



WESTMINSTER  
COLORADO

June 25, 2001  
7:00 P.M.

**Please turn OFF cell phones and pagers during meetings**

**AGENDA**

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

**Members of the audience are invited to speak at the Council meeting. Citizen Communication (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. Proclamation re Appointment of Scott Crabtree as District Court Judge to 17<sup>th</sup> Judicial District
  - B. Proclamation re National Lakes Appreciation Week
5. Citizen Communication (5 minutes or less)
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. Financial Report for May, 2001
  - B. 112<sup>th</sup> Avenue, Sheridan Boulevard to Stuart Street Construction Engineering Contract
  - C. Renewal of Underwriter Contract with Hanifen, Imhoff Inc
  - D. CB No. 34 Amendment to Village at Park Centre, Business Assistance Agmt (Merkel-Kauffman)
  - E. CB No. 35 re Vacation of Standley Lake Marketplace Utility Easements (Merkel-Moss)
  - F. CB No 36 re Certificates of Participation 2001 Proceeds Appropriation (Atchison-Moss)
  - G. CB No. 37 re 2001 Supplemental Appropriation (Hicks-Merkel)
9. Appointments and Resignations
10. Public Hearings and Other New Business
  - A. Councillor's Bill No. 38 re Wadsworth Estates Easement Vacation
  - B. Councillor's Bill No. 39 re Storm Drainage Appropriations
  - C. Resolution No. 43 re Sales Tax Bonds Reimbursement for 112<sup>th</sup> Ave Widening Construction and 136<sup>th</sup> Avenue Interchange Construction at I-25
  - D. Neighborhood Enhancement Grant
  - E. Councillor's Bill No. 40 re Big Dry Creek Watershed Grant Extension
  - F. Biological Monitoring Services Contract with Aquatics Associates for \$42,000
  - G. Consulting Services Contract with Wright Water Engineers, Inc. for \$8,000.
  - H. Councillor's Bill No. 41 re Adding Definitions of Public Place and Possession
  - I. Councillor's Bill No. 42 re Unlicensed vehicle definition
  - J. Councillor's Bill No. 43 re Appropriation of Operating Carryover Funds
11. Old Business and Passage of Ordinances on Second Reading  
None
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
  - A. City Council
  - B. Request for Executive Session
    1. Real Estate Contract Proposal
13. Adjournment

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, JUNE 25, 2001 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Mayor Heil, Mayor Pro Tem Dixon, Councillors Atchison, Hicks, Kauffman, Moss and Merkel were present at roll call. J. Brent McFall, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk were also present. Absent none.

CONSIDERATION OF MINUTES:

Councillor Atchison moved, seconded by Councillor Merkel to accept the minutes of the meeting of June 11, 2001 with no corrections or additions. The motion carried unanimously.

PRESENTATIONS:

Mayor Heil and Councillor Moss presented a proclamation to Scott Crabtree honoring him on his recent appointment as District Court Judge to 17<sup>th</sup> Judicial District.

Mayor Heil and Councillor Merkel presented Kipp Scott, Water Quality Administrator, a proclamation designating June 30 – July 9, 2001 as “National Lakes Appreciation Week.”

CITIZEN COMMUNICATION:

Floyd Prowley, 9069 Winona Ct, representing the Pinnacle HOA, addressed Council on a City owned parcel of land at 90<sup>th</sup> Avenue and Winona Court that needs improvements.

COUNCIL COMMENTS:

Councillor Moss commented on the May 2001 Financial Report and the decrease in sales tax revenue from May, 2000, and the increase in sales tax in the Westminster Plaza area.

CONSENT AGENDA:

The following items were considered as part of the Consent Agenda: Financial Report for May, 2001; 112<sup>th</sup> Avenue, Sheridan Boulevard to Stuart Street Construction Engineering Contract with HDR Engineering in an amount not to exceed \$232,173, with a contingency of \$20,000; Renewal of Underwriter Contract with Hanifen, Imhoff, Inc., for a period of three years; CB No. 34 Amendment to Village at Park Centre Business Assistance Agreement; CB Bo. 35 Vacation of Standley Lake Marketplace Utility Easements; CB No. 36 Certificates of Participation 2001 Proceeds Appropriation; CB No. 37 2001 Supplemental Appropriation.

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.

Councillor Atchison moved, seconded by Councillor Merkel to adopt Consent Agenda items as presented. The motion carried unanimously.

COUNCILLOR’S BILL NO. 38 RE WADSWORTH ESTATES EASEMENT VACATION

Councillor Merkel moved, seconded by Councillor Atchison to pass Councillors Bill No. 35 on first reading vacating a sanitary sewer easement within the Wadsworth Estates Subdivision. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 39 RE STORM DRAINAGE APPROPRIATIONS

Mayor Pro-Tem Dixon moved, seconded by Councillor Moss to pass Councillor's Bill No. 39 on first reading un-appropriating the amount, \$350,000, for Storm Drainage from the General Fund and the General Capital Improvement Fund and re-appropriating these funds in the Storm Drainage Fund. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 43 RE SALES TAX BONDS REIMBURSEMENT

Councillor Kauffman moved, seconded by Councillor Atchison to adopt Resolution No. 43 approving the Reimbursement Resolution for the 112<sup>th</sup> Avenue Widening and I-25 Interchange Construction at 136<sup>th</sup> Avenue, thus acknowledging the intent to issue debt for the two projects, and approving the City's intent to reimburse itself from financing proceeds for the costs of construction underwritten by the City's General Capital Improvement Fund prior to the sale of the debt. Upon roll call vote, the motion carried unanimously.

NEIGHBORHOOD ENHANCEMENT GRANT

Mayor Pro-Tem Dixon moved, seconded by Councillor Merkel to authorize funds to be awarded to the Westminster Presbyterian Church in the amount of \$10,000 and The Ranch Filing 2 in the amount of \$10,125 for Neighborhood Enhancement grant funds for 2001. The motion carried unanimously.

COUNCILLOR'S BILL NO. 40 RE BIG DRY CREEK WATERSHED GRANT EXTENSION

Councillor Atchison moved, seconded by Councillor Merkel to pass Councillors Bill No. 40 on first reading appropriating \$50,000 into the special Studies Project account as a result of the United States Department of Energy Grant Extension. Upon roll call vote, the motion carried unanimously.

BIOLOGICAL MONITORING SERVICES CONTRACT WITH AQUATIC ASSOCIATES

Councillor Atchison moved, seconded by Councillor Merkel to authorize the City Manager to execute a contract for biological monitoring services with Aquatics Associates for the amount of \$42,000 and charge the expense to the appropriate budget account in the Utility Fund. The motion carried unanimously.

CONSULTING SERVICES CONTRACT WITH WRIGHT WATER ENGINEERS, INC.

Councillor Atchison moved, seconded by Councillor Merkel to authorize the City Manager to execute a contract for consulting services with Wright Water Engineers, Inc., for the amount of \$8,000 and charge the expense to the appropriate budget account in the Utility Fund. The motion carried unanimously.

COUNCILLOR'S BILL NO. 41 RE ADDING DEFINITIONS OF PUBLIC PLACE AND POSSESSION

Councillor Moss moved, seconded by Mayor Pro-Tem Dixon to pass Councillors Bill No. 41 on first reading amending Section 6-1-1 of the Westminster Municipal Code to define what constitutes a "public place" and defining "possession" with the following amendment: on the definition of "Public Place", deleting the words "A SPECIAL PERMIT" and replacing with "THE PERMISSION OF THE OWNER OR OWNERS AGENT." Upon roll call vote of the main motion, the motion carried unanimously.

COUNCILLOR'S BILL NO. 42 RE UNLICENSED VEHICLE DEFINITION

Councillor Merkel moved, seconded by Councillor Atchison to pass Councillor's Bill No. 42 on first reading amending Section 10-1-14(B) of the Westminster Municipal Code to provide a more complete definition of what constitutes an unlicensed vehicle. Upon roll call vote, the motion carried with a dissenting vote from Councillor Hicks.

COUNCILLOR'S BILL NO. 43 RE APPROPRIATION OF OPERATING CARRYOVER FUNDS

Councillor Merkel moved, seconded by Mayor Pro-Tem Dixon to pass Councillor's Bill No. 43 on first reading appropriating carryover funds into the 2001 budgets of the General, Fleet, General Capital Improvement, and Utility Funds. Upon roll call vote, the motion carried unanimously.

MISCELLANEOUS BUSINESS:

Councillor Moss moved, seconded by Mayor Pro-Tem Dixon to have an executive session item previously discussed regarding a business incubator be discussed publicly. Councillor Merkel requested to abstain from voting, as she was not present at the executive session when this item was discussed. Susan Grafton, Economic Development Manager, requested that the item remain confidential. Councillor Moss withdrew his motion, and Mayor Pro-Tem Dixon withdrew her second.

Mayor Heil stated there would be an Executive Session for discussion on a Real Estate Contract Proposal.

ADJOURNMENT:

The meeting was adjourned at 7:47 P.M.

ATTEST

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

\_\_\_\_\_  
Mayor



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

**Date:** June 25, 2001  
**Subject:** Proclamation re Appointment of Scott Crabtree as District Court Judge to Newly Expanded 17<sup>th</sup> Judicial District  
**Prepared by:** Martin R. McCullough, City Attorney

**Introduction**

The Mayor, on behalf of the entire City Council, is requested to present a Proclamation to attorney Scott Crabtree, who has recently been appointed by Governor Bill Owens as a District Court Judge for the newly expanded 17<sup>th</sup> Judicial District.

**Summary**

Scott Crabtree is a long-time resident of the City of Westminster and has been recently appointment by Governor Bill Owens as the newest District Court Judge for the 17<sup>th</sup> Judicial District that now serves Adams County and the newly created City and County of Broomfield.

**Policy Issue(s)**

There are no significant policy issues with this action.

**Staff Recommendation**

Present a Proclamation to Scott Crabtree and extend Westminster's congratulations and best wishes in his new endeavors as a District Court Judge.

**Alternative(s)**

None recommended.

**Background Information**

Scott Crabtree is a resident of the City of Westminster and has recently been appointed as a District Court Judge for the recently expanded 17<sup>th</sup> Judicial District serving Adams County and the new City and County of Broomfield. Mr. Crabtree began his legal career in 1972 and served in the U.S. Attorney's Office for approximately nine years before entering private practice in 1981. Mr. Crabtree's legal practice is focused on litigation, with a special emphasis in issues related to the hospitality industry, including hotels, restaurants, and conferences. Mr. Crabtree is also a member of the Colorado Council of Mediators and Mediation Organizations.

Westminster is pleased that Mr. Crabtree has received this distinct honor and wishes to add the City's congratulations to his appointment and to wish him well in his endeavors as a District Court Judge for the newly expanded 17<sup>th</sup> Judicial District.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

WHEREAS, Attorney Scott Crabtree has been a trial lawyer in Colorado for over 25 years; and he has been a resident of the City of Westminster since 1975; and served on the City's Planning Commission from January, 1985 through December, 1988; and

WHEREAS, Mr. Crabtree began his legal career as a Deputy District Attorney in Arapahoe County in 1972, followed by six years as an Assistant U.S. Attorney for the District of Colorado; and has also served as Chief of the Civil Division of the U.S. Attorney's Office before entering private practice in 1981; and

WHEREAS, Mr. Crabtree is a member of the American, Colorado, and Denver Bar Associations, as well as the Association of Trial Lawyers of America; and

WHEREAS, Mr. Crabtree has also served as a member of the Faculty of Federal Advocates for Colorado, was a founder, board member and president of the Academy of Hospitality Industry Attorneys, and has been a board member of the Colorado Hotel and Lodging Association; and

WHEREAS, Mr. Crabtree has also served as an adjunct professor within Metropolitan State College's Department of Hospitality, Meetings, and Travel Administration; and is a member of the Colorado Counsel of Mediators and Mediation Organizations; and

WHEREAS, Mr. Crabtree has recently been appointed by Governor Bill Owens to serve as a District Court Judge for the recently expanded 17<sup>th</sup> Judicial District serving Adams County and the new City and County of Broomfield; and

WHEREAS, City Council finds that Mr. Crabtree's appointment as a District Court Judge for the state of Colorado is a distinct honor not only for Mr. Crabtree, but also for his family and the City of Westminster.

NOW THEREFORE, I, Nancy Heil, on behalf of the entire City Council and Staff of the City of Westminster hereby congratulates Mr. Scott Crabtree on his appointment to the District Court for the 17<sup>th</sup> Judicial District and wish him all the best in his new endeavor.

Signed this 25<sup>th</sup> day of June, 2001.

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Nancy M. Heil, Mayor



### WESTMINSTER COLORADO

#### **Agenda Memorandum**

**Date:** June 25, 2001

**Subject:** Proclamation re National Lakes Appreciation Week

**Prepared by:** Kipp Scott, Water Quality Administrator

#### **Introduction**

City Council is requested to proclaim the week of June 30 through July 8, 2001, as “National Lakes Appreciation Week” in the City of Westminster. Kipp Scott, Water Quality Administrator for Westminster’s Water Quality Program, will be at the City Council meeting to accept the proclamation.

#### **Summary**

National Lakes Appreciation Week focuses on the importance and limited nature of our Nation’s water supply, specifically our lakes. The objective of this week is to draw attention to the value and importance of lakes and reservoirs. The North American Lake Management Society (NALMS) and the State chapter, the Colorado Lake and Reservoir Management Association (CLRMA), are promoting the Second Annual Lakes Appreciation Week during June 30 – July 8, 2001.

#### **Policy Issues**

The North American Lake Management Society (NALMS) sets aside one week per year to educate and inform others of the value that lakes and reservoirs bring to their everyday life. The policy issue is whether the City of Westminster should support this endeavor of NALMS.

#### **Staff Recommendation**

Proclaim the week of June 30 – July 8, 2001 as “National Lakes Appreciation Week” in the City of Westminster.

#### **Alternatives**

Choose not to proclaim the week of June 30 – July 8, 2001 as National Lakes Appreciation Week in the City of Westminster.

#### **Background**

The surface area and number of lakes in North America far exceed those of any other continent. Yet, lakes are our nation’s most under appreciated natural resource. The public uses lakes for a variety of purposes: water supply for municipal, industrial and agricultural use; recreation including boating, swimming, and fishing; flood control; and aesthetic enjoyment. Lakes are often considered as “free” resources by lake users and this can result in abuse and neglect.

However, Westminster has succeeded in taking on the challenge of managing this broad spectrum of uses at Standley Lake. Most importantly, it serves as raw water storage for the City’s drinking water supply, but it is also a valuable resource for the many other purposes listed above. Development of the regional park will serve to increase its value as a recreational facility as well as enhance the overall aesthetic enjoyment of the area.

Westminster Water Resources and Treatment Staff have been actively involved in lake water quality and management issues over the years. Kelly DiNatale, Water Resources and Treatment Manager, has served as President of the Colorado Lake and Reservoir Management Association (CLRMA) and is currently Region VIII Director (Colorado, Wyoming, Montana and North and South Dakota) for the North American Lake Management Society (NALMS). Tom Settle, Water Treatment Superintendent has also served on the Board of Directors of CLRMA

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment: Proclamation



**WHEREAS**, Lakes and ponds in general are important resources to Westminster's way of life and its environment, providing water supply, sources of recreation, scenic beauty and habitat for wildlife; and

**WHEREAS**, Standley Lake is an integral part of the Westminster community as a water supply, recreational area and an aesthetic resource; and

**WHEREAS**, Westminster recognizes the need to protect these lakes and ponds for future generations;

**NOW, THEREFORE**, I, Nancy M. Heil, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim the week of June 30 through July 8, 2001 as

### **National Lakes Appreciation Week**

In the City of Westminster and invite all citizens to take due note of the observance and urge them to get out and enjoy the City's many lakes and ponds and become more informed about their importance.

Signed this 25th day of June, 2001.

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Mayor Nancy M. Heil



### WESTMINSTER COLORADO

#### **Agenda Memorandum**

**Date:** June 25, 2001

**Subject:** Financial Report for May, 2001

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

#### **Introduction**

City Council is requested to review the attached financial statements, which reflect 2001 transactions through May, 2001.

#### **Summary**

There are three sections to the attached report:

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

At this time, typically 42% of revenues and expenditures should be realized after the fifth month in the budget year, unless seasonal fluctuations impact revenue and expenditure streams.

General Fund revenues represent 43% of the total budget estimate while General Fund expenditures and encumbrances represent 39% of the 2001 appropriation.

Utility Fund revenues represent 45% of the total budget estimate. Utility fund expenditures and encumbrances represent 40% of the 2001 appropriation. Water sales (including taps) are at 42% at this time. Wastewater sales (including taps) are at 53% at this time.

The Sales and Use Tax Fund revenues represent 43% of the total budget estimate, while expenditures and encumbrances in that fund represent 42% of the 2001 appropriation. Total Sales and Use Tax revenues for the 25 shopping centers reported decreased 5% from the same period last year and increased 1% year-to-date.

The Open Space Fund revenues represent 63% of the total budget estimate while expenditures and encumbrances in that fund represent 51% of the 2001 appropriation.

The Legacy Ridge Golf Course Fund operating revenues represent 24% of the total budget estimate while operating expenditures and encumbrances represent 41% of the 2001 appropriation. Operating revenues for Heritage represent 22% of the total budget estimate while operating expenditures and encumbrances represent 47% of the 2001 appropriation. Seasonal fluctuations are the reason for revenues falling below budget.

#### **Policy Issues**

According to City Charter, Sections 4.8(i) and 9.6, City Manager is required to submit financial statements quarterly, or more often, as the Council directs. The monthly financial report is prepared by the Finance Department and presented by the City Manager to City Council for review and approval.

**Staff Recommendation**

Accept the report as presented.

**Background**

Sections 4.8(i) and 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,

J. Brent McFall  
City Manager

Attachments



### WESTMINSTER COLORADO

#### **Agenda Memorandum**

**Date:** June 25, 2001

**Subject:** 112<sup>th</sup> Avenue, Sheridan Boulevard to Stuart Street Project – Construction Engineering Contract

**Prepared by:** David W. Loseman, Senior Projects Engineer

#### **Introduction**

City Council action is requested to authorize the City Manager to execute a construction engineering services contract for the 112<sup>th</sup> Avenue, Sheridan Boulevard to Stuart Street project with HDR Engineering, Inc. in an amount not to exceed \$232,173 and authorize a contingency of \$20,000. Funds for this expense are available in the appropriate project account in the General Capital Improvement Fund.

#### **Summary**

The construction of improvements for 112<sup>th</sup> Avenue from Sheridan Boulevard to Stuart Street was endorsed by the citizens in the November 2000 election when voters authorized the Sales and Use Tax Bond Issue, which also included the 136<sup>th</sup> Avenue and I-25 Interchange project funding.

In 1995, HDR was hired by the City of Westminster to prepare the preliminary design of 112<sup>th</sup> Avenue between Sheridan Boulevard and Federal Boulevard. In January 2001, the City amended HDR's contract to complete the final design of 112<sup>th</sup> Avenue between Sheridan Boulevard and Stuart Street.

The subject of this Agenda Memorandum is a request to authorize a construction engineering services contract with HDR. This contract will include full-time observation and geotechnical testing necessary to assure compliance with project specifications. HDR has worked on this project since 1995, has the capabilities for the work mentioned above and has a strong familiarity with the project. Staff believes hiring HDR for the construction services will maintain critical continuity for the project..

HDR's requested fee of \$232,173 is approximately 7.8% of the anticipated cost of construction. This percentage compares favorably with percentages paid on other recently construction capital improvement projects.

The requested contingency of \$20,000 is typical for a project of this magnitude.

#### **Policy Issue(s)**

Does Council agree that maintaining the continuity of HDR's services will result in a better outcome for this project?

#### **Staff Recommendation**

Authorize the City Manager to execute a contract with HDR Engineering, Inc. in an amount not to exceed \$232,173 for construction engineering services associated with the 112<sup>th</sup> Avenue, Sheridan Boulevard to Stuart Street project; authorize a contingency of \$20,000 and charge these expenses to the appropriate project account in the General Capital Improvement Fund.

**Alternative(s)**

One alternative would be to solicit proposals from other firms to do this work. This alternative is not recommended given HDR's strong familiarity with the project. In addition, their fee is very reasonable.

A second alternative would be to perform the construction observation in house. This alternative would require hiring a temporary inspector, as the City is not adequately staffed to do this work. It has been the City's practice to hire the firm that designed the project for the construction engineering. This practice keeps the responsibility on the design firm for all phases of the project.

**Background Information**

Final design documents for this project are 95% complete. The bidding process will begin shortly with construction of this year long project to begin in September 2001.

The subject of this Agenda Memorandum is the awarding of the construction engineering contract for this project. HDR is being recommended for this work based on their excellent work in designing this project. In addition, the HDR personnel assigned to this project worked on the Sheridan Boulevard, 104<sup>th</sup> Avenue to 113<sup>th</sup> Avenue project and the 101<sup>st</sup> Avenue, Wadsworth Boulevard to Wadsworth Parkway project and did a good job on both of them. It is prudent to use the firm that designed the project to also perform construction engineering on the project and HDR's fee is very comparable to fees paid on other capital improvement projects. As a comparison, the City paid consultants 10.5% on the Westminster Boulevard, 104<sup>th</sup> Avenue to 112<sup>th</sup> Avenue Project and is paying 9.3% on the Sheridan Boulevard, 113<sup>th</sup> Avenue to 118<sup>th</sup> Avenue Project. HDR's fee is 7.8% of the anticipated cost of construction, which compares favorably with the projects listed above. Based on this information, Staff is recommending awarding this contract to HDR Engineering, Inc.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



### WESTMINSTER COLORADO

#### Agenda Memorandum

**Date:** June 25, 2001

**Subject:** Renewal of Underwriter Contract with Hanifen, Imhoff Inc.

**Prepared by:** Steve Smithers, Assistant City Manager  
Mary Ann Parrot, Finance Director

#### Introduction

City Council is requested to renew the contract with Hanifen, Imhoff Inc., as Underwriter for the City's financings for a three-year period of time June 28, 2001 through June 27, 2004. Fees for Underwriter Services are budgeted in bond issuance costs to pay for the firm's services; therefore, no budget revisions are necessary.

#### Summary

The existing financial services and bond underwriter contract with Hanifen, Imhoff Inc., which has been in place for the past two years, will expire on June 27, 2001. This contract was for underwriter services only, and separated the Financial Advisor duties from those of Underwriter, which best served the City's needs. The rationale for extending the contract are summarized below.

- The 2-year contract was recommended as a pilot, to determine if the relationship and substantive change in the working arrangements would serve the City's best interests. Staff has been able to reduce the cost of borrowing and the costs of fees because of the separation of duties of Financial Advisor from Underwriter. In addition, Staff and the principals at Hanifen, Imhoff Inc., both agree that the revised relationship has worked extremely well.
- Staff recommends not going out to the market with an RFP for Underwriter Services at this time because of the excellent services provided by Hanifen, Imhoff Inc., and the need to preserve its focus on other key priorities including:
  - Assembling a presentation for the ratings agencies and insurers, with a focus on a comprehensive presentation of the City's Water/Wastewater Enterprise. This will occupy much of the time of several Staff during 2<sup>nd</sup>-3<sup>rd</sup> Quarters.
  - Structuring two large new-money issues in the 3<sup>rd</sup>-4<sup>th</sup> Quarters of this year: Sales Tax Revenue Bonds for widening 112<sup>th</sup> Avenue and the Water/Wastewater Bond Issue for the completion of the New Water Treatment Plant.
  - Reviewing and planning for the refunding of a Sales Tax Revenue Bond and a Water/Wastewater Bond, if the costs of borrowing can be reduced.
  - Planning and completing a WEDA borrowing for a key redevelopment project in South Westminster.
  - Structuring several General Improvement Districts to accomplish various improvements planned in other areas of the City.
- Staff has been able to negotiate fees with Hanifen, Imhoff Inc., that are very comparable to those that would be obtained if the City had requested competitive proposals for these services. Staff has included revised contract language that will allow the City to retain another firm or different personnel on an issue-by-issue basis. This will allow the City to preserve the flexibility of retaining the expertise it needs at a reasonable, competitive price.

- In many cases, particularly with complex projects, the average tenure for a contract will be three to five years. In Finance, several contracts are for five years (Banking Services Contract, Financial Advisor, etc). To change more often can be disruptive to necessary City functions, can be time consuming, both in the search and on a follow-up basis with contract negotiations and orientation for the new service providers. Staff carefully observes the need to guarantee the best service for the least cost by attempting to structure contract terms to best fit the City's needs at the same time taking advantage of the competitive pressures in the market. Staff is not recommending a five-year contract at this time, primarily because the world of investment banking is changing, a three-year contract will allow the City to take advantage of these kinds of opportunities.

### **Staff Recommendation**

Approve the contract with Hanifen, Imhoff Inc., in substantially the same form as attached, to provide Bond Underwriter services for a period of three years effective June 28, 2001, and authorize the City Manager to execute the agreement. Award this contract based on a finding that the negotiated contract with Hanifen, Imhoff, Inc., will best serve the public interest.

### **Alternatives**

Alternatives for consideration are summarized as follows:

- Put the Underwriter function out for competition. This is not recommended, as it creates significant disruption for Staff, who needs to focus on bond issuance and special district formation. It also creates discontinuity on the finance team at a time when the City's need for stability on the team is significant. At the same time, it is in the City's best interests to retain Hanifen, Imhoff as Underwriter of choice on many negotiated sales, as they know the City better than other firms, have strong sales and professional staffs, can sell the City's bonds effectively in the marketplace and will negotiate competitive fees. Lastly, the City has included in the contract a provision that will allow the City to select alternative firms/personnel should the City need to change to team members, due to expertise or access to capital markets.
- Do nothing; allow the contract to expire and hire underwriters on a case-by-case basis. This is not recommended, as it would cause the same disruption and lack of continuity at a time when the primary focus must be the issuance of several bond issues and the formation of several special taxing districts. In addition, the City has preserved a contract provision to allow the selection of alternative firms/personnel when necessary. At this time, the City needs a lead underwriter; it is in the best interests of the City to retain Hanifen, Imhoff, at competitive rates, without having to search out alternative providers.

### **Background Information**

Under the former contract, Hanifen, Imhoff Inc. served as both Financial Advisor and Underwriter for the City. Under the current construct, Hanifen, Imhoff Inc. has served as Underwriter only. The function of Financial Advisor was segregated, put out for competition and contracted for separately in 1999. This has worked well for the City in two key areas:

- Financing costs have been reduced in two critical areas: interest costs (the coupons on the bonds) and fees (underwriter discount)
  - Interest Costs have been reduced because of the expertise the Financial Advisor has demonstrated in structuring the bond issue. In one case, the Financial Advisor structured several bonds in a "serial" fashion, at lower coupons, rather than a "term bond" at a single coupon; this saved the City \$67,400 over and above the fees the Financial Advisor charged for this issue.

- Underwriter Discounts have been reduced to very competitive levels. On the recent COPs, the fee of \$5.12 per bond is comparable to the \$4.50 to \$5.00 per bond seen in the market recently. The premium was because the COP is a 22-year issue, whereas the other issues were 10-year maturities; the premium is to compensate the underwriter for an increased level of risk, which is fair to the City and to the firm. Nevertheless, the City will still receive reduced fees of approximately \$12,000 due to competitive fee quotes and fully \$45,000 to \$50,000 below costs from just a few years ago.
- The Underwriter has been able to concentrate on marketing the bonds to its clients; the Financial Advisor has been able to concentrate on holding down interest costs, especially on the day of the sale of the issue. Both functions are vital to the success of the sale of bonds in the best interests of the City, and the City has been able to avoid actual and potential conflicts of interest.

Other items preserved in the proposed renewal of the contract include the following:

- Under the proposed contract, Hanifen, Imhoff Inc. can elect to participate as a co-Financial Advisor on bond issues if they so choose. They would be reimbursed accordingly. This arrangement serves to guarantee high-quality services to the City, which were certainly needed when issuing the complex financings over the past several years.
- The City reserves the right to determine whether bond sales would be conducted on a negotiated basis with the Underwriter or sold competitively in the market. This will guarantee the lowest interest cost to the City and comprises the bulk of costs when the City issues bonds. If an issue is sold on a competitive basis, Hanifen, Imhoff Inc. has the ability to compete for the underwriting. This also serves to hold costs down.

This arrangement described above serves four purposes:

- It is in the best interests of the City to retain advisors who have experience with the City's financial history, philosophy, and practices, especially when this can be done and still ensure issuing the bonds at competitive rates and costs;
- It preserves the continuity on the "finance team" and allows Staff and the team to focus on other priorities; and
- It conforms to recommendations by the Municipal Securities Rulemaking Board (MSRB), the Government Finance Officers' Association (GFOA), and will resolve the conflicts that have arisen in the past, wherein the Underwriter has also served as Financial Advisor.
- The City has been able to achieve competitive rates with an important service provider without having to go through the lengthy, time-consuming and complicated process of a formal RFP process.

The City enjoys a productive working relationship with several principals in the firm, who would continue to service the City's account. Staff believes it is important to continue a close working relationship with Hanifen, Imhoff and realize the many benefits from their knowledge, skills and working relationships with bond rating agencies, bond insurance companies and others. Representatives from Hanifen, Imhoff Inc. will be present at the June 25 Council meeting to answer any questions City Council may have regarding a new contract.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



(Additions are double underlined)

This Contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 2001, by and between the City of Westminster, a Colorado home-rule municipality (the "City"), and Hanifen Imhoff, Division of Stifel Nicolaus & Co., Inc. (the "Underwriter").

WHEREAS, the City has a need for bond underwriting services and financial advisory services from time to time;

WHEREAS, the City has had a long standing relationship with the Underwriter; and

WHEREAS, the parties are desirous of entering into a new contract, this would continue their positive working relationship for an additional three years.

NOW THEREFORE, in consideration of the above premises, the mutual covenants set forth below, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### Section 1. Capital Financing

Underwriter shall perform the following functions as underwriter:

- (a) Financing Alternatives. The Underwriter, in consultation with the City officials, auditor, engineering consultants, financial advisor and municipal bond counsel, shall recommend financing alternatives for specific capital projects. Such financing alternatives will be based on revenue projections, and the existing corporate, financial, and legal structure of the City. The Underwriter shall assist the City in evaluating the financing alternatives and make recommendations concerning general obligation and revenue bond financing, lease-purchase and installment purchase financing, participation in federally sponsored programs, and the utilization of insurance guaranty programs and other cost effective financing methods, both long and short term. In addition, the Underwriter shall make recommendations concerning the need for short or intermediate-term financing prior to or in conjunction with long-term financing.
- (b) Bond Financing. The Underwriter shall assist in recommending to the City the method of sale, which will be in the best interest of the City. In the case of general obligation bonds, revenue bonds, or other municipal securities, the recommendations shall include recommendations concerning the advisability of selling the proposed municipal securities either by competitive or negotiated sale. The Underwriter shall assist the City in the following tasks in connection with the issuance of bonds or other debt securities by the City:
  - (1) Determination of the structure of such financing, including sources of payment, security, maturity schedule, rights of redemption prior to maturity, and other matters concerning the features of the bonds;
  - (2) Obtaining public support for the bond issue, if a bond election is required, including assisting the City and its citizen committees to effectively present the City's proposal to the electorate in an organized, thoughtful, and concise manner;
  - (3) Preparation and presentation of applications and detailed information about the City and the proposed bond issue to appropriate rating agencies, where advisable;
  - (4) Acquisition of municipal bond insurance where advisable;

- (5) Assistance in the review and preparation of an official statement to be distributed to prospective bond purchasers;
  - (6) Printing of the bonds; and
  - (7) Coordination of the legal proceedings recommended by bond counsel, any temporary investment of sale proceeds, and all other necessary arrangements in connection with the delivery of the bonds by the City.
- (c) Competitive Bids. In the event the City elects to solicit bids for the bonds through a public sale, the Underwriter may compete in the sale to purchase, directly or indirectly, from the City, all or any portion of the bonds sold at competitive bid either as principal alone or as a participant in a syndicate or other similar account. If the Underwriter has also been acting as Co-Financial Advisor to the City, as described below in Section 2, the Underwriter shall resign, in writing, as Co-Financial Advisor to the City prior to the competitive sale.
- (d) Negotiated Sales. In the event of a negotiated sale of a bond issue by the City to the Underwriter, the Underwriter will underwrite the issue. In connection therewith, the Underwriter shall prepare financial plans and price the issue. In addition, prior to the negotiated sale taking place, the Underwriter shall resign, in writing, as Co-Financial Advisor to the City, as described below in Section 2.
- (e) The City reserves the right to substitute another firm and/or such banking personnel as the City deems best addresses the City's needs, on an issue-by-issue basis.
- (f) The Underwriter shall at all times comply with applicable requirements and regulations of the Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB").

## Section 2: Underwriter as Co-Financial Advisor

In addition to the above function as Underwriter, the firm may, upon mutual agreement of the parties, act as Co-Financial Advisor to the City. The Underwriter will not be acting as primary Financial Advisor to the City, but may from time to time participate as a Co-Financial Advisor to the City. The Co-Financial Advisor functions are described below in Section 2a (Fiscal Analysis) and Section 2b (Financial Planning).

### Section 2a. Fiscal Analysis

The Underwriter, in its capacity as Co-Financial Advisor to the City, shall, at its own option, and at no cost to the City, inform itself of, and, at the City's request, review and evaluate the City's fiscal resources. Such review may include analysis of the existing corporate, financial, and legal structure of the City, including the City's Charter, financial policies, operating budgets, audits, existing debt levels and applicable covenants, and other available financial documentation.

### Section 2b. Financial Planning

- (a) Indebtedness. The Underwriter as Co-Financial Advisor shall advise the City regarding its debt levels and the covenants relating thereto. When asked to do so by the City and, if the information is available, the Underwriter as co-Financial Advisor shall compare the City's indebtedness with debt medians for cities of comparable size throughout the country. The Underwriter as Co-Financial Advisor will advise the City on matters affecting bond financing by the City, including the effects of Amendment 1 and other financially related State constitutional amendments.

- (b) Refunding of Outstanding Debt. In the course of monitoring the City's fiscal status and debt levels and at the request of the City, the Underwriter as Co-Financial Advisor will evaluate the feasibility of refunding outstanding debt and make recommendations concerning a refunding plan, where advisable.
- (c) Cash Management. The Underwriter as Co-Financial Advisor will evaluate and make recommendations concerning alternative investment vehicles for the investment of City funds. Such recommendations shall be consistent with statutory requirements for the investment of public funds and shall take into account the City's concerns for safety, liquidity, diversification, and return.

### Section 3. Compensation and Terms of Payment

- (a) For negotiated sales, the City and the Underwriter will negotiate the Underwriter's discount for the financing.
- (b) For the Underwriter to act as Co-Financial Advisor, the City and the Underwriter will negotiate a Co-Financial Advisor fee relative to each financing issue. The fee will be negotiated in advance of the work on the financing and will reflect the secondary position to the Financial Advisor on the financing.
- (c) Other financing expenses as authorized by the City through the City Manager in connection with a negotiated sale, including, without limitation, bond counsel, rating agency, and printing expenses, shall be paid by the City.
- (d) No fees shall be charged for general financial advice rendered by the Underwriter as Co-Financial Advisor unless the City agrees in writing.
- (e) No fees shall be charged by the Underwriter as Co-Financial Advisor in the event of an unsuccessful bond election or an inability to consummate a sale of the City's securities. Other financing expenses as authorized by the City Manager, including but not limited to third party expenses (i.e. bond counsel) and out-of-state travel, incurred before an unsuccessful election or a failed sale, shall be paid by the City.
- (f) The approximate underwriting spread for a negotiated sale shall be agreed on by both parties after consideration of similar issues, competitive or negotiated.
- (g) The fees for performing the financial advisory services pursuant to Section 4 hereof (except for additional services described therein) shall be \$2,500 per inducement application. Such fees for additional services shall be as agreed between the Underwriter as Co-Financial Advisor and the City.

### Section 4. Industrial Development Revenue Bonds (IDRBs)

Upon request of the City, the Underwriter as Co-Financial Advisor will endeavor to assist the City in reviewing requests and actions related to previously issued bonds of the City including IDRBs.

Upon request of the City, the Co-Financial Advisor shall provide financial advisory services for industrial development revenue bond ("IDRB") inducement requests for which an Underwriter other than the Co-Financial Advisor has been arranged. The Co-Financial Advisor, in addition to reviewing and evaluating the financial aspects of the IDRB inducement request, shall examine the submitted documents for obvious conflicts or discrepancies and shall bring such matters to the attention of the City. The Co-Financial Advisor, shall, to the best of his ability and only pursuant to a supplementary written memorandum setting forth the Co-Financial Advisor's responsibilities, undertake such further investigation and evaluation of the IDRB as set forth in the memorandum. In no event will the Co-Financial Advisor be required to provide any opinion with regard to compliance with the anti-fraud provisions of the Federal Securities laws (i.e., Section 10b-5 opinions), but the Co-Financial Advisor shall review such opinions as

provided by bond counsel, disclosure (underwriter's) counsel and applicant's counsel for comprehensiveness. At the request and cost of the City, the Co-Financial Advisor shall arrange for any due diligence investigation necessary to provide the City with any opinion in addition to those provided by such counsel.

#### Section 5. Contract Term

Unless this Contract is terminated, pursuant to Section 6, it shall be in effect for a term of three (3) years. However, the Contract shall be subject to review by the City Council on or about each annual anniversary date hereof. At the end of the three (3) year term, both parties shall review the Contract for further renewal.

#### Section 6. Termination

Either party may terminate this Contract upon providing fifteen (15) days written notice to the other party.

#### Section 7. Assignability

The Underwriter or Underwriter as Co-Financial Advisor shall not assign any interest in this Contract and shall not transfer any interest therein without the prior written consent of the City.

#### Section 8. Work Product and Confidentiality

The products of this Contract shall be the sole and exclusive property of the City upon completion or other termination of this Contract. The Underwriter or Underwriter as Co-Financial Advisor shall deliver to the City all copies of any and all materials pertaining to this Contract. No reports, information or data given to or prepared by the Underwriter acting as Underwriter or Co-Financial Advisor under this Contract shall be made available to any individual or organization by the Underwriter without the prior written approval of the City.

#### Section 9. Completeness of the Contract; Amendment

This document contains all terms and conditions of this Contract, and any amendment, modification, or alteration shall be invalid unless made in writing, signed by both parties, and incorporated as an amendment to this Contract. There are no understandings, representations, or agreements, written or oral, other than those incorporated herein.

#### Section 10. Severability

In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof, and such remaining provisions shall remain in full force and effect. The parties hereto hereby agree that they would have entered into this Contract and each part hereof notwithstanding the invalidity or unenforceability of any other part of parts hereof.

#### Section 11. Governing Law

This Contract shall be governed and construed in accordance with the laws of the State of Colorado. This Contract shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code in effect as of the date this Contract is signed.

#### Section 12. Prior Contracts

This Contract supersedes the Contract between the parties hereto, for similar services, dated June 28, 1999.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and sealed as of the day and year first above written.

CITY OF WESTMINSTER, COLORADO

By: \_\_\_\_\_  
Title: \_\_\_\_\_

(CITY SEAL)

Approved by Westminster  
City Council on \_\_\_\_\_

Attest:

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

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

NICOLAUS & CO., INC.

HANIFEN IMHOFF, DIVISION OF STIFEL

By: \_\_\_\_\_  
Title: \_\_\_\_\_



### WESTMINSTER COLORADO

#### **Agenda Memorandum**

**Date:** June 25, 2001

**Subject:** Councillors Bill No 38 re Wadsworth Estates Easement Vacation

**Prepared by:** Kevin Colvett, Engineering Division

#### **Introduction**

City Council action is requested to pass the attached Councillors Bill on first reading to vacate an existing sanitary sewer easement within the Wadsworth Estates Subdivision. The existing easement is no longer being utilized because the sewer line has been re-aligned. Council has followed a policy that vacation of rights-of-way and easements will be contingent upon new facilities being dedicated to and accepted by the City. In this instance, the new sanitary sewer facility has been installed and accepted into service.

#### **Summary**

Wadsworth Estates began construction in late 2000. At that time, the existing sanitary sewer bisected the southern portion of the site, and, once the site was platted, would have run across five different lots. The line was re-routed to run through a tract of land to the new 94<sup>th</sup> Avenue right-of-way and will not encroach onto any private property. A new sanitary sewer line has been installed at this alignment, and this facility has been accepted into service by the City. Therefore, the existing sewer easement is no longer needed.

#### **Policy Issues**

By City Code, easements must be vacated by an Ordinance of the City Council. The attached Councillors Bill will accomplish this vacation.

#### **Staff Recommendation**

Pass Councillors Bill No. 38 on first reading to vacate the unnecessary sanitary sewer easement within the Wadsworth Estates Subdivision.

#### **Alternative to the Staff Recommendation**

Council is under no obligation to vacate this easement and can opt to keep the existing easement in place. However, doing so would encumber private lots with an unnecessary easement.

#### **Background**

The Wadsworth Estates Subdivision was platted in March of 2001 with the intent to develop single-family residences. One of the design features of this development was the routing of the existing sanitary sewer through the site in a manner that lessened the impact of the line on the development. The sewer within the easement to be vacated conveyed flows from the west side of Wadsworth Parkway to Wadsworth Boulevard (see attached Exhibit A).

In 1999, Cooke Development Company submitted an ODP proposing 84 single-family detached dwelling units, called Wadsworth Estates, which was approved by Planning Commission and Council.

The layout called for units to be constructed over the existing sanitary sewer, so the line was re-routed to the north, away from the proposed units. In doing so, the developer dedicated a 20' easement, which is the current standard, and is 5' wider than the existing easement to be vacated. The developer also upsized the sewer line from 12" to 18", thus saving the City from having to install approximately 800' of 18" line at the City's cost in conjunction with an upcoming Capital Improvements Project.

The developer is completing the public improvements within the Subdivision and will soon desire to convey individual lots to future homeowners. Therefore, at the request of the developer, Staff recommends vacation of the storm sewer easement as shown on the attached exhibit, since it is no longer needed to serve the development as originally planned.

According to City Code, City Staff is to receive input from adjoining or nearby property owners as may be deemed necessary to formulate a recommendation to Council. In this case, the Developer and the City are the adjoining or nearby property owners, and each of these parties are in favor of the proposed vacation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **38**

SERIES OF 2001

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE VACATING A SANITARY SEWER EASEMENT IN WADSWORTH ESTATES SUBDIVISION

WHEREAS, a sanitary sewer easement was dedicated to the City of Westminster by separate document, recorded with the County at Book No. 2422, Page 691, rec. no. 517935; and

WHEREAS, the easement is no longer needed to serve the purpose for which it was originally intended; and

WHEREAS, the vacation of the sanitary sewer easement is necessary to permit the completion of the Wadsworth Estates development

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds and determines that the public convenience and welfare require the vacation of the easement described in Section 2 hereof, and depicted in Exhibit A.

Section 2. Legal Description of Easement

A 15-foot wide utility easement, across that part of the Northwest Quarter Section of 23, Township 2 South, Range 69 West of the Sixth Principal Meridian, Count of Jefferson, State of Colorado, described as follows:

Commencing at the Northeast corner of said Section 23 from whence the southeast corner of said Section bears S00°09'49"W, 2661.64 feet (Basis of Bearings); Thence S00°09'46"W, 941.10 feet along the east line of said Northwest Quarter; Thence N89°50'14"W, 30.00 feet to a point on the easterly right-of-way line of Wadsworth Boulevard, the Point of Beginning; Thence S00°09'49"W, 15.21 feet along said easterly right-of-way line; Thence S80°31'52"W, 690.79 feet; Thence S40°38'27"W, 4.32 feet to the northeasterly right-of-way line of the Burlington Northern Railroad; Thence N51°52'11"W, 15.01 feet along said northeasterly right-of-way line; Thence N40°38'27"E, 10.42 feet; Thence N80°31'52"E, 698.78 feet to the Point of Beginning, containing 10,530 square feet (0.24 acres). Meaning and intending to describe that part of the utility easement, recorded in Book 2422 at Page 691 at Reception No. 517934, lying between the westerly right-of-way line of Wadsworth Boulevard and the northeasterly right-of-way line of the Burlington Northern Railroad.

Section 3. This Ordinance shall take effect upon its passage after second reading. The full text of this Ordinance shall be published within ten (10) days after its enactment on second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2001. Passed and adopted on second reading this      day of July, 2001

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Mayor

ATTEST:

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City Clerk





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

**Date:** June 25, 2001  
**Subject:** Councillor's Bill No. 39 re Storm Drainage Costs  
**Prepared by:** Bob Eichen, Treasury Manager

**Introduction**

City Council action is requested to pass on first reading the attached Councillor's Bill removing the appropriated revenues and expenditures from the General Fund and the General Capital Improvement Fund and re-appropriating these funds in the Storm Drainage Fund. The total amount to be moved is \$350,000.

**Summary**

During the preparation for the 2001 budget, it was anticipated that the storm drainage fee would be implemented beginning July 1, 2001. Council appropriated \$50,000 in the General Fund for operating expenditures and \$300,000 in the General Capital Improvement Fund. Subsequently, it was determined that for ongoing internal accounting purposes it would be more efficient, effective, and easier to show compliance with Tabor requirements and to track storm water expenses and revenues if a separate fund was used. To accomplish this change, it is proposed that the budgeted amounts appropriated in the 2001 budget on November 27, 2001, be un-appropriated from their current location in the budget and be re-appropriated in the Storm Drainage Fund. The storm drainage revenues are similar to Water and Wastewater fees that are exempt from Tabor calculations because they are enterprise operations. Enterprise operations are usually accounted for separately since they are based on a user fee concept. Amounts associated with the 2002 and 2003 budgets will be appropriated when the budgets are adopted later this year.

**Policy Issue**

Should the City account for the storm drainage fees and costs in a separate fund?

**Staff Recommendation**

Adopt Councillor's Bill No. 39 on first reading, un-appropriating the amount, \$350,000, for Storm Drainage in the General Fund and the General Capital Improvement Fund and re-appropriating these funds in the Storm Drainage Fund.

**Alternatives**

1. Leave the revenue and charges in the General Fund. This alternative is not recommended as these fees and expenditures need to be accounted for and tracked until the fee goes out of existence. Storm Drainage is more conducive to enterprise accounting, like the current Utility Fund, since revenues are used specifically for storm drainage costs. A fee should also approximate the cost of providing the service. The use of a fund will provide the accounting detail needed to provide the information to support the fee if it is ever requested.

2. Include the storm drainage program in the Wastewater Fund. While this has been done in some other cities, it is not recommended. The accounting detail for the storm drainage program would have to be manually separated from the Wastewater Fund if detailed information was ever requested.

Staff will be in attendance at the June 25<sup>th</sup> City Council meeting to answer questions.

Respectfully submitted

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **39**

SERIES OF 2001

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE DECREASING THE 2001 BUDGET OF THE GENERAL FUND AND THE GENERAL CAPITAL IMPROVEMENT FUND AND INCREASING THE 2001 BUDGET OF THE STORM DRAINAGE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2001 appropriation for the General Fund, initially appropriated by Ordinance No. 2839 in the amount of \$67,845,371 is hereby decreased by \$50,000 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$67,973,504. 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 funds to the Storm Drainage Fund.

Section 2. The \$50,000 decrease in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

| Description                                  | Current Budget | \$ Decrease | Final Budget |
|--|----------------|-------------|--------------|
| <b>REVENUES</b>                              |                |             |              |
| General Billings Drainage Fee<br>10-1059-089 | \$50,000       | \$(50,000)  | \$0          |
| Total Change to Revenues                     |                | \$(50,000)  |              |
| <b>EXPENSES</b>                              |                |             |              |
| Maint/Rpr Infrastructure<br>10-35-45-267-000 | \$50,000       | \$(50,000)  | \$0          |
| Total Change to Expenditures                 |                | \$(50,000)  |              |

Section 3. The 2001 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2839 in the amount of \$14,802,638 is hereby decreased by \$30,000 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$17,512,771. 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 decrease is due to the transfer of funds to the Storm Drainage Fund.

Section 4. The \$300,000 decrease in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

| Description   | Current Budget | \$ Decrease | Final Budget |
|---|----------------|-------------|--------------|
| <b>REVENUES</b>                                       |                |             |              |
| General Billings Drainage Fee 75-1059-089             | \$300,000      | \$(300,000) | \$0          |
| Total Change to Revenues                              |                | \$(300,000) |              |
| <b>EXPENSES</b>                                       |                |             |              |
| Misc. Storm Drainage Improvements<br>75-30-88-555-143 | \$100,000      | \$(100,000) | \$0          |

| <b>Description</b>                           | <b>Current Budget</b> | <b>\$ Decrease</b> | <b>Final Budget</b> |
|--|-----------------------|--------------------|---------------------|
| Storm Drainage Improvements 75-30-88-555-093 | 200,000               | <u>(200,000)</u>   | 0                   |
| Total Change to Expenditures                 |                       | <u>\$(300,000)</u> |                     |

Section 5. The 2001 appropriation for the Storm Drainage Fund is hereby increased by \$350,000 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$350,000. This increase is due to the transfer of funds from the General Fund and the General Capital Improvement Fund to the Storm Drainage Fund.

Section 6. The \$350,000 increase in the Storm Drainage Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

| <b>Description</b>                                 | <b>Current Budget</b> | <b>\$ Decrease</b> | <b>Final Budget</b> |
|--|-----------------------|--------------------|---------------------|
| <b>REVENUES</b>                                    |                       |                    |                     |
| General Billings Drainage Fee 25-1059-089          | \$0                   | <u>\$350,000</u>   | \$350,000           |
| Total Change to Revenues                           |                       | <u>\$350,000</u>   |                     |
| <b>EXPENSES</b>                                    |                       |                    |                     |
| Maint/Rpr Infrastructure                           | \$0                   | \$50,000           | \$50,000            |
| Misc. Storm Drainage Improvements 25-30-88-555-143 | 0                     | 100,000            | 100,000             |
| Storm Drainage Improvements 25-30-88-555-093       | 0                     | <u>200,000</u>     | 200,000             |
| Total Change to Expenditures                       |                       | <u>\$350,000</u>   |                     |

Section 7. – 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 8. This ordinance shall take effect upon its passage after the second reading.

Section 9. 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 25th day of June, 2001.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of July, 2001.

ATTEST:

\_\_\_\_\_  
Mayor

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



### WESTMINSTER COLORADO

#### Agenda Memorandum

**Date:** June 25, 2001

**Subject:** Resolution No. 43 re Sales Tax Bonds Reimbursement for 112<sup>th</sup> Ave Widening Construction and 136<sup>th</sup> Avenue Interchange Construction at I-25

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

#### Introduction

City Council action is required to adopt the attached Resolution, in acknowledgement and approval of the City's intent to issue \$18.625 million in Sales Tax Revenue Bonds for the widening of 112<sup>th</sup> Avenue from Stuart Street to Sheridan Blvd., and for the City's share of the construction of the I-25 interchange at 136<sup>th</sup> Avenue. The resolution is also acknowledgement and approval of the City's intent to use financing proceeds to reimburse itself for construction costs between now and Fall 2001 (the date for the issuance of the Sales Tax Revenue Bonds for the 112<sup>th</sup> Avenue Widening) and Spring 2002 (the date for the issuance of the Sales Tax Revenue Bonds for the I-25 Interchange at 136<sup>th</sup> Avenue).

#### Summary

On certain occasions in the past, the financing of a project cannot be timed to occur just prior to the beginning of the construction of the project. This is the case with the 112<sup>th</sup> Avenue Widening and the construction of the Interchange at I-25 and 136<sup>th</sup> Avenue.

- Staff in the Finance Department will be required to turn their attention this summer to their biannual presentation to the credit agencies who deal with the City. At the same time, they will also be working on the documentation for this bond issue and will also want to consider refunding the 1991 Sales Tax Revenue Bonds and the 1994 Water/Wastewater Revenue Bonds.
- At the same time, however, Staff in the Community Development Department must be able to proceed with the design, bidding and awarding of contracts for this project.
- The Staff in the two departments have coordinated their priorities for several months and recognized the need to ask City Council to approve the Reimbursement Resolution. In addition, this is common practice with many other cities across the country; it allows the financing and the construction portions of the projects to proceed unimpeded without conflicting with each other, which is in the City's best interests.

City Council is requested to review and approve the attached resolution regarding 112<sup>th</sup> Avenue Widening Financing and I-25 Interchange at 136<sup>th</sup> Avenue Financing and the approval of reimbursement from bond proceeds for City funds advanced from the General Capital Improvement Funds Cash Account for selected costs on these projects that must be advanced, and that will be repaid to the Capital Improvement Cash Account once the bonds are issued.

The resolution is required by Federal law in order for a municipality to pre-pay construction costs, and subsequently reimburse itself from financing proceeds, once the debt is issued. Staff expects to issue the Sales Tax Revenue Bonds for 112<sup>th</sup> Avenue Widening within 90 to 120 days, and for the 136<sup>th</sup> Avenue Interchange Construction in Spring 2002.

### **Staff Recommendation**

Adopt Resolution No. 43 approving the Reimbursement Resolution for the 112<sup>th</sup> Avenue Widening and I-25 Interchange Construction at 136<sup>th</sup> Avenue, thus acknowledging the intent to issue debt for the two projects, and approving the City's intent to reimburse itself from financing proceeds for the costs of construction underwritten by the City's General Capital Improvement Fund prior to the sale of the debt.

### **Background Information**

Several actions need to be taken prior to issuance of the financing for these two projects, depending on the timing of the issuance and the construction schedule. One of these actions is for the City Council to adopt a "Reimbursement Resolution". The key provision of this resolution will allow the City to reimburse itself from the proceeds of the financing issue, when sold in September 2001, for construction costs incurred within the prior 60 days. The general terms of the resolution are explained below.

Current Federal law mandates a municipality to pass the Reimbursement Resolution that contains several provisions:

- > an announcement and acknowledgement of the municipality's expectation to issue bonds
- > an announcement and acknowledgement that the municipality will reimburse itself from bond proceeds for construction costs pre-funded through other means, in this case by the City through the General Capital Improvement Fund Cash Account.

Staff anticipates the need to spend a total of \$200,000 dollars between now and the issuance of the 112<sup>th</sup> Avenue Widening Bonds, projected for September, 2001. In addition, in order to address the 136<sup>th</sup> Avenue Interchange project plans and designs are underway, and because the Public Service sub-station that needs to be relocated and contracts that need to be bid and awarded, up front funding is required. Staff anticipates the need to spend a total of \$2.565 million dollars between now and the issuance of the I-25 Interchange Bonds, projected for Spring, 2002.

If this action is not approved, the City cannot reimburse itself from financing proceeds for construction costs, and would have to underwrite the construction cost partly from the General Fund, which is not currently budgeted.

This action will not impact the bidding of the contracts for this project. In fact, this action will allow the City to proceed with construction, uninterrupted, and allow for the project to proceed smoothly. Moreover, this action does not impede or complicate the upcoming financing in any way, but in fact, facilitates the issuance of the Sales Tax Revenue Bonds, as it allows Staff to continue to move forward with the planned financing without the concern of trying to exactly time the financing with the construction.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

A RESOLUTION

RESOLUTION NO. **43**

INTRODUCED BY COUNCILLORS

SERIES OF 2001

---

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF WESTMINSTER TO ISSUE TAX-EXEMPT OBLIGATIONS IN AN APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$18,625,000 TO FINANCE CERTAIN PUBLIC IMPROVEMENTS; AND AUTHORIZING THE OFFICERS, EMPLOYEES AND AGENTS OF THE CITY TO PROCEED AND CONTINUE WITH STEPS PRELIMINARY TO THE ISSUANCE OF SUCH OBLIGATIONS.

WHEREAS, the City of Westminster (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the State Constitution (the "Constitution") and laws of the State of Colorado; and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, the City intends and proposes to issue tax-exempt obligations (the "Obligations") in an approximate aggregate principal amount of \$18,625,000, in one or more series, to finance the construction of a highway interchange at 136<sup>th</sup> Avenue and I-25, and the widening of 112<sup>th</sup> Avenue from Stuart Street to Sheridan Boulevard with accompanying improvements, together with the costs of funding any reserve funds for the Obligations, the costs of securing the Obligations and costs incidental to the authorization, issuance and sale of the Obligations (collectively, the "Project").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, IN THE COUNTIES OF ADAMS AND JEFFERSON, STATE OF COLORADO:

1. All action (not inconsistent with the provisions of this resolution) heretofore taken by the City Council and the officers, employees and agents of the City directed toward the Project and the issuance and sale of the Obligations therefor, is hereby ratified, approved and confirmed.

2. The City intends to issue the Obligations in the approximate aggregate principal amount of \$18,625,000 to pay the costs of the Project, including the reimbursement to the City's General Capital Improvement Funds Cash Account of certain costs, including construction costs, incurred by the City prior to the issuance of the Obligations, upon terms acceptable to the City, as set forth in a bond ordinance or resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith.

3. The officers, employees and agents of the City shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by this resolution.

4. The cost of financing the Project will be paid out of the proceeds of the Obligations or other available moneys of the City.

5. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

6. If any section, paragraph, clause or provision of this resolution or the question shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution or the question.

7. All acts, orders and resolutions, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

8. This resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED this 25<sup>th</sup> day of June, 2001.

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Mayor

(SEAL)

Attest:

---

City Clerk





**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

**Date:** June 25, 2001  
**Subject:** Neighborhood Enhancement Grant  
**Prepared by:** Kathy Piper, Landscape Architect

**Introduction**

City Council action is requested to approve the Parks and Recreation Board's selection of Neighborhood Grants for 2001. Funds have been specifically allocated in the 2001 Capital Improvement-Community Enhancement Fund, from the Parks, Recreation & Libraries Department budget, for this expense.

**Summary**

Currently the Parks and Recreation Advisory Board receives \$30,000 every year from the Community Enhancement Fund to provide a funding source for communities willing to enhance their neighborhood streetscapes. On May 17, the Parks and Recreation Advisory Board met to review and award the spring applications for the Neighborhood Enhancement Grants. There were six applications requesting over \$44,663 in grant funding. The following applications and funding requests were made to the Parks and Recreation Advisory Board:

|                                    |          |
|------------------------------------|----------|
| 1. Westminster Presbyterian Church | \$10,000 |
| 2. The Ranch Filing 2              | \$15,975 |
| 3. Stratford Lakes                 | \$1,961  |
| 4. Village at Cotton Creek         | \$1,228  |
| 5. Cottonwood Villas               | \$11,000 |
| 6. Spanish Oaks II                 | \$4,500  |

The Parks and Recreation Advisory Board selected the following:

1. Westminster Presbyterian Church (\$10,000) will be constructing a small passive park at 74<sup>th</sup> Avenue and Bradburn Street. The Neighborhood Grant will be leveraged with a \$5,000 grant the Church received from Adams County. The park will be open to the public.
2. The Ranch Filing 2 requested \$15,975, but will receive a grant for \$10,125 to replace the deteriorating columns with new 8-ft. columns along 120<sup>th</sup> Avenue only. Fencing pickets will be the Homeowners Association's responsibility. This new construction will set a standard for the remaining fencing around the Ranch Subdivision.

All applicants will receive acknowledgement of their applications and will be informed of who was awarded a Neighborhood Enhancement Grant. The grant funding that was not awarded will be carried over for the 2002 applications. The next application cycle will be June 2002 for projects.

**Policy Issue**

Does City Council want to award the Neighborhood Enhancement Grant to applicants that the Parks and Recreation Board have selected?

### **Staff Recommendation**

Authorize funds to be awarded to the Westminster Presbyterian Church in the amount of \$10,000 and The Ranch Filing 2 in the amount of \$10,125 for Neighborhood Enhancement grant funds for 2001.

### **Alternatives**

The alternatives are as follows:

1. Select other projects that were proposed from the six spring 2001 applications.
2. Re-issue the application for spring 2001 to receive additional projects however, applications are sent out each year. There has never been a duplication or re-application for a project that has not been selected.
3. Not award any projects from these applications and keep the money for next years applications.

### **Background Information**

The Neighborhood Enhancement program is a component of the Community Enhancement Program and is designed to provide a funding source for neighborhood communities that wish to enhance the appearance of their neighborhood and community. Staff is specifically targeting Homeowners' Associations and the Community Oriented Governance (COG) groups. These groups tend to be more organized and able to provide the matching funding or organize in-kind services that the application requires. This does not mean that other groups could not apply for the Neighborhood Enhancement Grants. The yearly funding for this program is \$30,000. Applications are received once a year in early spring, with work to be completed by December 31.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

**Date:** June 25, 2001

**Subject:** Extension of Big Dry Creek Watershed Grant, Biological Monitoring Services, and Consulting Services

**Prepared by:** David Carter, Laboratory Services Coordinator

**Introduction**

City Council action is requested to pass the attached Councilor's Bill, on first reading, to authorize appropriating an extension to a United States Department of Energy Grant in the amount of \$50,000. City Council action is also requested to authorize the execution of a contract with Aquatics Associates to provide biological monitoring services, in the amount of \$42,000, to be paid by the DOE grant, for the Big Dry Creek Watershed Association. City Council action is also requested to authorize the execution of a contract with Wright Water Engineers, Inc. to provide consulting services, in the amount of \$8,000, to be paid by the DOE grant, for the Big Dry Creek Watershed Association.

**Summary**

Coordinated Big Dry Creek water quality sampling has been done by the cities of Westminster, Broomfield, and Northglenn for the past nine years and has resulted in increased efficiency and greater overall coverage when compared to the individual sampling programs previously done by each city. The extension of the DOE grant will be used to perform a complete biological monitoring event on Big Dry Creek and Walnut Creek in order for the group to see the overall health of the whole watershed from top to bottom. The grant will also be used to further the actions of the Big Dry Creek Watershed Association in reaching out to the watershed community as a whole. Authorization of the contract with Aquatics Associates will provide the City with biological monitoring of Big Dry Creek and Walnut Creek, all relevant sample analysis, and final report preparation for the Big Dry Creek Watershed Association. Authorization of the contract with Wright Water Engineers will provide the City with compilation and analysis of Big Dry Creek water quality and biological data, development of an Action Plan for future work related to Big Dry Creek, and continued community outreach services such as meeting coordination and dissemination of information. The DOE grant extension for \$50,000 will be used for these purposes and will be administered by the City of Westminster under the Big Dry Creek Basin Water Quality Agreement.

**Policy Issue**

Should the City of Westminster authorize the appropriation of an extension of a United States Department of Energy Grant in the amount of \$50,000 to study the aquatic environment in the Big Dry Creek Watershed?

**Staff Recommendation**

1. Pass Councilor's Bill No. 40 on first reading appropriating \$50,000 into the Special Studies Project account as a result of the United States Department of Energy Grant extension.
2. Authorize the execution of a contract by the City Manager for biological monitoring services with Aquatics Associates for the amount of \$42,000 and charge the expense to the appropriate budget account in the Utility Fund.

3. Authorize the execution of a contract by the City Manager for consulting services with Wright Water Engineers, Inc. for the amount of \$8,000 and charge the expense to the appropriate budget account in the Utility Fund.

### **Alternatives**

Should the City of Westminster choose not to execute the contract, the duties of biological monitoring would either have to be delegated to Staff from the various partnering agencies or not be completed. If the contract is not executed, the DOE grant money would have to be returned because the conditions of the grant would not have been met.

### **Background Information**

Coordinated Big Dry Creek water quality sampling has been done by the cities of Westminster, Broomfield, and Northglenn for the past nine years and has resulted in increased efficiency and greater overall coverage when compared to the individual sampling programs previously done by each city. In 1997, the United States Department of Energy/Rocky Flats joined the group, and through an Intergovernmental Agreement (IGA) and an Environmental Protection Agency (EPA) Regional Geographic Initiative (RGI) grant formed the Big Dry Creek Watershed Association. Through the IGA, the group has attempted to cooperatively assess the water quality in Big Dry Creek. Equitability in the costs associated with the sampling program was a main focus of the IGA and is the reason that the DOE is giving the association a grant for further biological monitoring on Big Dry Creek and Walnut Creek. Because of the restrictions placed on the DOE, the only way they can give the association any funds is through a grant process.

A biological monitoring program was initiated in 1997 by the Cities of Westminster, Broomfield and Northglenn, the United States Department of Energy (DOE) and Rocky Flats to enhance the current water quality monitoring program begun by the three cities. The goal was to document the abundance and distribution of fish and benthic macro invertebrate populations and characterize the physical habitat at selected locations along Big Dry Creek. The water quality and biological monitoring programs are all covered under the Big Dry Creek Basin Water Quality Agreement between the various entities. Since 1997, the association has increased the frequency of biological monitoring of Big Dry Creek along with providing a forum for watershed coordination through the EPA RGI, the EPA 319, non-point source, and the DOE grant programs.

The benefit of this monitoring is an increased understanding of the creek and the impacts on it from the cities' wastewater discharges, and from other sources throughout the watershed. An increased understanding of the creek has, and will continue to benefit the parties during State reviews of existing and proposed stream standards. The Colorado Department of Public Health and Environment (CDPH&E) performs a triennial review of the water quality standards for Big Dry Creek. During these reviews, proposed stream standard changes are considered and ruled upon. Often, changes are made based on general data and observations made by the CDPH&E and do not incorporate data specific to the individual stream being considered. This can result in unnecessarily strict standards being set. Strict stream standards will result in a greater compliance burden being placed on each wastewater treatment facility's discharge.

The DOE grant's focus is to aid in the continuing biological monitoring program on Big Dry Creek and to encourage the continued formation of a watershed group to study the Big Dry Creek watershed and to identify and involve additional stakeholders in the further study and management of the watershed basin. Objectives of the monitoring program are to establish a database that can ultimately be used to determine appropriate surface water quality standards for Segment 1 of Big Dry Creek and document the effects of potential influences in water quality on the aquatic community in Big Dry Creek.

Aquatics Associates was chosen for this project because of the expertise they have gained over the last few years working with the association on the current biological monitoring program and because they meet the DOE requirement regarding the use of minority/women owned business in grant funded projects.

The watershed association chose not to go out for competitive bids on this project because of Aquatics Associates past history of excellent work for the watershed association. The watershed association was in unanimous favor of retaining Aquatics Associates for this project.

Wright Water Engineers, Inc. was chosen for this project because of the extensive experience they have gained over the last few years working as the watershed coordinator for the Big Dry Creek Watershed Association. The watershed association was in unanimous favor of retaining Wright Water Engineers, Inc. for this project.

### **Alternatives**

The City of Westminster could choose not to execute the contract; however, the duties of biological monitoring would either have to be delegated to Staff from the various partnering agencies or not be completed. If the contract is not executed, the DOE grant money would have to be returned because the conditions of the grant would not have been met.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **40**

SERIES OF 2001

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE INCREASING THE 2001 BUDGET OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2001 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2001 appropriation for the Water Portion of the Utility Fund, initially appropriated by Ordinance No. 2839 in the amount of \$27,101,751 is hereby increased by \$50,000 which, when added to the fund balance as of the City Council action on June 25, will equal \$27,825,251. The actual amount in the Utility 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 a United States Department of Energy grant extension award.

Section 2. The \$50,000 increase in the Utility Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

| <u>Description</u>                          | <u>Current Budget</u> | <u>\$ Increase</u> | <u>Final Budget</u> |
|---|-----------------------|--------------------|---------------------|
| <u>REVENUES</u>                             |                       |                    |                     |
| Intergovernmental - Federal                 |                       |                    |                     |
| 20-0426-400                                 | \$0                   | <u>\$50,000</u>    | \$50,000            |
| Total change to revenues                    |                       | <u>\$50,000</u>    |                     |
| <u>EXPENSES</u>                             |                       |                    |                     |
| Appropriation Holding – Environmental Grant |                       |                    |                     |
| 20-35-88-555-539                            | \$0                   | <u>\$50,000</u>    | \$50,000            |
| Total change to expenses                    |                       | <u>\$50,000</u>    |                     |

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of June 2001.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2001.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

**Date:** June 25, 2001  
**Subject:** Councillor's Bill No. 41 re Adding Definitions of Public Place and Possession  
**Prepared by:** Mark Cohen, Assistant Prosecuting Attorney

### Introduction

City Council is requested to pass the attached Councillor's Bill on first reading amending Section 6-1-1 of the Westminster Municipal Code to define what constitutes a "public place" and what constitutes "possession."

### Summary

Section 6-1-1 of the Westminster Municipal Code defines several terms that are contained in a number of the City's criminal ordinances. The proposed Councillor's Bill would add two additional definitions.

### Policy Issues

Should the City Code be amended to clarify the meaning of "public place" and "possession" for the purposes of enforcing certain of the City's criminal ordinances?

### Staff Recommendation

Pass Councillor's Bill No. 41 on first reading amending Section 6-1-1 of the Westminster Municipal Code to define what constitutes a "public place" and what constitutes "possession."

### Background

Section 6-1-1 of the Westminster Municipal Code defines several terms that are contained in a number of the City's criminal ordinances. The proposed ordinance would add two additional definitions, one defining "public place," and the other defining "possession."

The term "public place" appears in several City ordinances including those prohibiting disorderly conduct and harassment, but is not defined. The proposed definition is taken from the definitions found in Section 6-9-1 and Section 6-9-3 of the Westminster Municipal Code.

The term "possession" appears in several City ordinances including those prohibiting possession of marijuana, possession of drug paraphernalia, and possession of firearms by a juvenile. The proposed definition is taken from the Colorado Supreme Court's decision in *People v. Vigil*, 489 P.2d 593 (Colo. 1971).

Defining these terms will clarify the Westminster Municipal Code, thereby eliminating disputes that sometimes arise after a prosecution has been initiated. Moreover, defining these terms will assist Westminster police officers in making appropriate charging decisions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **41**

SERIES OF 2001

INTRODUCED BY COUNCILLORS

---

A BILL

FOR AN ORDINANCE AMENDING SECTION 6-1-1 OF THE WESTMINSTER MUNICIPAL CODE TO PROVIDE ADDITIONAL DEFINITIONS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 6-1-1, Westminster Municipal Code, is hereby amended to read as follows:

**6-1-1: DEFINITIONS:** Definitions set forth in any Section of this Title apply whenever the same term is used in the same sense in another Section of this Title, unless the definition is specifically limited, or the context indicates it is inapplicable. The following terms shall have the meanings hereinafter set forth when used in this Title.

"Bodily Injury" means physical pain, illness, or any impairment of physical or mental condition.

"Criminal Negligence" A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

"Culpable Mental State" means intentionally, or with intent, or knowingly, or wilfully, or recklessly, as these terms are defined in this Section:

1. "Intentionally" or "with intent". All offenses defined in this Code in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

2. "Knowingly" or "wilfully." All offenses defined in this Code in which the mental culpability requirement is expressed as "knowingly" or "wilfully" are declared to be general intent crimes. A person acts "knowingly" or "wilfully" with respect to conduct or to a circumstance described by the ordinance defining an offense when he is aware that his conduct is of such a nature or that such circumstances exists. A person acts "knowingly" or "wilfully", with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

3. "Recklessly." A person acts "recklessly" with respect to a result or to a circumstance described by an ordinance defining an offense, when he consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists.

"Deadly Weapon" means any firearm, whether loaded or unloaded, knife, bludgeon, bow and arrow, sling shot or other weapon, device, instrument, material, or substance whether animate or inanimate, which, in the manner it is used, or intended to be used, is capable of producing death or serious bodily injury.

"Destructive Device" means any material, substance or mechanism capable of being used, either by itself or in combination with any other substance, material or mechanism, to cause sudden and violent injury, damage, destruction or death.



"Firearm" shall mean any instrument or device used in the propulsion or discharge of shot, slugs, shells, cartridges, bullets or other harmful objects or projectiles by the action of gunpowder exploded or burned within it, or by the action of compressed air within it, or by the power or action of springs, and including what are commonly know as air rifles, air pistols and B-B guns.

"Knife" means any dagger, dirk, knife or stiletto with a blade over three and on-half inches (3 1/2") in length, or any other dangerous instrument capable of inflicting cutting, stabbing, or tearing wounds, but does not include a hunting or fishing knife carried for sport use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

"Officer" means any administrative officer of the City.

"Police Officer" means a police officer in uniform, or if out of uniform, one who has identified himself as a police officer.

**“POSSESSION” MEANS PHYSICAL POSSESSION OF AN ITEM BY THE DEFENDANT OR, IF THE DEFENDANT IS NOT IN PHYSICAL POSSESSION OF AN ITEM, MEANS THAT THE ITEM WAS AT LEAST PARTIALLY UNDER THE DEFENDANT’S DOMINION AND CONTROL. “POSSESSION” NEED NOT BE EXCLUSIVE AND AN ITEM MAY BE POSSESSED JOINTLY BY THE DEFENDANT AND ONE OR MORE OTHER PERSONS WITHOUT A SHOWING THAT THE DEFENDANT HAD ACTUAL PHYSICAL POSSESSION OF THE ITEM.**

"Premises" means real property, buildings and other improvements thereon.

"Property" is that of "another" or "one or more other persons" if anyone other than the defendant has a possessory or propriety interest therein.

**“PUBLIC PLACE” MEANS ANY STREET, ALLEY, ROAD, HIGHWAY, SIDEWALK, PARKING LOT, PUBLIC OR COMMUNITY BUILDING, PUBLIC PARK, ANY PRIVATE PROPERTY OPEN TO THE GENERAL PUBLIC, OR ANY PLACE USED BY PERSONS OTHER THAN THE OWNER OR OWNER’S AGENT WITHOUT ~~A SPECIAL PERMIT~~, THE PERMISSION OF THE OWNER OR OWNERS AGENT AND INCLUDES ANY VEHICLE IN A PUBLIC PLACE AS DEFINED HEREIN.**

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 25<sup>th</sup> day of June, 2001 AS AMENDED.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of July, 2001.

\_\_\_\_\_  
Mayor

ATTEST:

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

**Date:** June 25, 2001  
**Subject:** Councillor's Bill No. 42 re Unlicensed Vehicle definition  
**Prepared by:** Mark Cohen, Assistant Prosecuting Attorney

**Introduction**

City Council is requested to pass the attached Councillor's Bill on first reading amending Section 10-1-14(B) of the Westminster Municipal Code to provide a more complete definition of what constitutes an unlicensed vehicle.

**Summary**

Section 10-1-14(B) of the Westminster Municipal Code makes it unlawful for any person to operate an unlicensed vehicle on a public street or public or private parking lot within the City. The proposed amendment defines what constitutes an unlicensed vehicle for purposes of the ordinance.

**Policy Issues**

Is the City's Municipal Code in need of clarification to define what constitutes an unlicensed vehicle?

**Staff Recommendation**

Pass Councillor's Bill No. 42 on first reading amending Section 10-1-14(B) of the Westminster Municipal Code to provide a more complete definition of what constitutes an unlicensed vehicle.

**Background**

A goped is essentially a motorized skateboard. Gopeds are popular with grade school and middle school children, but pose a safety problem when operated on public streets or in parking lots where there may be significant traffic.

Section 10-1-14(B) of the Westminster Municipal Code makes it unlawful for any person to operate an unlicensed vehicle on a public street or a public or private parking lot within the City, but does not define "unlicensed vehicle." The City has interpreted the ordinance to apply to gopeds, go-karts, and other toy vehicles, and the Municipal Court has consistently approved that interpretation.

Notwithstanding the Municipal Court's approval of the City's interpretation, the Office of the Prosecuting Attorney occasionally receives inquiries or complaints from parents who have purchased or are contemplating purchasing a goped for their child. In order to clarify the ordinance and put the public on notice as to the types of vehicles prohibited by the ordinance, the Office of the Prosecuting Attorney recommends amending the ordinance to include a definition of what constitutes an unlicensed vehicle.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **42**

SERIES OF 2001

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING SECTION 10-1-14(B) OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE OPERATION OF UNLICENSED VEHICLES ON PUBLIC STREETS AND IN CERTAIN PARKING LOTS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 10-1-14(B), Westminster Municipal Code, is hereby amended to read as follows:

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

(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. AS USED IN THIS SUBSECTION, "UNLICENSED VEHICLE" MEANS ANY VEHICLE OF ANY TYPE REQUIRED BY STATE LAW TO BE LICENSED THAT IS NOT ACTUALLY LICENSED, AND ALSO INCLUDES GOPEDS, GO-KARTS, ALL TERRAIN VEHICLES, SNOWMOBILES, ANY DEVICE OR VEHICLE LISTED IN SECTION 109(9) OF THE MODEL TRAFFIC CODE, AND ANY OTHER VEHICLE OR DEVICE POWERED BY AN ELECTRIC MOTOR OR INTERNAL COMBUSTION ENGINE THAT IS NOT GENERALLY AND COMMONLY USED TO TRANSPORT PERSONS AND PROPERTY OVER PUBLIC STREETS AND HIGHWAYS, BUT DOES NOT INCLUDE BICYCLES.

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 25<sup>th</sup> day of June, 2001.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of July, 2001.

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Mayor

ATTEST:

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City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

**Date:** June 25, 2001

**Subject:** Councillor's Bill No. 43 re Appropriation of 2000 Carryover Funds

**Prepared By:** Barbara Gadecki, Assistant to the City Manager  
Ron Lay, Accountant

**Introduction**

City Council action is requested to pass the attached Councillor's Bill on first reading appropriating 2000 carryover and incentive funds, as described, into the General, General Reserve, Fleet, General Capital Improvement, Open Space, and Utility Funds. This is an action City Council takes annually once the audit is substantially completed for the prior year.

**Summary**

At this time, certain items and services that were budgeted in 2000, but which were not received or provided until 2001 are being requested for appropriation. The total of these budget items for all funds is \$3,177,097, including a recommended increase in the General Fund Reserve of \$400,000. Further detail on these items is provided in the background section of this memo.

**Staff Recommendation**

Pass Councillor's Bill No. 43 on first reading appropriating carryover funds into the 2001 budgets of the General, Fleet, General Capital Improvement, and Utility Funds.

**Policy Issue**

Should the City appropriate carryover and incentive funds as set forth in the attached Ordinance.

**Alternatives**

- 1.) City Council could decide to not proceed with appropriating any of these funds at this time. This is not recommended as many of the carryover requests are for items and services that have already received City Council approval during the 2000 Budget process as priority expenditures for the City.
- 2.) City Council could choose to approve the carryover appropriation but not approve the Incentive Budget Funds. This is not recommended as this program rewards departments for practicing good budget management. In addition, under current constraints these funds would be used in many instances to fund key expenditures that the 2002 budget will not allow.

**Background Information**

The City Council once a year reviews and appropriates carryover funds from the previous year's budget into the current year budget for the following:

- A) those items and services included in the previous year's budget but not received or provided until the current year's budget,
- B) budget incentive funds into various departments' budgets based on savings from the prior year, and

- C) existing or new capital projects for which funds are needed and carryover funds are available.

At this time, City Council is requested to appropriate carryover funds for items and services that were budgeted in 2000 but were not received or provided until 2001 as well as budget incentive funds. Department incentive funds are calculated by an approved formula previously adopted by Council Resolution whereby each department is allowed to retain a certain portion of budget savings calculated by the Finance Department after the audit for the year is complete. The formula for determining the amount of Incentive Budget Funds calls for departments to receive 100% of the first \$5,000 in savings and 25% of any savings above \$5,000. The program was established to promote and reward prudent budget management by City Departments.

The majority of the carryover funds will be brought back to be appropriated at a later date. Staff is reviewing possible capital projects to determine the best use of carryover funds that are available. Appropriation of the balance of the carryover funds will be proposed to City Council later this summer.

#### A) RE-APPROPRIATION OF ITEMS APPROVED IN 2000

Certain items ordered in 2000 were not received until 2001. In addition, certain services, authorized in 2000, were not fully performed by the end of the year. Under standard accounting procedures, these remaining funds must be re-appropriated in the new year to complete the desired purchase or service. Staff recommends the items described below be re-appropriated in 2001.

##### GENERAL FUND:

City Council – One item totaling \$13,985 for the balance of the Mercer Group contract for the selection process for the new City Manager.

City Manager's Office – One item totaling \$13,000 for the *City Edition* survey work conducted by National Research Center that was not completed in 2000.

Central Charges – One item totaling \$16,000 for the purchase of Scala software and computer package for Channel 8 Community Bulletin Board that was not completed in 2000.

General Services – Two items totaling \$24,000 as follows:

1. \$17,000 for a new extended cab pickup truck that was ordered in January of 2000 but not delivered prior to year end.
2. \$7,000 for installation of the new voting system in the City Council chamber; the work was not completed prior to the end of 2000.

Finance – Two items totaling \$35,000 as follows:

1. \$25,000 for infrastructure valuation consulting services needed to adhere to GASB 34 that was not expended due to Staff time being allocated to the implementation of the new financial management system in 2000.
2. \$10,000 in budget savings from 2000 to be used for additional overtime costs anticipated in 2001 resulting from Staff working on the implementation of the financial management system, working with new auditors, and preparing for GASB 34 in 2001.

Community Development – Three items totaling \$84,406 as follows:

1. \$5,600 for the completion of the 73<sup>rd</sup> Avenue/Lowell Boulevard Improvement Plan initiated in 2000, but completed in 2001.

2. \$24,500 for the update of the Urban Renewal Plan for South Westminster; this project was initiated in 2000 but not completed.
3. \$54,306 to complete the I-25 Corridor study initiated in mid-year 2000 but not completed prior to year-end.

Police Department – One item totaling \$15,000 for a Dispatch Consulting Study planned in late 2000; these funds are requested to be carried into 2001 and will allow for an analysis of the City's current dispatch operations and identify areas for possible improvement.

Fire Department – Three items totaling \$135,745 as follows:

1. \$5,645 for Emergency Medical Dispatch training that was planned for in 2000 but not initiated due to the purchase and installation of the new CAD/RMS scheduled for completion in 2001.
2. \$90,000 for the down payment on a replacement fire engine; the purchase was not initiated until the fourth quarter of 2000 and the purchase was authorized in January 2001 by City Council. Staff anticipates that the new engine will be delivered mid-year in 2001; the on-going lease payments were budgeted in 2001 accordingly.
3. \$40,100 for the purchase of a replacement Suburban that was initiated in the third quarter 2000; however, the purchase was not completed in 2000 due to the fact that the bids submitted did not meet the required specifications. Subsequent bids were obtained for the vehicle in late 2000 and the purchase will occur in 2001.

Parks, Recreation & Libraries – Four items totaling \$93,388 as follows:

1. \$2,688 for a replacement ID/pass card printer for the recreation centers; the purchase was not initiated in 2000 due to other projects requiring Staff attention.
2. \$50,000 for the renovation of the City Park Recreation Center's lower cashier area that was not initiated in 2000. These funds are savings the department had that are requested to fund this needed renovation.
3. \$10,000 for replacement furniture for City Park Recreation Center offices and classrooms. These items are proposed to be purchased with department savings.
4. \$30,700 for a new photo ID system for the City Park Recreation Center and City Park Fitness Center which will allow ID/pass registration, photo capture and card printing at one station. These funds are savings the department had that are requested to fund this needed renovation.
5. \$800 in scholarship funds, received from citizens, for the Youth Sports Program. These funds are intended to supplement registration fees for individuals needing assistance. These funds are not increasing an expenditure account; they are simply carrying forward the unanticipated revenue as available for scholarships in 2001.

Public Works & Utilities – One item totaling \$11,340 for the Tire Recycling Program. The City received a grant from the Colorado Department of Transportation (CDOT) late in 2000 due to the City's use of recycled materials in street maintenance. These funds are recommended to be returned to the Street Division's maintenance/construction materials account to use on street maintenance.

**GENERAL RESERVE FUND:**

Reserve – An appropriation of \$400,000 in carryover funds that were not originally earmarked for the General Reserve Fund. Staff believes that while these funds were not originally appropriated in 2000 as reserve moneys, taking into consideration the slowing economy and additional retail competition in the northwest metropolitan area, appropriating additional funds into the reserve fund is fiscally prudent in 2001. Additionally, Staff will evaluate whether additional moneys should be transferred to the General Fund Reserve after a review of the use of the remaining 2000 carryover funds has been completed.

**GENERAL CAPITAL IMPROVEMENT FUND:**

The following items were originally budgeted in the City's General Fund operating budget but, for the reasons explained within each item below, are being recommended to be appropriated in 2001 and moved into the General Capital Improvement Fund. The Department in which the project/study was originally budgeted is noted.

Central Charges – Two items totaling \$290,000 as follows:

1. \$240,000 for the Optical Scanning project first budgeted with \$40,000 in 1999 for vendor selection, which was carried over into 2000, plus the \$200,000 budgeted in 2000 for the first phase of purchase and implementation of the new Optical Scanning equipment. Delays have been incurred due to other, more critical projects coming on line, such as the Computer Aided Dispatch/Records Management System (CAD/RMS) and Financial Management System (FMS) that have required Staff's attention. It is anticipated that the optical scanning project may not be completed in 2001 and therefore, rather than doing carryover on an annual basis and considering the cost of the project, Staff believes it is appropriate to move these funds to the General Capital Improvement Fund.
2. \$50,000 for engineering design work for intersection improvements at 104<sup>th</sup> Avenue and Sheridan Boulevard initiated in 2000. Since this project will be included in the City's Capital Improvement Program, Staff believes it is appropriate to move these funds into the General Capital Improvement Fund to keep the entire project cost in one project account.

Police – One item totaling \$207,000 to the Public Safety Building project budget. These dollars represent savings in the Police Department 2000 operating budget that are proposed to help offset additional costs associated with the new Public Safety Building, including equipment and fixture costs that were reduced in the current project budget due to funding constraints. These savings are proposed to help cover these items.

Fire – One item totaling \$10,800 to the Public Safety Building project budget. These dollars represent savings in the Fire Department 2000 operating budget that are proposed to help offset additional costs associated with the new Public Safety Building; including equipment and fixture costs that were reduced in the current project budget due to funding constraints. These savings are proposed to help cover these items.

**WATER FUND:**

Public Works & Utilities – Eight items totaling \$323,940 as follows:

1. \$211,037 for tank inspection and maintenance projects initiated in 2000 but not completed.
2. \$2,900 for a replacement computer that was ordered in November but not received until 2001.
3. \$15,000 for Value Engineering and Board of Review associated with the Standley Lake Renovation project scheduled to occur in October 2000. These items have been delayed due to ongoing issues with the other Standley Lake Renovation cities.

4. \$30,000 for the Helton and Williamson engineering contract authorized by City Council in 2000 for services associated with the change of use of a number of Westminster water rights purchased over the last several years. Work was delayed due to the need to dedicate Staff and consultant resources to time sensitive issues related to effluent sales to South Adams and Wattenberg storage issues in 2000.
5. \$11,500 for the Rates, Tap Fee and Long Range Financial Planning Model Study and Aquacraft Tap Fee and Conservation Study initiated in 2000 but not completed due to delays in collecting information and compiling the fifty year capital replacement schedules.
6. \$7,000 to complete the engineering design and modification of the existing Manhart Ditch headgate structure at Ralston Creek not completed in 2000 due to staff turn over at the City of Arvada, a major Manhart Ditch shareholder who was providing assistance in engineering review and design.
7. \$26,500 for necessary repairs to the Leyden Reservoir Dam per the Farmer's High Line special assessment.
8. \$20,000 for the completion of computer work initiated in 2000 to upgrade the SCADA systems used to operate the Wastewater Facility and the Reclaimed Water Treatment Facility. The work with Accomplishments, Inc., was postponed due to delays in the start up of the Reclaimed Water Treatment Facility.

**WASTEWATER FUND:**

Public Works & Utilities – Six items totaling \$273,600 as follows:

1. \$31,782 for sewer inspection, evaluation and maintenance projects initiated in 2000 but ongoing in 2001.
2. \$29,814 for retainage owed to Farner Enterprises for sewer rehabilitation work completed in 2000. This retainage amount was not ready to be released prior to the closing of the 2000 fiscal year.
3. \$12,000 for the painting of the airline system in use at the wastewater facility by Coating Services initiated in 2000 but not completed prior to year end.
4. \$30,000 for the replacement and repair of Big Dry Creek facilities potable water lines. The line has incurred four failures over the last three years. The repair was initiated in 2000 but was not completed prior to year end.
5. \$20,000 for valve repairs at the wastewater facility identified in December 2000 and required correction in early 2001. Funds available in the department's budget are recommended to cover this expense in 2001.
6. \$15,000 to complete the purchase of automatic samplers for the wastewater facility and to refinish grit handling equipment. Bid solicitation occurred in late 2000 due to additional time needed to perform the research necessary on the samplers and applications.

**FLEET FUND** – One item totaling \$14,100 for the installation of an automated gate at the Municipal Service Center (MSC). Funds were saved in the Police; Fire; Parks, Recreation & Libraries; and Public Works & Utilities Departments to share the cost of this needed modification to access gasoline pumps at the MSC. Work was initiated in late 2000 and completed in the spring of 2001.



OPEN SPACE FUND – One item totaling \$1,350,000 to be utilized for the purchase of open space and park land. The funds were appropriated for this purpose in 2000 and were unspent as of the end of the year.

B) 2000 CARRYOVER FOR INCENTIVE BUDGETING

Through Resolution No. 40, Series of 1989, City Council adopted an Incentive Budget Program, whereby a portion of departmental savings realized would be re-appropriated to the applicable departments. The formula for determining the amount of Incentive Budget Funds is departments receive 100% of the first \$5,000 in savings and 25% of any savings above \$5,000. This amount is limited to the amount of excess carryover. The amount recommended to be distributed to the various departments through the Incentive Budget Program is listed below.

GENERAL FUND

|                                  |                  |
|----------------------------------|------------------|
| City Council                     | \$1,750          |
| City Attorney's Office           | 21,982           |
| City Manager's Office            | 20,064           |
| Central Charges                  | 25,000           |
| General Services                 | 34,813           |
| Finance                          | 24,716           |
| Community Development            | 23,219           |
| PW&U Infrastructure Improvements | 19,423           |
| PW&U Streets                     | 20,216           |
| Parks, Recreation & Libraries    | <u>89,914</u>    |
| Total General Fund               | <u>\$281,097</u> |

FLEET FUND

\$22,296

UTILITY FUND

|                        |                  |
|------------------------|------------------|
| Finance                | \$13,754         |
| Information Technology | 6,338            |
| Wastewater             | <u>111,407</u>   |
| Total Utility Fund     | <u>\$131,499</u> |

TOTAL INCENTIVE FUNDS

\$434,892

C) CARRYOVER FOR EXISTING OR NEW CAPITAL PROJECTS

The majority of the carryover funds will be brought back to be appropriated at a later date. Staff is reviewing possible capital projects to determine the best use of carryover funds that are available. At a later date, Staff will present to City Council the appropriation of remaining carryover in the General Capital Improvement and Utility Funds.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **43**

SERIES OF 2001

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2001 BUDGET OF THE GENERAL, RESERVE, UTILITY, FLEET MAINTENANCE, OPEN SPACE AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2000 CARRYOVER IN THE VARIOUS FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2001 appropriation for the General Fund, initially appropriated by Ordinance No. 2839 in the amount of \$67,845,371 is hereby increased by \$1,640,861 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$69,664,365. 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 appropriation of 2000 carryover and 2001 incentive funds.

Section 2. The \$1,640,861 increase in the General Fund shall be allocated to City Revenue and Expenditure accounts, which shall be amended as follows:

| Description  | Current Budget | \$ Increase        | Final Budget |
|--|----------------|--------------------|--------------|
| <b>REVENUES</b>  |                |                    |              |
| Carryover 10-0090-000  | \$1,976,441    | \$1,640,061        | \$3,616,502  |
| Contributions Miscellaneous 10-1172-000                          | 5,000          | <u>800</u>         | 5,800        |
| Total Change to Revenues   |                | <u>\$1,640,861</u> |              |
| <b>EXPENSES</b>  |                |                    |              |
| City Council – Incentive Funds 10-01-01-444-000                  | \$0            | \$1,750            | \$1,750      |
| Employee Recruitment 10-01-01-131-000                            | 0              | 13,985             | 13,985       |
| City Attorney – Incentive Funds 10-03-12-444-000                 | 0              | 21,982             | 21,982       |
| City Manager – Incentive Funds 10-05-05-444-000                  | 0              | 20,064             | 20,064       |
| Other Contractual Services 10-05-05-299-387                      | 35,070         | 13,000             | 48,070       |
| Central Charges – Incentive Funds 10-10-90-444-000               | 0              | 25,000             | 25,000       |
| Other Equipment 10-10-90-406-386                                 | 23,257         | 16,000             | 39,257       |
| Transfer to the Reserve Fund 10-10-95-990-911                    | 0              | 400,000            | 400,000      |
| Transfer to Fleet Maintenance Fund 10-10-95-990-931              | 0              | 10,100             | 10,100       |
| Transfer to General Capital Improvement Fund<br>10-10-95-990-975 | 1,976,441      | 507,800            | 2,484,241    |
| General Services – Incentive Funds 10-12-05-444-00               | 0              | 34,813             | 34,813       |
| Maint/Rpr Infrastructure 10-12-39-267-703                        | 157,200        | 7,000              | 164,200      |
| Vehicles Facility Maintenance 10-12-39-401-703                   | 60,000         | 17,000             | 77,000       |
| Finance – Incentive Funds 10-15-05-444-000                       | 0              | 24,716             | 24,716       |
| Salaries – Overtime 10-15-22-103-000                             | 0              | 10,000             | 10,000       |
| Professional Services 10-15-22-209-000                           | 16,000         | 25,000             | 41,000       |
| Other Contractual Services 10-20-29-299-000                      | 75,150         | 15,000             | 90,150       |
| Career Development 10-25-26-144-546                              | 6,200          | 5,645              | 11,845       |
| Lease Payments to Others 10-25-26-293-000                        | 265,500        | 90,000             | 355,500      |
| Vehicles 10-25-26-401-000  | 31,000         | 40,100             | 71,100       |
| Community Development – Incentive Funds<br>10-30-05-444-000      | 0              | 23,219             | 23,219       |

| Description  | Current Budget | \$ Increase        | Final Budget |
|--|----------------|--------------------|--------------|
| Professional Services 10-30-05-209-000                               | 129,025        | 30,100             | 159,125      |
| Special Studies 10-30-36-516-000                                     | 0              | 54,306             | 54,306       |
| Public Works & Util. (Streets) – Incentive Funds<br>10-35-45-444-000 | 0              | 39,639             | 39,639       |
| Maint/Construction Materials 10-35-45-347-000                        | 330,243        | 11,340             | 341,583      |
| Parks, Recreation & Libraries – Incentive Funds<br>10-50-05-444-000  | 0              | 89,914             | 89,914       |
| Computer Software/Hardware 10-50-72-405-860                          | 0              | 15,350             | 15,350       |
| Computer Software/Hardware 10-50-72-405-861                          | 0              | 15,350             | 15,350       |
| Other Equipment 10-50-72-406-860                                     | 30,400         | 60,000             | 90,400       |
| Computer Hardware/Software 10-50-76-405-000                          | 28,000         | <u>2,688</u>       | 30,688       |
| Total Change to Expenditures   |                | <u>\$1,640,861</u> |              |

Section 3 The 2001 appropriation for the Reserve Fund initially appropriated by Ordinance No. 2839 in the amount of \$6,453,000 is hereby increased by \$400,000 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$6,853,000. The actual amount in the Reserve 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 2000 carryover funds from the General Fund.

Section 4. The \$400,000 increase in the Reserve Fund shall be allocated to City Revenue and Expenditure accounts, which shall be amended as follows:

| Description                                | Current Budget | \$ Increase      | Final Budget |
|--|----------------|------------------|--------------|
| <b>REVENUES</b>                            |                |                  |              |
| Transfer from the General Fund 11-9999-360 | \$0            | <u>\$400,000</u> | \$400,000    |
| Total Change to Revenues                   |                | <u>\$400,000</u> |              |
| <b>EXPENSES</b>                            |                |                  |              |
| Contingency 11-10-99-999-000               | \$6,453,000    | <u>\$400,000</u> | \$6,853,000  |
| Total Change to Expenditures               |                | <u>\$400,000</u> |              |

Section 5. The 2001 appropriation for the Utility Enterprise Fund, initially appropriated by Ordinance No. 2839 in the amount of \$37,224,000 is hereby increased by \$594,032 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$40,491,532. The actual amount in the Utility Enterprise 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 2000 carryover and the 2001 incentive funds.

Section 6. The \$594,032 increase in the Utility Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

| Description   | Current Budget | \$ Increase      | Final Budget |
|---|----------------|------------------|--------------|
| <b>REVENUES</b>   |                |                  |              |
| Carryover 20-0090-000                                     | \$2,592,751    | \$344,029        | \$2,936,780  |
| Carryover 21-0090-000                                     | (367,751)      | <u>250,003</u>   | (117,748)    |
| Total Change to Revenues                                  |                | <u>\$594,032</u> |              |
| <b>EXPENSES</b>   |                |                  |              |
| Finance – Incentive Funds 20-15-24-444-000                | 0              | 13,754           | 13,754       |
| Information Technology - Incentive Funds 20-15-23-444-000 | 0              | 6,338            | 6,338        |
| Office Equipment 20-35-05-404-000                         | 0              | 2,900            | 2,900        |
| Professional Services 20-35-48-209-000                    | 348,933        | 41,500           | 390,433      |
| Maint/Repair-Infrastructure 20-35-48-267-000              | 130,000        | 22,000           | 152,000      |
| Ditch Assessments 20-35-48-292-000                        | 322,341        | 26,500           | 348,841      |
| Electricity & Gas 20-35-49-284-000                        | 383,373        | 20,000           | 403,373      |

| Description                                   | Current Budget | \$ Increase      | Final Budget |
|---|----------------|------------------|--------------|
| Professional Services 20-35-50-209-000        | 291,700        | 211,037          | 502,737      |
| Wastewater – Incentive Funds 21-35-05-444-000 | 0              | 111,407          | 111,407      |
| Maint/Repair-Infrastructure 21-35-49-267-000  | 48,000         | 30,000           | 78,000       |
| Electricity & Gas 21-35-49-284-000            | 294,400        | 47,000           | 341,400      |
| Other Contractual Services 21-35-50-299-000   | 493,100        | <u>61,596</u>    | 554,696      |
| Total Change to Expenditures                  |                | <u>\$594,032</u> |              |

Section 7. The 2001 appropriation for the Fleet Maintenance Fund, initially appropriated by Ordinance No. 2839 in the amount of \$1,121,246 is hereby increased by \$36,396 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$1,157,642. The actual amount in the Fleet Maintenance 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 2000 carryover and 2001 incentive funds.

Section 8. The \$36,396 increase in the Fleet Maintenance Fund shall be allocated to City Revenue and Expenditure accounts, which shall be amended as follows:

| Description                                  | Current Budget | \$ Increase     | Final Budget |
|--|----------------|-----------------|--------------|
| <b>REVENUES</b>                              |                |                 |              |
| Carryover 30-0090-000                        | \$0            | \$26,296        | \$26,296     |
| Transfer from the General Fund 30-9999-360   | 0              | <u>10,100</u>   |              |
| Total Change to Revenues                     |                | <u>\$36,396</u> |              |
| <b>EXPENSES</b>                              |                |                 |              |
| Fleet Maintenance Incentive 30-12-46-444-000 | \$0            | \$22,296        | \$22,296     |
| Maint/Repair-Infrastructure 30-12-46-267-539 | 76,000         | <u>14,100</u>   | 14,100       |
| Total Change to Expenditures                 |                | <u>\$36,396</u> |              |

Section 9. The 2001 appropriation for the Open Space Fund, initially appropriated by Ordinance No. 2839 in the amount of \$4,827,625 is hereby increased by \$1,350,000 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$6,177,625. The actual amount in the Open Space 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 2000 carryover funds.

Section 10. The \$1,350,000 increase in the Open Space Fund shall be allocated to City Revenue and Expenditure accounts, which shall be amended as follows:

| Description                     | Current Budget | \$ Increase        | Final Budget |
|---------------------------------|----------------|--------------------|--------------|
| <b>REVENUES</b>                 |                |                    |              |
| Carryover 54-0090-000           | \$301,000      | <u>\$1,350,000</u> | \$1,651,000  |
| Total Change to Revenues        |                | <u>\$1,350,000</u> |              |
| <b>EXPENSES</b>                 |                |                    |              |
| Land Purchases 54-10-90-501-000 | \$561,264      | <u>\$1,350,000</u> | \$1,911,264  |
| Total Change to Expenditures    |                | <u>\$1,350,000</u> |              |

Section 11. The 2001 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2839 in the amount of \$14,802,638 is hereby increased by \$507,800 which, when added to the fund balance as of the City Council action on July 9, 2001 will equal \$18,320,571. 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 transfer of 2000 carryover funds from the General Fund.

Section 12. The \$507,800 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expenditure accounts, which shall be amended as follows:

| Description  | Current Budget | \$ Increase      | Final Budget |
|--|----------------|------------------|--------------|
| <b>REVENUES</b>                                      |                |                  |              |
| Transfer from the General Fund 75-9999-360           | \$1,976,441    | <u>\$507,800</u> | \$2,484,241  |
| Total Change to Revenues                             |                | <u>\$507,800</u> |              |
| <b>EXPENSES</b>                                      |                |                  |              |
| Optical Scanning Project 75-05-88-555-174            | \$0            | \$240,000        | \$240,000    |
| Public Safety Building 75-20-88-555-155              | 0              | 217,800          | 217,800      |
| 104 <sup>th</sup> & Sheridan Avenue 75-30-88-555-023 | 50,000         | <u>50,000</u>    | 100,000      |
| Total Change to Expenditures                         |                | <u>\$507,800</u> |              |

Section 13. – 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 14. This ordinance shall take effect upon its passage after the second reading.

Section 15. 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 26th day of June 2000.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th  
day of July, 2000.

ATTEST:

\_\_\_\_\_  
Mayor

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

## Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, June 25, 2001.

Present at roll call were Mayor Heil, Mayor Pro-Tem Dixon, Councillors Atchison, Hicks, Kauffman, Moss, and Merkel.

The minutes of the June 11, 2001 meeting were approved.

Mayor presented a proclamation to Scott Crabtree and proclaimed June 30 – July 9, 2001 as “National Lakes Appreciation Week.”

Council approved the following: Financial Report for May, 2001; 112<sup>th</sup> Avenue, Sheridan Boulevard to Stuart Street Construction Engineering Contract with HDR Engineering for \$232,173; Renewal of Underwriter Contract with Hanifen, Imhoff, Inc.; Neighborhood grants to Westminster Presbyterian Church for \$10,000 and The Ranch Filing 2 for \$10,125; Biological monitoring services with Aquatics Associates for \$42,000; Contract for consulting services with Wright Water Engineers, Inc., for \$8,000.

The following Councillor’s Bills were introduced on first reading:

**A BILL FOR AN ORDINANCE VACATING A SANITARY SEWER EASEMENT IN WADSWORTH ESTATES SUBDIVISION** purpose: vacate the unnecessary sanitary sewer easement within the Wadsworth Estates Subdivision

**A BILL FOR AN ORDINANCE DECREASING THE 2001 BUDGET OF THE GENERAL FUND AND THE GENERAL CAPITAL IMPROVEMENT FUND AND INCREASING THE 2001 BUDGET OF THE STORM DRAINAGE FUND** purpose: moving \$350,000 to the Storm Drainage Fund

**A BILL FOR AN ORDINANCE INCREASING THE 2001 BUDGET OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2001 ESTIMATED REVENUES IN THE FUND** purpose: appropriating \$50,000 into the Special Studies Project

**A BILL FOR AN ORDINANCE AMENDING SECTION 6-1-1 OF THE WESTMINSTER MUNICIPAL CODE TO PROVIDE ADDITIONAL DEFINITIONS** purpose: defining what constitutes a “public place” and what constitutes “possession” as amended

**A BILL FOR AN ORDINANCE AMENDING SECTION 10-1-14(B) OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE OPERATION OF UNLICENSED VEHICLES ON PUBLIC STREETS AND IN CERTAIN PARKING LOTS** purpose: to provide a more complete definition of what constitutes an unlicensed vehicle

**A BILL FOR AN ORDINANCE INCREASING THE 2001 BUDGET OF THE GENERAL, RESERVE, UTILITY, FLEET MAINTENANCE, OPEN SPACE AND GENERAL CAPITAL IMPROVEMENT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2000 CARRYOVER IN THE VARIOUS FUNDS** purpose: appropriating carryover funds into the 2001 budgets

The following Councillor’s Bills were adopted on second reading:

**A BILL FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE ASSISTANCE AGREEMENT WITH VILLAGE AT PARK CENTRE, LLC**

**A BILL FOR AN ORDINANCE VACATING A UTILITY EASEMENT WITHIN STANDLEY LAKE MARKETPLACE**

**A BILL FOR AN ORDINANCE INCREASING THE 2001 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND**

A BILL FOR AN ORDINANCE INCREASING THE 2001 BUDGET OF THE GENERAL FUND  
AND THE GENERAL CAPITAL IMPROVEMENT FUND

The following Resolution was adopted:

Resolution No. 43 Sales Tax Bonds Reimbursement for 112<sup>th</sup> Ave widening and 136<sup>th</sup> Ave I-25  
interchange

At 7:47 P.M. the meeting was adjourned.

By order of the Westminster City Council  
Michele Kelley, CMC, City Clerk

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