through May, 1996.

Summary

There are three sections to the attached report:

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

General Fund revenues represent 43% of the total budget estimate while General Fund expenditures and encumbrances represent 47% of the 1996 appropriation.

Utility Fund revenues represent 48% of the total budget estimate while expenditures and encumbrances in that fund represent 48% of the 1996 appropriation. The large amount encumbered is for payments to Thornton for treated water and to the Metro Wastewater Reclamation District for sewage treatment.

The Sales and Use Tax Fund revenues represent 46% of the total budget estimate, while the expenditures and encumbrances in that fund represent 42% of the 1996 appropriation. Total Sales and Use Tax revenues for the 25 shopping centers reported increased 1% from the same period last year and increased 9% year-to-date.

The Open Space Fund revenues represent 47% of the total budget estimate while the expenditures and encumbrances in that fund represent 33% of the 1996 appropriation.

The Golf Course Fund revenues represent 28% of the total budget estimate while the expenditures and encumbrances in that fund represent 44% of the 1996 appropriation. The encumbrances are for the golf cart lease and other foreseeable expenditures.

The General Reserve Fund revenues consist of interest earnings of \$9,849. There have been no expenditures. The appropriated balance of \$2,550,000 includes \$100,000 for Mall Revitalization and \$1,639,000 for Emergency Reserve as required by the Colorado Constitution.

Theoretically, 42% of revenues and expenditures should be realized after five months in the budget year. However, it is recognized that both revenues and expenditures do not occur on an even 1/12 flow each month of the year.

Staff Recommendation

Accept the report as presented.

Background Information

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

Respectfully submitted,

William M. Christopher
City Manager

Attachments