



## CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
  - A. Certificate of Achievement for Excellence in Financial Reporting
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
  - A. Financial Report for May 2007
  - B. 2006 Comprehensive Annual Financial Report
  - C. Armed Forces Tribute Garden Phase I Construction Award
  - D. 2007 Trail Repairs Construction Contract Award
  - E. Amendment to Purchase & Sale Agreement with Church Ranch Crossing, LLC
  - F. Amendment to Legal Services Agreement with Carlson, Hammond and Paddock, LLC
  - G. Amendment to Professional Services Agreement re Reclaimed Water Open Storage Feasibility Study
  - H. Second Reading Councillor's Bill No. 26 re Boulevard Plaza CLUP Amendment
  - I. Second Reading Councillor's Bill No. 27 re Sun Edison Economic Development Agreement
  - J. Second Reading Councillor's Bill No. 28 re TAB Boards International, Inc. Economic Development Agreement
  - K. Second Reading Councillor's Bill No. 29 re BDC & Cheyenne Ridge Parks Supplemental Appropriation

### 9. Appointments and Resignations

### 10. Public Hearings and Other New Business

- A. Public Hearing re Richter & Catt Annexation, CLUP Amendment, Church Ranch Crossing PDP/ODP
- B. Continuance of Hearing re Richter & Catt Annexation, CLUP Amendment, Church Ranch Crossing PDP/ODP
- C. Councillor's Bill No. 32 re Pension Plan Amendments
- D. Councillor's Bill No. 33 re Appropriation of FY 2006 Carryover Funds into FY 2007
- E. Councillor's Bill No. 34 re Westminster Sports Center Supplemental Appropriation
- F. Councillor's Bill No. 35 re 2007 CDBG Fund Appropriation
- G. Councillor's Bill No. 36 re Compensation Package for Public Works & Utilities Director
- H. Resolution No. 22 re Authorization for the Metro Mayors Caucus
- I. Resolution No. 23 re Reimbursement of City Expenses Incurred before Issuance of Pending POST Revenue Bonds

### 11. Old Business and Passage of Ordinances on Second Reading

### 12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session

- A. City Council
- B. Executive Session – Discussion of Proposed Settlement Agreement in Contested Tax Case with City Attorney and Obtaining Council Direction Thereon, Pursuant to WMC Sections 1-11-3(C)(3), (7) and (8) and CRS Sections 24-6-402 (b) and (e)

### 13. Adjournment

## **GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, JUNE 25, 2007 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Dittman, to approve the minutes of the regular meeting of June 11 and the special meeting of June 18, 2007, as written and presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced the appointment of Mike Smith as Public Works and Utilities Director. He cited Mr. Smith's credentials and looked forward to welcoming him to the City Staff on July 30.

Mr. McFall reminded everyone of the type of fireworks that were legal and dates on which they could be used. Additionally, the July 4<sup>th</sup> Celebration would be held at City Park starting at 6 p.m. with fun activities, food vendors, and a concert preceding the fireworks display that evening. He invited the public to attend and encouraged use of the shuttle services that would be provided since parking was limited on site. The celebration was jointly sponsored by the City and Hyland Hills Parks and Recreation District.

In conclusion, Mr. McFall announced that Council would meet in executive session following adjournment of this meeting. The purpose of the executive session would be to discuss with the City Attorney a proposed Settlement Agreement in a contested tax case pursuant to Sections 1-11-3(C)(3), (7) and (8) of the Westminster Municipal Code and Sections 24-6-402(b) and (e) of the Colorado Revised Statutes.

CITY COUNCIL COMMENTS

Councillor Major reported that the Fire Station 1 Open House was a big success with more than 600 barbecued hot dogs and hamburgers served to area residents.

Councillor Kaiser reported having introduced the band at a recent City Park concert, which presented a welcomed opportunity for him to speak with many residents that attended.

Mayor McNally reported the recent grand opening of the China Garden at 120<sup>th</sup> Avenue and Federal Boulevard and the upcoming opening of another restaurant in that same commercial area. She praised staff for the 13<sup>th</sup> Annual Father/Daughter Ball at City Park Recreation Center, noting that participation in this magical evening had been outstanding. On a final note, Mayor McNally said that business cards were available to "Stand Guard Against Graffiti." They contained information so people could report graffiti quickly so it could be removed.

Councillor Price announced the kickoff of Thursday evening entertainment activities organized by Parks, Recreation, and Libraries Staff. Cinema Under the Stars would show Shrek on July 13 at City Park and everyone was invited to bring a blanket and enjoy the film.

### PRESENTATIONS

On behalf of the City Council, Mayor McNally presented the Government Finance Officer's Certificate of Achievement for Excellence in Financial Reporting to Cherie Sanchez, Sam Trevino, and Gary Newcomb, members of the Comprehensive Annual Financial Report project team. It was the 23<sup>rd</sup> consecutive year the City had received the award, and Council was proud of the tradition of excellence.

### CITIZEN COMMUNICATION

Don McGill, 3932 West 103<sup>rd</sup> Avenue, distributed and read a prepared statement in support of his request that the City reduce or eliminate usage fees charged to install solar panel systems in an effort to preserve resources and the environment.

### CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: acceptance of the May 2007 Financial Report; acceptance of the 2006 Comprehensive Annual Financial Report; authority for the City Manager to enter into a \$1,200,000 construction contract with Goodland Construction for Phase I of the Armed Forces Tribute Garden at City Park with a \$100,000 contingency, authority to transfer \$455,000 from the Community Enhancement Program to the Armed Forces Tribute Garden Capital Improvement account, and authority for an additional amount not to exceed \$53,000 for construction observation and inspection with the City's design consultant DHM to be charged to the Armed Forces Tribute Garden Capital Improvement account; authority for the City Manager to execute a \$102,200 contract with Keene Concrete Construction, the low bidder, for construction of 2007 trail repairs with a contingency of \$5,110; authority for the City Manager to sign an Amended Purchase & Sale Agreement with Church Ranch Crossing, LLC and all documents necessary to complete the closing of the transaction; based on report and recommendation of the City Manager, determine that the public interest would best be served by authorizing the City Manager to execute an amendment to the City's legal services agreement with Carlson, Hammond and Paddock, LLC for water resources investigation of future water supply/storage alternatives in an amount not to exceed \$100,000; based on report and recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to execute an amendment in the amount of \$49,970 to a professional services agreement with Deere & Ault Consultants, Inc. as the sole source for analyzing the feasibility of constructing a reclaimed water open storage facility; final passage of Councillor's Bill No. 26 approving a Comprehensive Land Use Plan amendment for the Boulevard Plaza property by changing the designation from Industrial to Retail Commercial; final passage of Councillor's Bill No. 27 authorizing the City Manager to execute and implement the Economic Development Agreement with Sun Edison; final passage of Councillor's Bill No. 28 authorizing the City Manager to execute and implement an Economic Development Agreement with TAB Boards International, Inc.; and final passage of Councillor's Bill No. 29 approving a \$1,080,000 supplemental appropriation reflecting the City's receipt of a \$500,000 Adams County Open Space Grant for Big Dry Creek Park, a \$500,000 contribution from Hyland Hills Park and Recreation District per the City's Intergovernmental Agreement for construction of the Big Dry Creek Park, and an \$80,000 Adams County Open Space Grant for Cheyenne Ridge Park.

Mayor McNally asked if Councillors wished to remove any items from the consent agenda for discussion purposes or separate vote. There were no requests to amend the consent agenda, and Councillor Major moved to approve the consent agenda as presented. Mayor Pro Tem Kauffman seconded the motion and it passed unanimously.

PUBLIC HEARING RE RICHTER & CATT ANNEXATION, CLUP AMENDMENT CONTINUED

At 7:19 p.m., Mayor McNally opened a public hearing to consider the annexation of the Richter and Catt parcels, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash.

It was moved by Mayor Pro Tem Kauffman and seconded by Councillor Price to continue the hearing until July 9, 2007. The motion passed unanimously.

COUNCILLOR'S BILL NO. 32 RE PENSION PLAN AMENDMENTS

It was moved by Councillor Dittman and seconded by Councillor Kaiser to pass Councillor's Bill No. 32 on first reading amending the Westminster Municipal Code concerning the General Employee and Police Pension Plans. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 33 RE APPROPRIATION OF FY2006 CARRYOVER TO FY2007

Upon a motion by Councillor Major, seconded by Councillor Kaiser, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 33 on first reading appropriating FY2006 carryover funds into the FY2007 budgets of the General, General Capital Outlay Replacement, General Capital Improvement, Utility, Storm Drainage, Open Space, Fleet, Sales and Use Tax, and Conservation Trust Funds

COUNCILLOR'S BILL NO. 34 RE WSC SUPPLEMENTAL APPROPRIATION

It was moved by Councillor Kaiser and seconded by Councillor Dittman to pass on first reading Councillor's Bill No. 34 authorizing a supplemental appropriation in the amount of \$55,000 to fund the 2007 operating expenses for the Westminster Sports Center. On roll call vote, the motion passed unanimously.

COUNCILLOR'S BILL NO. 35 RE 2007 CDBG FUND APPROPRIATION

It was moved by Councillor Price and seconded by Councillor Lindsey to pass Councillor's Bill No. 35 on first reading appropriating 2007 Community Development Block Grant Funds (CDBG) in the amount of \$575,303. At roll call the motion passed unanimously.

COUNCILLOR'S BILL NO. 36 RE COMPENSATION PACKAGE FOR PW&U DIRECTOR

It was moved by Councillor Dittman and seconded by Councillor Major to pass Councillor's Bill No. 36 on first reading providing an exception to Section 1-24-4 of the Westminster Municipal Code related to accrual of General Leave by City employees and amending the City's Pay Plan to provide  
Westminster City Council Minutes

for a City-paid deferred compensation contribution for the new Public Works and Utilities Director. At roll call, the motion passed unanimously.

RESOLUTION NO. 22 RE METRO MAYORS CAUCUS 2007B MORTGAGE BOND PROGRAM

It was moved by Councillor Lindsey, seconded by Councillor Dittman, to adopt Resolution No. 22 approving authorization for the Metro Mayors Caucus 2007B Single-Family Mortgage Bond Program. At roll call, the motion passed unanimously.

RESOLUTION NO. 23 RE REIMBURSEMENT OF COSTS FROM POST REVENUE BONDS

Mayor Pro Tem Kauffman moved to adopt Resolution No. 23 permitting reimbursement to the City of soft and hard costs incurred for capital project and land purchases out of the bond proceeds from the Parks, Open Space, and Trails (POST) Revenue Bonds anticipated to be issued in December 2007. The motion was seconded by Councillor Kaiser and passed unanimously at roll call.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:30 p.m.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  

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**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Certificate of Achievement for Excellence in Financial Reporting

**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

The Mayor, on behalf of the City Council, will present the Government Finance Officer's Certificate of Achievement for Excellence in Financial Reporting to the Comprehensive Annual Financial Report (CAFR) project team.

**Summary Statement**

The Government Finance Officer's Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the City of Westminster for its comprehensive annual financial report for the fiscal year ended December 31, 2005.

The CAFR is judged by an impartial review panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

This is the twenty-third consecutive year the City has received this prestigious award from GFOA. As one of Council's primary goals is a financially sustainable City Government, staff is honored to receive this award.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

No policy issues identified

**Alternative**

No alternatives identified

**Background Information**

The Certificate of Achievement is conferred by the GFOA of the United States and Canada, and is the highest form of recognition in the area of governmental accounting and financial reporting. Its attainment represents a significant accomplishment by a government and its management.

To satisfy the requirements of the Certificate program, a CAFR must be easily readable and understandable based on a defined reporting framework that incorporates relevant Generally Accepted Accounting Principles and applicable GFOA program policies. Additionally, the information must be reliable based on the unqualified opinion of the City's independent auditor.

Audit reports qualifying for the Certificate of Achievement provide a clear and complete financial story to be utilized by citizens, City Council, and various oversight groups as an accountability mechanism, by investors and creditors as a credit analysis tool, and by others as a reference to the financial operation and position of the City.

Westminster's report was evaluated by GFOA's special review committee comprised of government finance officers, independent CPAs, educators and others with particular expertise in governmental accounting and financial reporting from across the nation. The award acknowledges that Westminster fulfills the spirit of full disclosure in communicating its financial story.

Special thanks go to Accounting Manager Cherie Sanchez, Accountants Vicki Adams, Karen Creager, Sam Trevino, and Gary Newcomb, Pension Benefits Specialist Kim McDaniel, and Accounting Technician Leslie Krough who were primarily instrumental in achieving the certificate. Other Finance staff that provided vital assistance includes former Revenue and Banking Administrator Byron Jefferson and Financial Analyst Bob Byerhof. The Certificate of Achievement Award reflects the hard work and commitment to excellence of the CAFR project team, and the overall commitment of the City to being financially accountable.

Respectfully submitted,

J. Brent McFall  
City Manager





**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Financial Report for May 2007  
**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

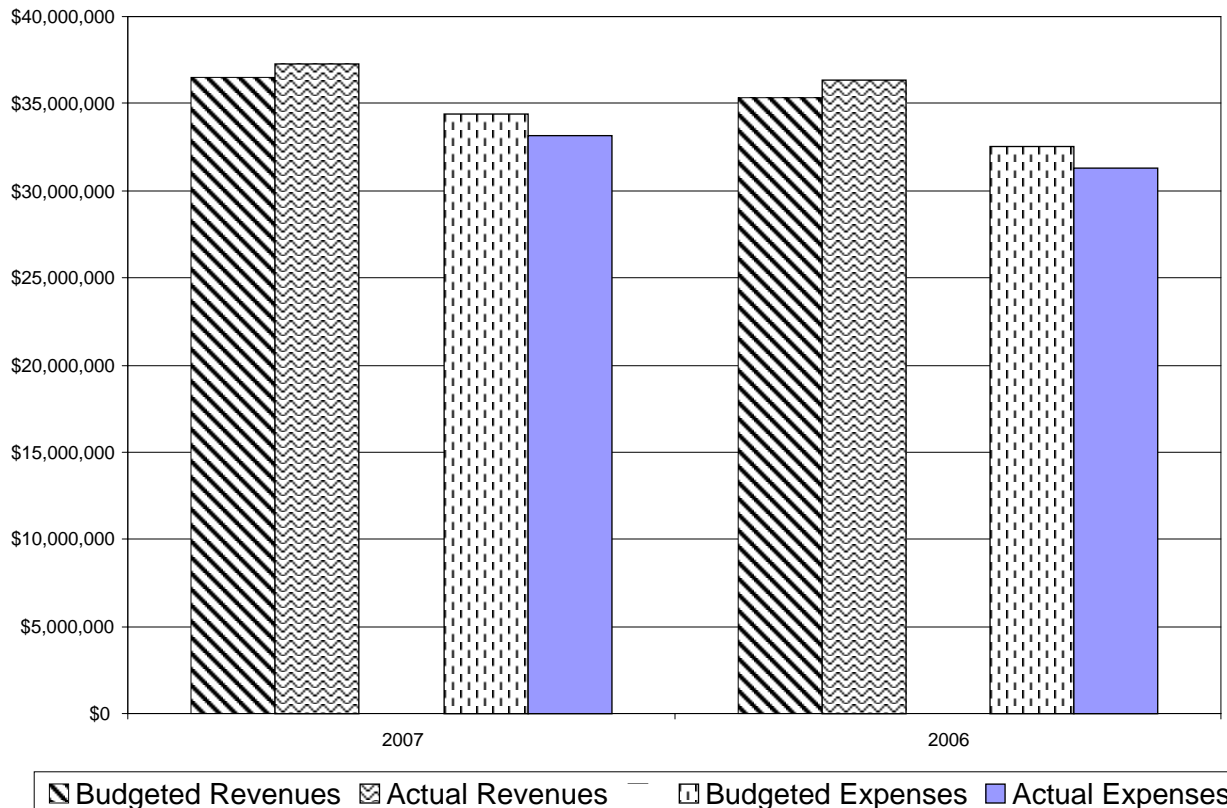
Accept the Financial Report for May as presented.

**Summary Statement**

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

The General Fund revenues and carryover exceed expenditures by \$4,058,000. The following graph represents Budget vs. Actual for 2006 – 2007. The \$32,944,900 Refunding Certificates of Participation, Series 2007 has been omitted from the graph in order to more accurately reflect operations and to reflect a more appropriate comparison to 2006. It has also been removed from the spreadsheet.

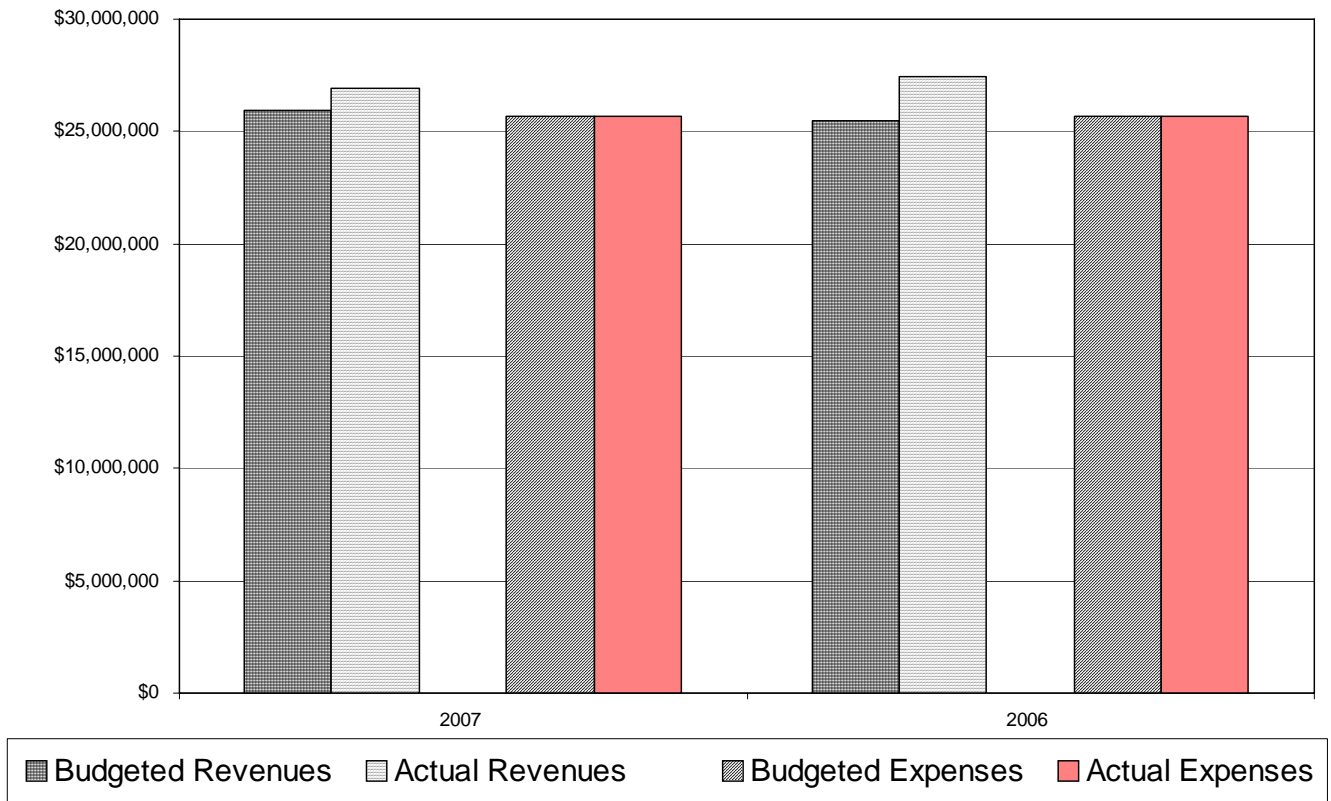
**General Fund  
Budget vs Actual**



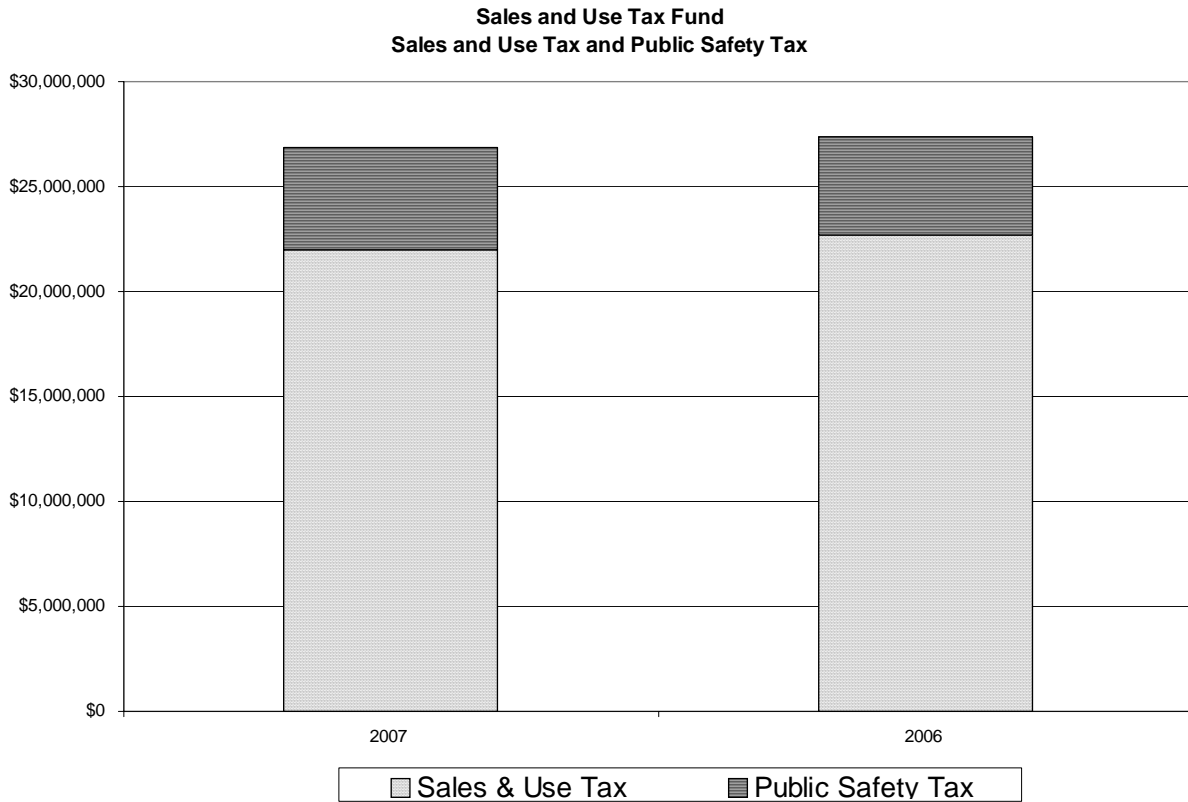
The Sales and Use Tax Fund’s revenues and carryover exceed expenditures by \$1,268,000

- On a year-to-date cash basis, sales & use tax returns are down 2.1%.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 9.8% from the prior years. Included in the Shopping Center report is \$455,000 of audit revenue from 2 different audits. It also includes Urban Renewal Area (URA) money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 3.2%. This reflects the significant contribution to Sales Tax the URA’s are making.
- The top 50 Sales Taxpayers, who represent about 58% of all collections, were down 2.2% after adjusting for one time audit revenue and Urban Renewal Area money.
- The Westminster Mall is down 9% on a year-to-date basis. This includes an audit payment of \$138,000.
- Building Use Tax is down 27.6% year-to-date over 2006.

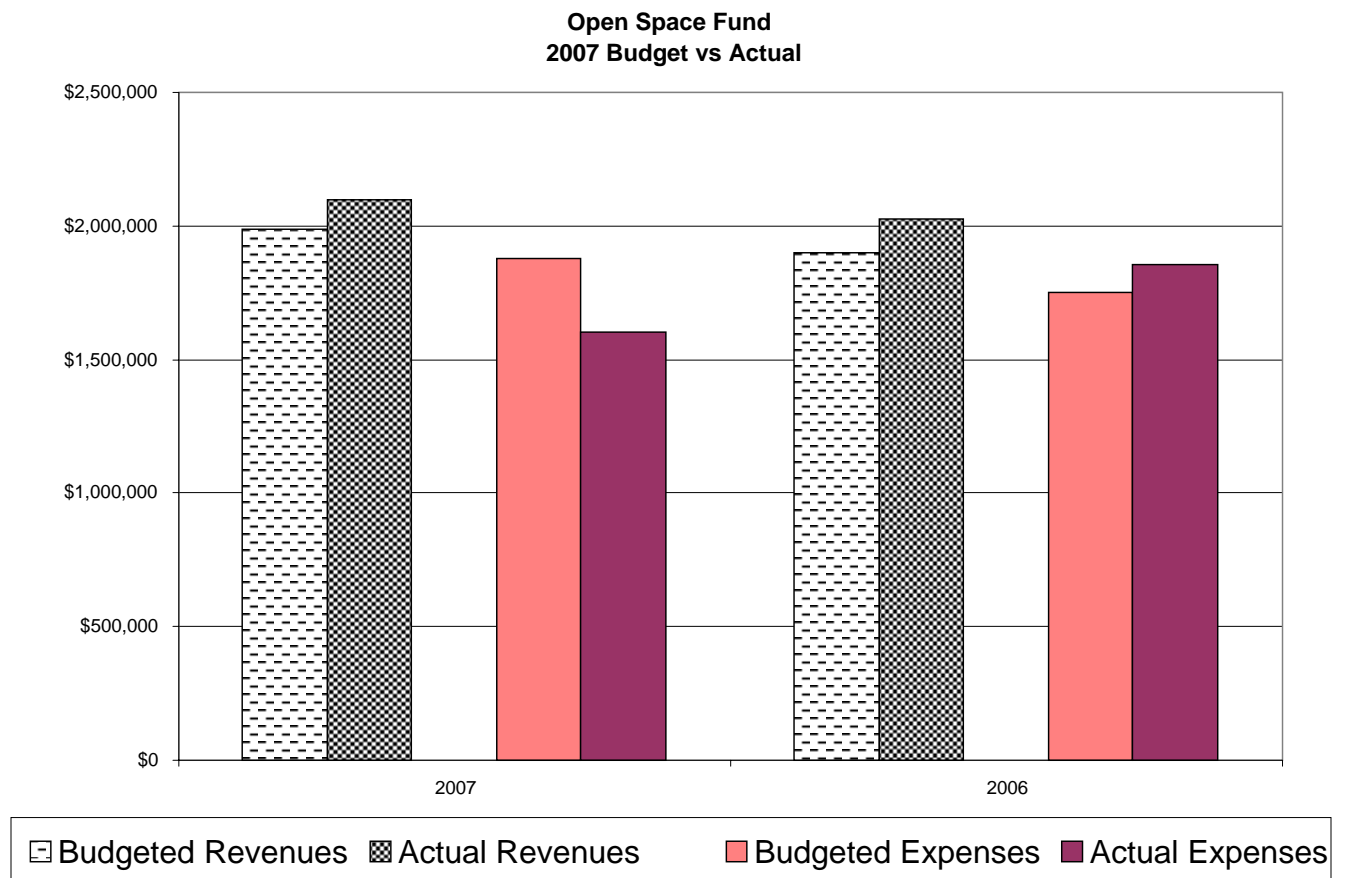
**Sales & Use Tax Fund  
Budget vs Actual**



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

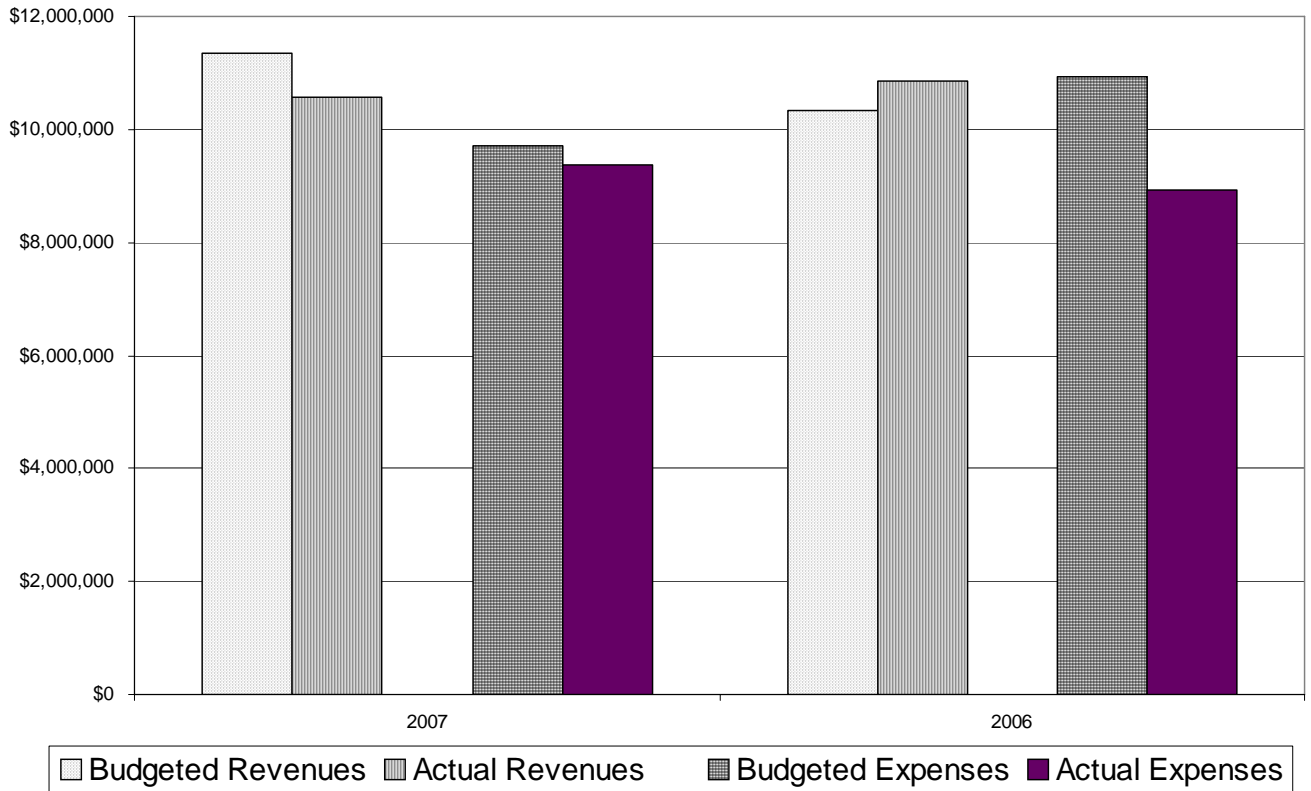


The Open Space Fund revenues exceed expenditures by \$495,000.



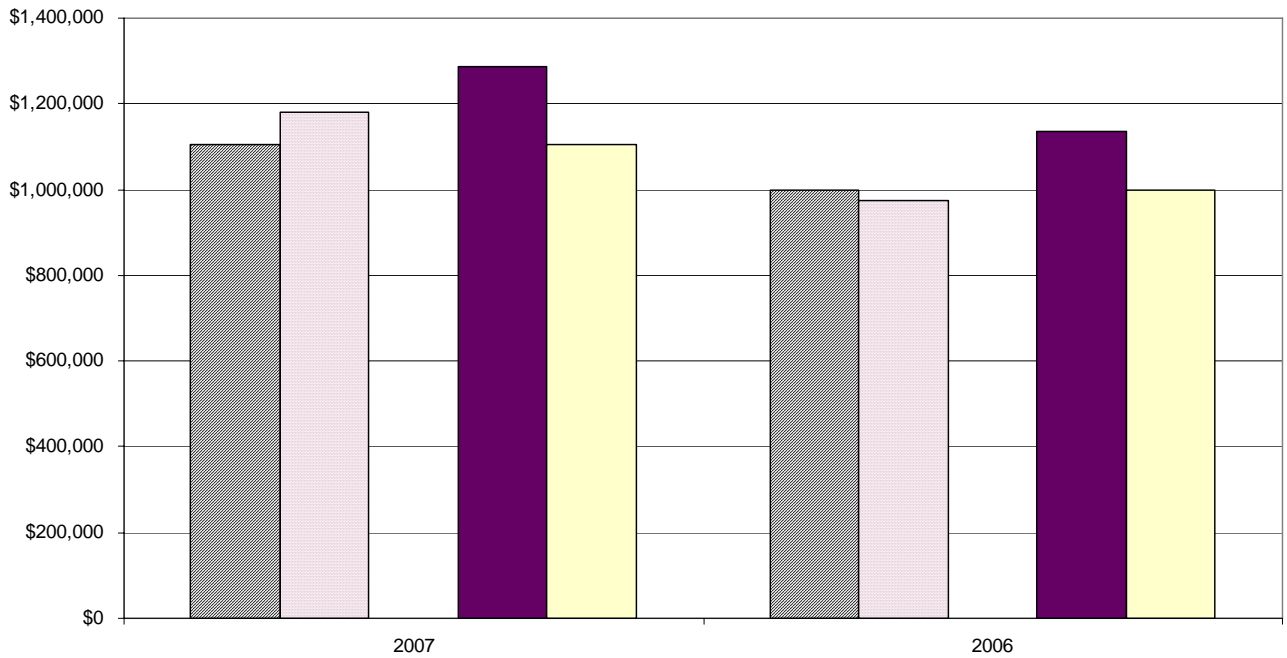
The combined Water & Wastewater Funds' operating revenues and carryover exceed operating expenses by \$6,081,000. \$18,523,000 is budgeted for capital projects and reserves. Year-to-date, the City has collected \$2,266,000 less in tap fees than in 2006. In addition, water sales are down nearly \$800,000 due to the wet spring.

**Combined Water and Wastewater Funds  
2007 Operating Budget vs Actual**



The combined Golf Course Funds' revenues exceed expenditures by \$76,000. Year to date revenues for Charges for Services are \$138,000 higher than 2006. A one time Other Financing Source and Use of \$582,144, which was for a lease purchase of golf carts, is not included in 2006. This adjustment was made in order to reflect a more appropriate comparison between years.

**Golf Course Enterprise  
Budget vs Actual**



Budgeted Revenues
  Actual Revenues
  Budgeted Expenses
  Actual Expenses

**Policy Issue**

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

**Alternative**

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

**Background Information**

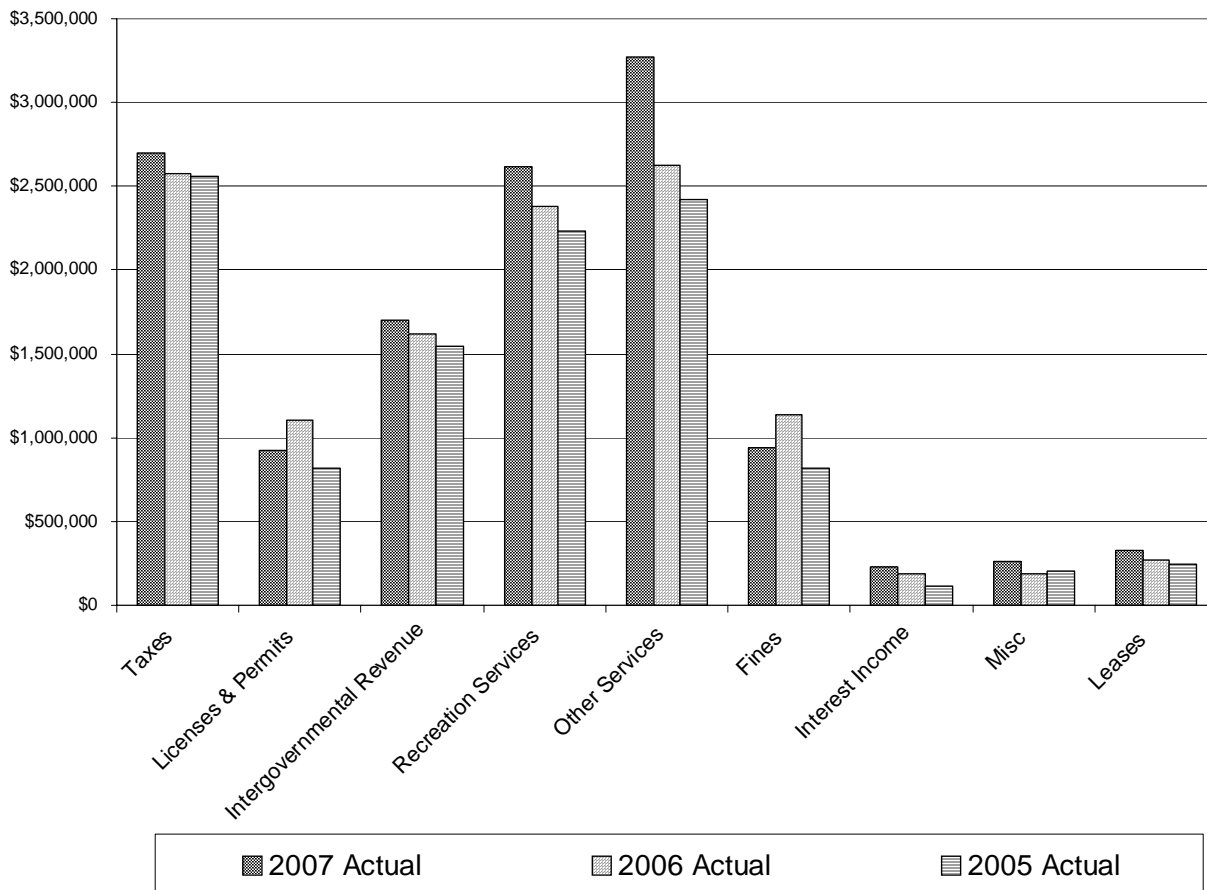
This section includes a discussion of highlights of each fund presented.

**General Fund**

This fund reflects the results of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions; City Manager, City Attorney, Finance, and General Services.

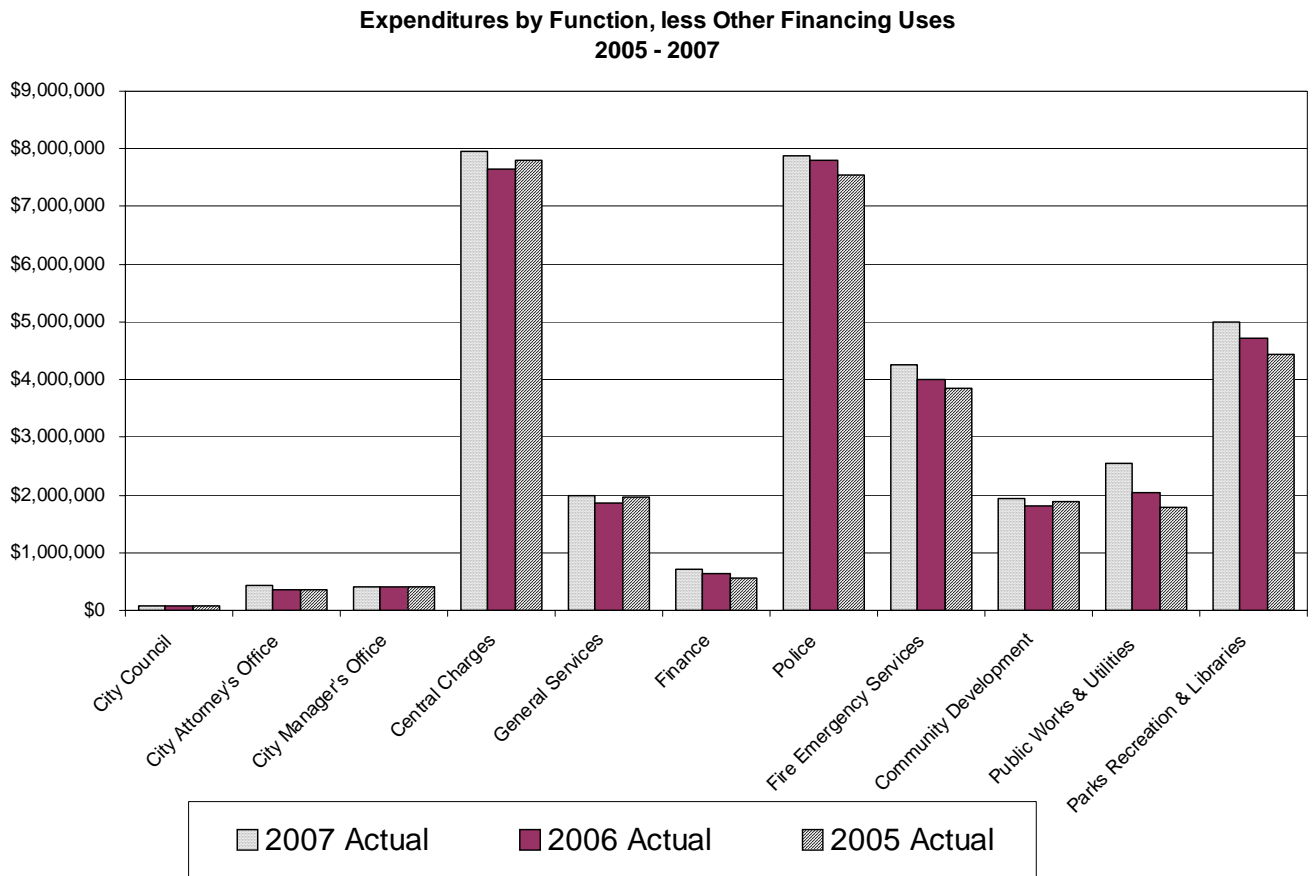
The following chart represents the trend in actual revenues from 2005 – 2007 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2005 - 2007**



The increase in Other Services reflects the Infrastructure fee. The increase in Recreation Services reflects the Standley Lake boat permits. As reflected in the Licenses & Permits of the Financial Report, commercial building permits are up significantly, causing a positive variance. Intergovernmental revenues are also up compared to the budget amount. This is due to an increase in road & bridge taxes from both counties and grant revenue. Leases are lower than anticipated due to the delay in getting the former police building leased.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2005 –2007.

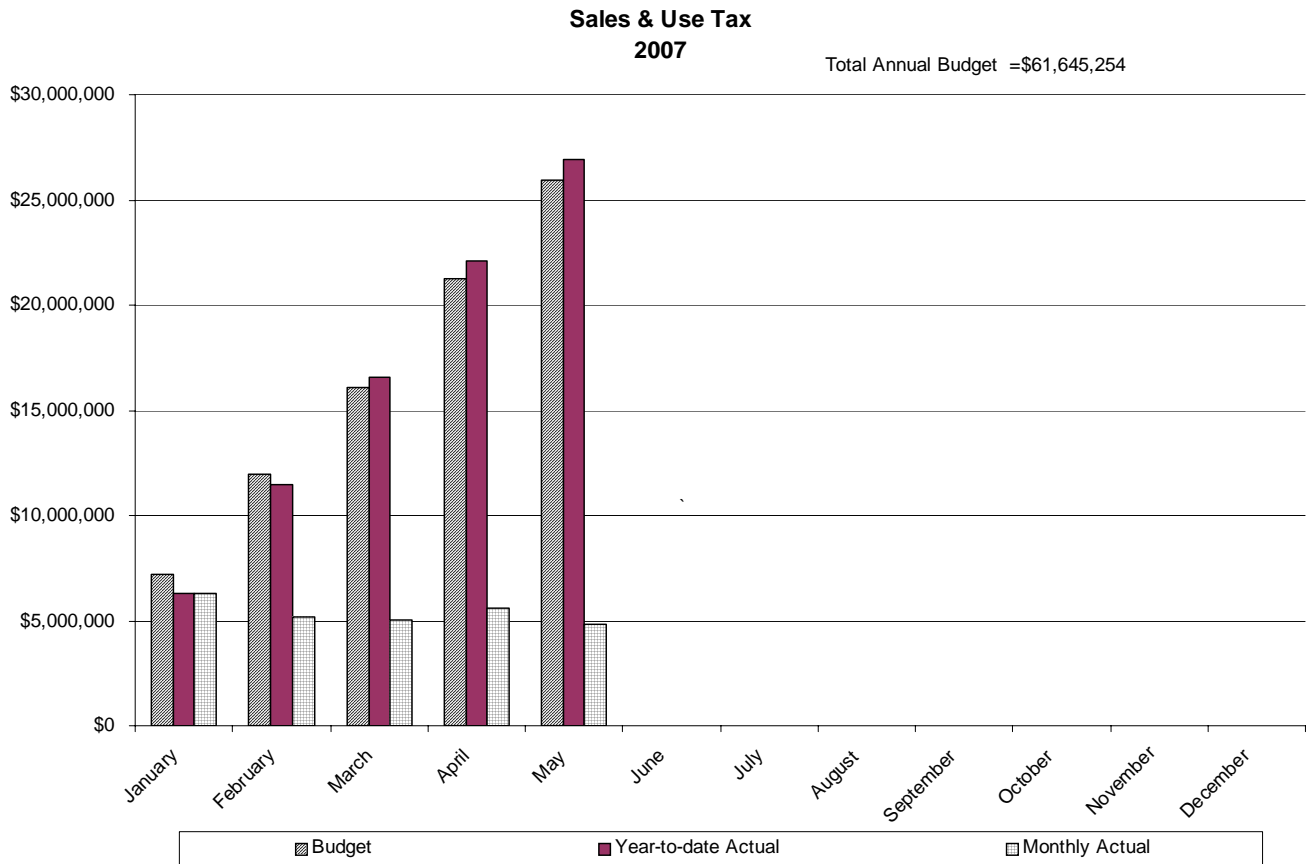


Public Works and Utilities have incurred additional expenses associated with the snow storms. They have spent 100.7% of the annual contractual services budget as well as 84.65% of the annual snow removal materials budget. The historical average is about 38%. The positive variances against budget seen in CMO, Finance, Police and Fire are mostly related to salary savings. The savings reflected in Parks, Recreation and Libraries is related to utility savings as well as some salary savings.

**Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space Sales & Use Tax Fund)**

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

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



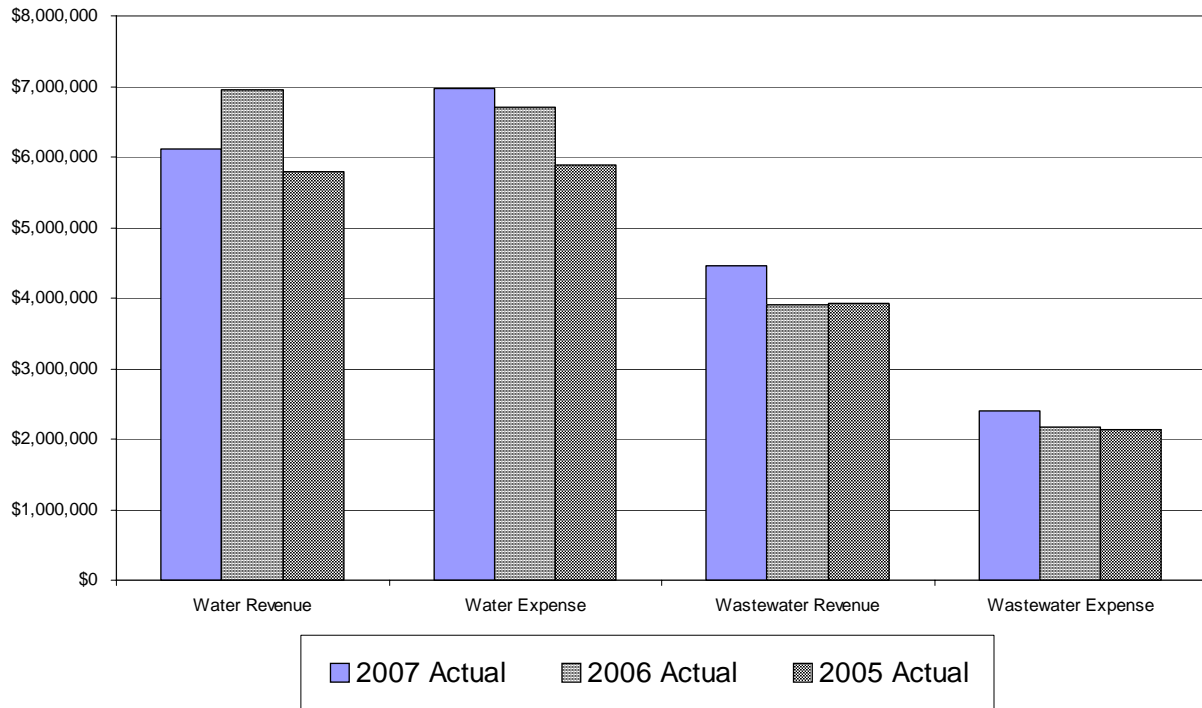


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

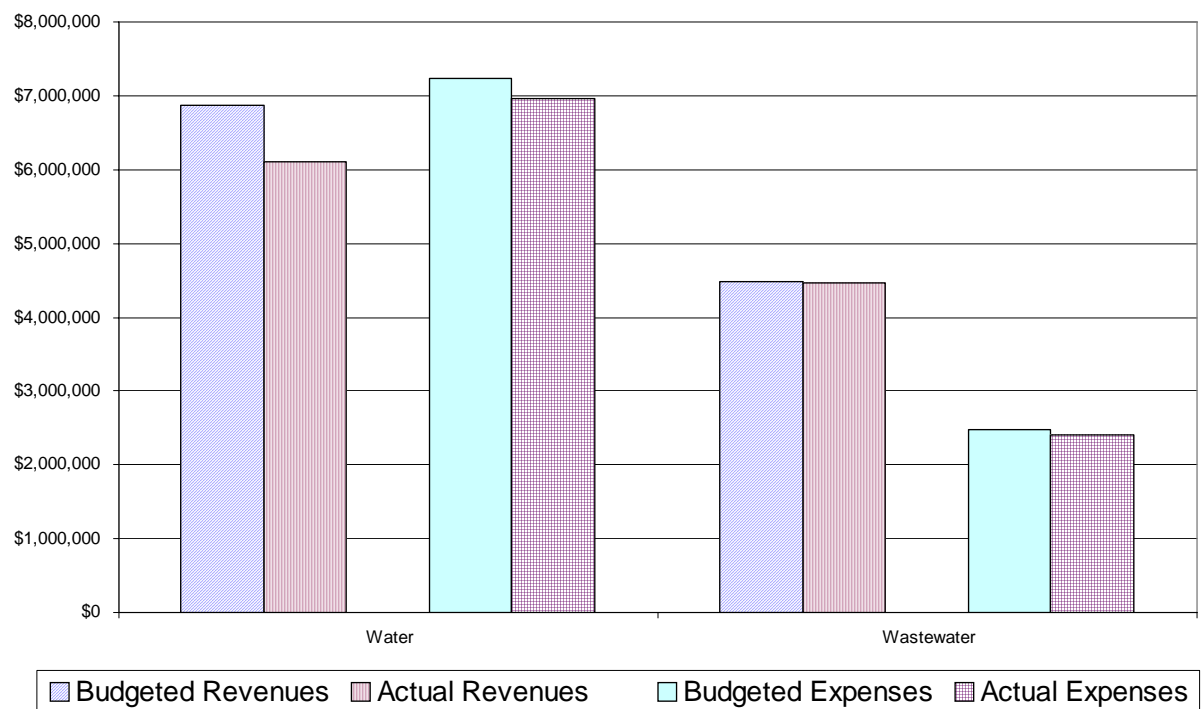
This fund reflects the operating results of the City's water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects.

These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds  
Operating Revenue and Expenses 2005-2007**



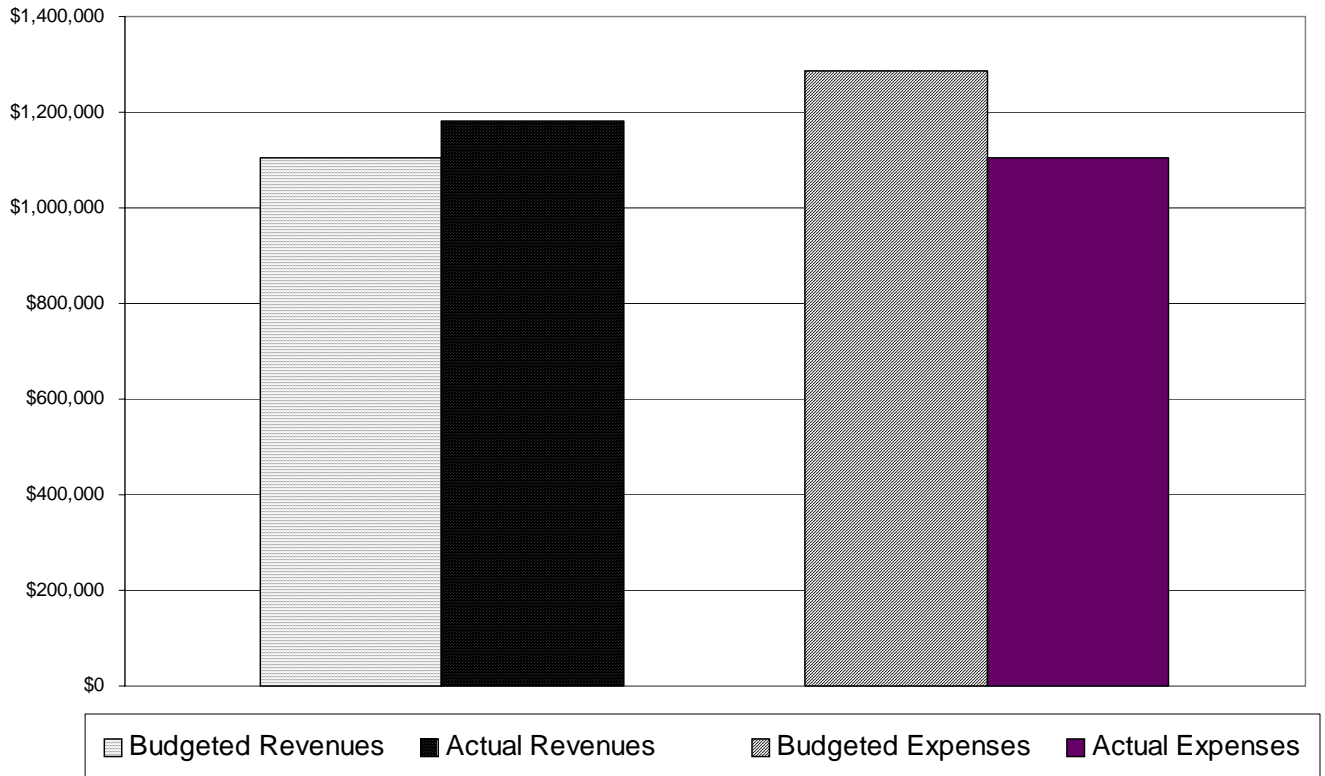
**Water and Wastewater Funds  
2007 Operating Budget vs Actual**



**Golf Course Enterprise (Legacy and Heritage Golf Courses)**

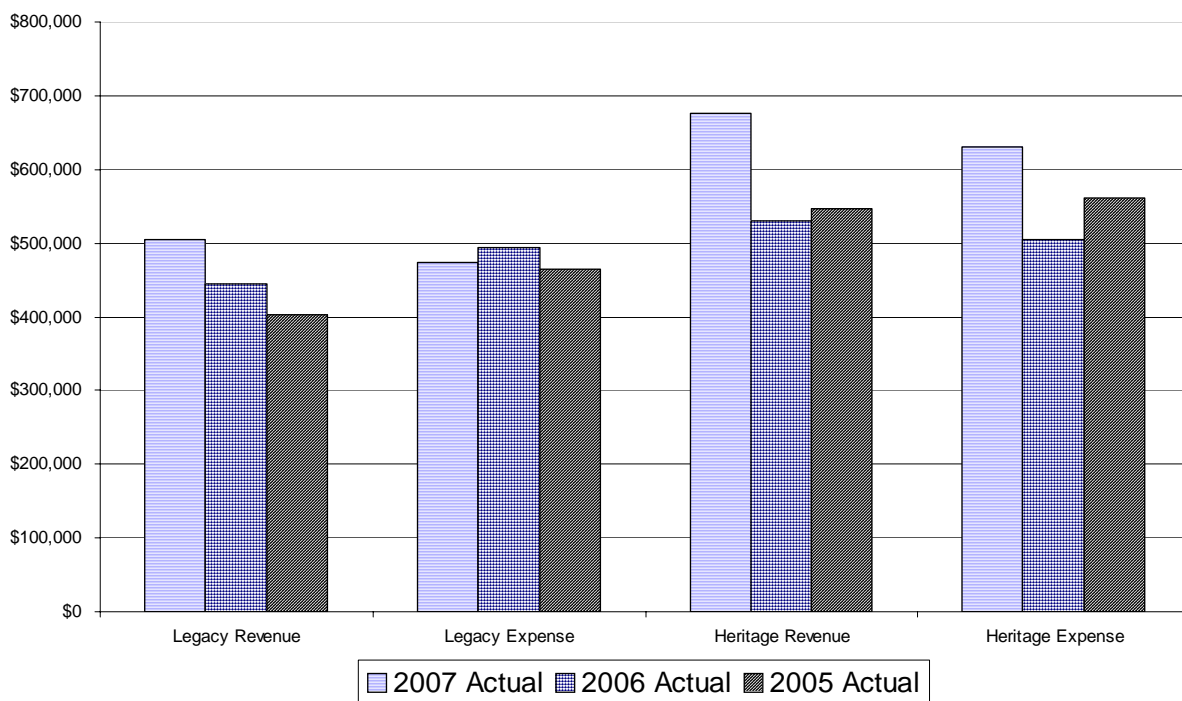
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses  
2007 Budget vs Actual**

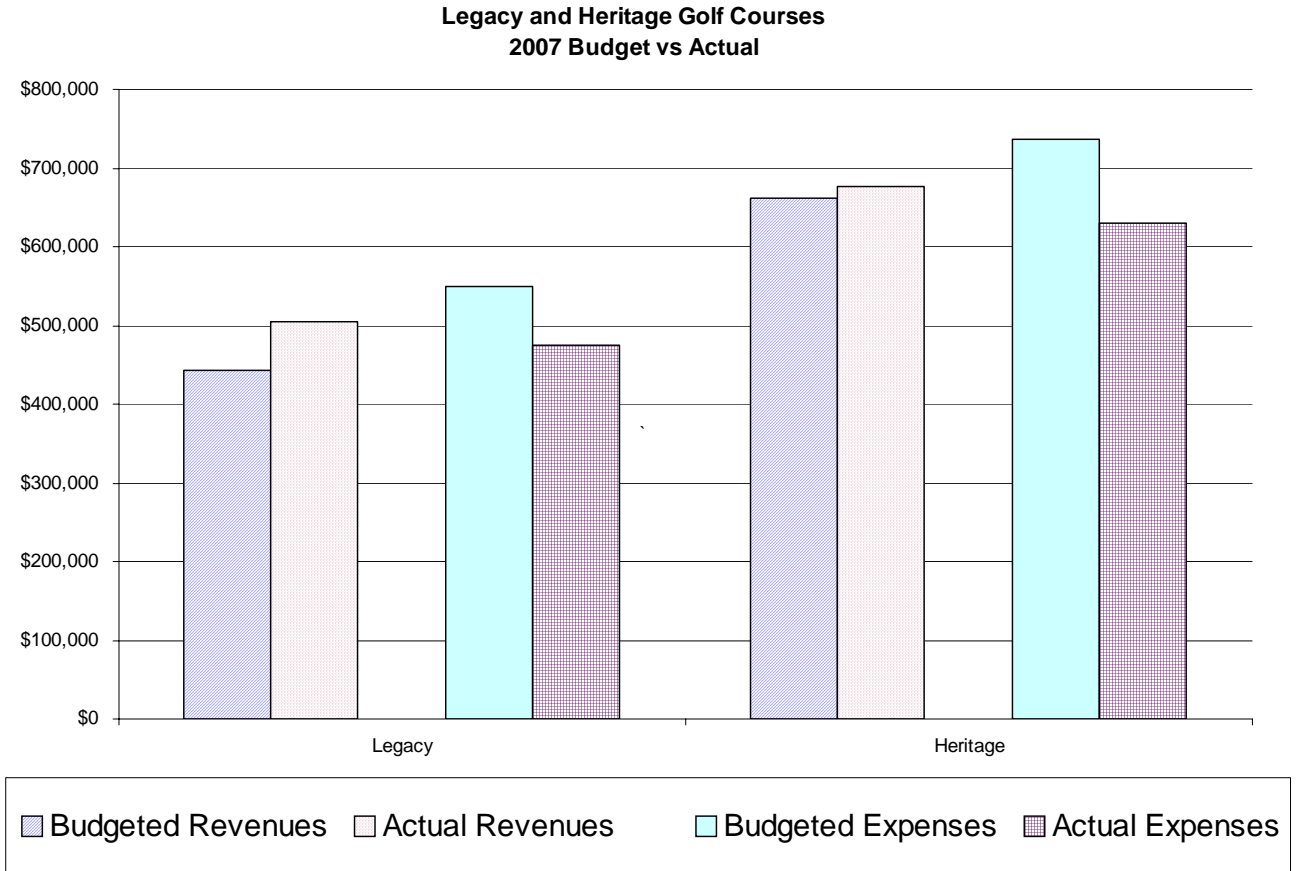


The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses  
Revenue and Expenses 2005-2007**



Heritage's expenses reflect the lease payments that were started in July of 2006. A one time Other Financing Source and Use of \$582,144, which was a lease purchase of golf carts, is omitted from 2006 Heritage Revenue and Expense for comparison purposes. The increase in revenue can be attributed to the sale of corporate passes and an increase in transfers in.



Respectfully submitted,

J. Brent McFall, City Manager

Attachments



**CITY OF WESTMINSTER**

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)  
MONTH OF MAY 2007

Center Location Major Tenant	Current Month General Sales	Current Month General Use	Total	General Sales	Last Year General Use	Total Sales	Use Total	%Change
SAFWAY	49,979	129	50,108	53,200	76	53,276	69	-6
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH								
SAFWAY	49,627	114	49,741	54,328	375	54,702	-70	-9
WILLOW RUN 128TH & ZUNI								
SAFWAY	41,764	325	42,089	44,237	303	44,540	7	-6
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON								
CB & POTTS	6,474	31,007	37,482	8,219	8,427	16,647	268	125
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL								
LUCENT TECHNOLOGY	30,120	12	30,131	29,912	35	29,946	-65	1
MISSION COMMONS W SIDE WADSWORTH 88-90TH								
BIG 5 SPORTS	25,702	401	26,102	12,253	843	13,096	-52	99
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR								
AMERICAN FURNITURE WAREHOUSE	25,253	686	25,939	30,317	428	30,745	60	-16
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED								
ELWAY MOTORS	25,438	294	25,732	25,245	180	25,425	63	1
STANDLEY PLAZA SW CORNER 88TH & WADS								
WALGREENS	13,826	11,738	25,565	3,843	7,511	11,354	56	125
CHURCH RANCH CORPORATE CENTER CHURCH RANCH BOULEVARD								
LA QUINTA	23,495	400	23,895	42,605	174	42,779	130	-44
NORTHVIEW S SIDE 92ND YATES-SHER								
ALBERTSONS	2,586,195	71,165	2,657,360	2,669,919	41,748	2,711,667	70	-2



**CITY OF WESTMINSTER**

**GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)  
MONTH OF MAY 2007**

Center Location Major Tenant	YTD 2007 General Sales	YTD 2007 General Use	Total	YTD 2006 General Sales	YTD 2006 General Use	Total Sales	Use Total	%Change
SAFWAY	263,818	1,206	265,024	275,372	963	276,335	-4	25
STANDLEY LAKE MARKETPLACE								
NE CORNER 99TH & WADSWORTH								
SAFWAY	260,859	986	261,845	276,132	1,370	277,501	-6	-28
WILLOW RUN								
128TH & ZUNI								
SAFWAY	199,705	10,949	210,654	215,652	8,017	223,668	-7	37
VILLAGE AT PARK CENTRE								
NW CORNER 120TH & HURON								
CB & POTTS	188,545	5,278	193,823	197,229	1,867	199,097	-4	183
NORTHVIEW								
S SIDE 92ND YATES-SHER								
ALBERTSONS	165,894	984	166,878	166,723	1,172	167,895	-1	-16
MISSION COMMONS								
W SIDE WADSWORTH 88-90TH								
BIG 5 SPORTS	128,431	4,720	133,151	140,345	3,514	143,859	-8	34
ELWAY/DOUGLAS CORRIDOR								
NE CORNER 104TH & FED								
ELWAY MOTORS	124,930	5,503	130,434	126,081	3,296	129,377	-1	67
STANDLEY PLAZA								
SW CORNER 88TH & WADS								
WALGREENS	120,905	1,114	122,020	151,914	2,690	154,604	-20	-59
HIDDEN LAKE								
NE CORNER 72 & SHERIDAN								
ALBERTSONS	114,508	2,038	116,546	33,393	4,863	38,257	243	-58
BOULEVARD SHOPS								
94TH & WADSWORTH CORRIDOR								
AMERICAN FURNITURE WAREHOUSE								
WESTMINSTER SQUARE	105,880	1,398	107,278	132,589	3,241	135,831	-20	-57
NW CORNER 74TH & FED								
ARC THRIFT STORE								
	15,142,612	242,035	15,384,648	13,788,296	226,401	14,014,697	10	7

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2007**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Revenues and Carryover</b>						
Taxes	4,870,787	2,649,069		2,701,487	52,418	102.0%
Licenses & Permits	1,675,000	726,700		927,156	200,456	127.6%
Intergovernmental Revenue	4,721,000	1,499,790		1,701,766	201,976	113.5%
Recreation Services	5,611,336	2,478,105		2,616,607	138,502	105.6%
Other Services	8,419,964	3,199,515		3,273,611	74,096	102.3%
Fines	2,311,250	924,500		937,161	12,661	101.4%
Interest Income	360,000	150,000		228,243	78,243	152.2%
Misc	1,519,145	184,588		258,202	73,614	139.9%
Leases	1,564,170	430,904		329,250	(101,654)	76.4%
Interfund Transfers	58,249,468	24,270,612		24,270,612	-	100.0%
Other Financing Sources	-	-	(2)	-	-	N/A
Sub-total Revenues	<u>89,302,120</u>	<u>36,513,783</u>		<u>37,244,095</u>	<u>730,312</u>	<u>102.0%</u>
Carryover	-	-		-	-	N/A
Revenues and Carryover	<u>89,302,120</u>	<u>36,513,783</u>		<u>37,244,095</u>	<u>730,312</u>	<u>102.0%</u>
<b>Expenditures</b>						
City Council	205,023	89,391		67,941	(21,450)	76.0%
City Attorney's Office	1,064,790	449,865		431,076	(18,789)	95.8%
City Manager's Office	1,121,996	472,537		407,493	(65,044)	86.2%
Central Charges	23,791,551	7,975,902	(2)	7,960,443	(15,459)	99.8%
General Services	5,030,427	2,120,734		1,988,108	(132,626)	93.7%
Finance	1,806,674	762,844		718,727	(44,117)	94.2%
Police	19,794,580	8,355,207		7,883,454	(471,753)	94.4%
Fire Emergency Services	10,648,095	4,490,422		4,245,261	(245,161)	94.5%
Community Development	4,594,371	1,936,526		1,945,086	8,560	100.4%
Public Works & Utilities	7,376,630	2,258,525	(1)	2,546,984	288,459	112.8%
Parks, Recreation & Libraries	13,867,983	5,517,617		4,991,913	(525,704)	90.5%
Total Expenditures	<u>89,302,120</u>	<u>34,429,570</u>		<u>33,186,486</u>	<u>(1,243,084)</u>	<u>96.4%</u>
Revenues and Carryover Over(Under) Expenditures	<u>-</u>	<u>2,084,213</u>		<u>4,057,609</u>	<u>1,973,396</u>	

(1) Public Works and Utilities has incurred unusually high costs related to the snow storms in early 2007.

(2) Other financing sources and & uses of \$32,944,900 relate to refunding of the 1998 & 1999 COPs.

They have been omitted from this statement in order to better reflect results of operations.





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** 2006 Comprehensive Annual Financial Report

**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

Accept the 2006 Comprehensive Annual Financial Report (CAFR).

**Summary Statement**

- The 2006 CAFR represents the summary of the City's financial transactions that occurred during 2006 and its financial position at December 31, 2006. The financial statements can be used by Citizens, City Council, investors, creditors, and others in assessing the City's financial and economic condition.
- Section 9.10 of the City Charter mandates an annual audit of the City's financial statements by certified public accountants, experienced in municipal accounting. This audit was performed by the City's independent audit firm, Swanhorst & Company LLC. Swanhorst rendered an unqualified opinion on the City's financial statements. An unqualified opinion means that the City's financial statements are fairly presented in all material respects in conformity with Generally Accepted Accounting Principles (GAAP).
- Staff primarily responsible for completing the 2006 CAFR include Accounting Manager Cherie Sanchez, Accountants Vicki Adams, Karen Creager, Sam Trevino and Gary Newcomb, Pension Benefits Specialist Kim McDaniel, Financial Analyst Bob Byerhof, former Revenue and Banking Administrator Byron Jefferson, Accounting Technicians Leslie Krough and Karen Elrod, and Administrative Secretary Maggie Hunter. Every element of City SPIRIT underlies the final 2006 CAFR as a result the hard work and dedication of this highly qualified team.
- This report is the primary report that reflects achievement of Council's goal of Financially Sustainable City Government.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should Council accept the 2006 Comprehensive Annual Financial Report as presented?

**Alternative**

Postpone acceptance of the 2006 Comprehensive Annual Financial Report to a later City Council meeting. Postponing the acceptance is not recommended due to the upcoming June 30 deadline to comply with Colorado State Statutes (section 29-1-606) on audits of local governments. Consequences for not complying with the State mandate range from receiving delinquent notices to deferment of tax distributions from the counties.

**Background Information**

The 2006 Comprehensive Annual Financial Report contains an abundance of information that can be utilized to evaluate the City's financial condition and its operational and fiscal accountability for the year. The Comprehensive Annual Financial Report provides a comprehensive summary of the City's finances and other relevant information for the 2006 audit year, including economic overviews, financial analyses, financial statements, note disclosure, budgetary compliance schedules, trend information and single audit information.

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

A financial analysis of the 2006 CAFR was presented to Council at the June 18, 2006 Study Session, at which time representatives from Swanhorst & Company were on hand to answer Council's questions and to discuss their recommendations to management. Council is now requested to officially accept the City's 2006 Comprehensive Annual Financial Report as presented.

Printed copies of the CAFR will be available within two to four weeks after City Council officially accepts the report. The final version of the audit will include some minor changes from the draft that was distributed to Council.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

## Agenda Memorandum

City Council Meeting  
June 25, 2007



**SUBJECT:** Armed Forces Tribute Garden Phase I Construction Award

**Prepared By:** Richard Dahl, Park Services Manager  
Brad Chronowski, Landscape Architect II

### Recommended City Council Action

Authorize the City Manager to enter into contract with Goodland Construction to construct Phase I of the Armed Forces Tribute Garden at City Park for \$1,200,000 and authorize a contingency fund of \$100,000. Authorize the transfer of \$455,000 from the Community Enhancement Program to the Armed Forces Tribute Garden Capital Improvement account. Authorize an additional amount, not to exceed \$53,000, for construction observation and inspection with the City's design consultant DHM, and charge the amount to the Armed Forces Tribute Garden Capital Improvement account.

### Summary Statement

- City Staff expect to dedicate the highly-anticipated and heralded Armed Forces Tribute Garden on Veteran's Day 2007.
- The bids received for this project were higher than anticipated due to area contractors having a variety of significant projects to complete as a result of projects that were put on hold due to the severe winter weather.
- Phase I elements include the following: Central fountain, brick paving, elaborate landscaping, flag display wall (including uplights and lettering), lighting (fountain, sculpture, flag pole and site), universal access into the site, granite columns (showcase for future sculptures), accessible parking spaces, site furniture and underground utility work. The dramatic center sculpture, *Grieving Friends*, will be placed atop the fountain to create a scene of sacrifice and respect toward our military.
- The City will receive \$294,000 in grant funds from Jefferson County Open Space towards this project. A portion of the grant will expire by the end of 2007 if not utilized.
- Staff anticipates an increase in fundraising following the first phase of construction. The fundraising efforts for this project are ongoing and will continue through the construction period and beyond.
- Staff will engage the City's design consultant DHM for an amount not to exceed \$53,000 from the CIP budget for construction observation and inspection services.

**Expenditure Required:** \$1,353,000

**Source of Funds:** General Capital Improvements Fund - Community Enhancement Program and Armed Services Garden Projects  
Jefferson County Open Space Grants

**Policy Issue**

Should the City proceed with Phase I improvements for the Armed Forces Tribute Garden?

**Alternatives**

1. City Council could choose to re-bid the project, which would delay construction. Staff does not recommend this alternative as the bids received are reasonably competitive and a delay would result in missing the dedication on November 11, 2007, and not being able to fulfill the City's obligations to Jefferson County.
2. City Council could ask Staff to further negotiate the project to match the current CIP funding level. Staff does not recommend this alternative as the critical items such as the granite columns, flag pole base, project sign and landscaping would have to be deleted.
3. City Council could suspend the project. Staff does not recommend this alternative due to the many commitments made to the citizens and project sponsors to date.

**Background Information**

During the past four years, Staff has been actively developing this exciting project. By engaging the community and a key team of design professionals, Staff has prepared a solid foundation for a project that has regional and national significance. The following is a timeline reflecting substantial milestones:

Master Plan Presented to Council	January 2003
Fundraising Efforts Began	July 2004
Major Benefactor Announced (Jim Sullivan)	November 2004
Grant Received from Jefferson County Open Space (\$144,000)	January 2005
Design Consultant Selected	March 2005
Sculpture Models and Refined Master Plan Presented to the Public	November 2005
Grant Received from Jefferson County Open Space (\$150,000)	January 2006
City Council Awards Sculpture Contract for <i>Grieving Friends</i>	March 2006

When Staff received the higher than expected bid results for Phase I, a careful review of the elements in the project was done and Staff prepared a design scenario that utilized only the funds available in the Capital Improvement Program. Several of the key elements would need to be removed such as the granite columns that accent the bronze sculptures and the illuminated flag pole base that includes the sign and lettering for the project. In an effort to restore these critical elements back into Phase I, Staff identified funds in the Community Enhancement Program that could be appropriately utilized for the Armed Forces Tribute Garden. Community Enhancement Program accounts like gateways, lighting, and medians were noted as suitable for this project. The projects planned for the Community Enhancement Program for 2007 will not be affected by this proposal.

In working with the designer and contractor, Staff identified several areas to reduce costs and maintain the integrity of the Garden. In so doing, the final plan required the reduction of the seating area and removal of the shade structures. The elements included in this proposal are the granite columns and flag pole bases. Staff will evaluate whether or not to install the elaborate seating areas and shade structures in future phases of the project. The bids received for Phase I are as follows:

<b>Contractor</b>	<b>Base Bid</b>	<b>Bid Alternatives</b>	<b>Total</b>
Goodland Construction	\$1,407,969	\$677,250	\$2,085,219
American Civil Constructors	\$1,514,965	\$458,860	\$1,973,825
JHL Constructors	\$1,929,478	\$1,290,624	\$3,220,102
Pirnack Walters	No Bid		
Arrow J Landscape & Design	No Bid		

The City chose to negotiate with Goodland Construction as they submitted the low base bid. The cost for shade structures in American Civil Constructors' bid alternate was substantially less than that of Goodland Construction's. However, since that alternate was not incorporated, the decision to work with Goodland Construction was solidified.

The Phase I elements of the project identified in this memorandum are anticipated to be completed by November of this year.

This project meets City Council's Strategic Plan goals of Financially Sustainable City Government and Beautiful City by utilizing grant funds to reduce the capital outlay needed from the General CIP Fund and improving the image and service level for Westminster citizens through the parks system.

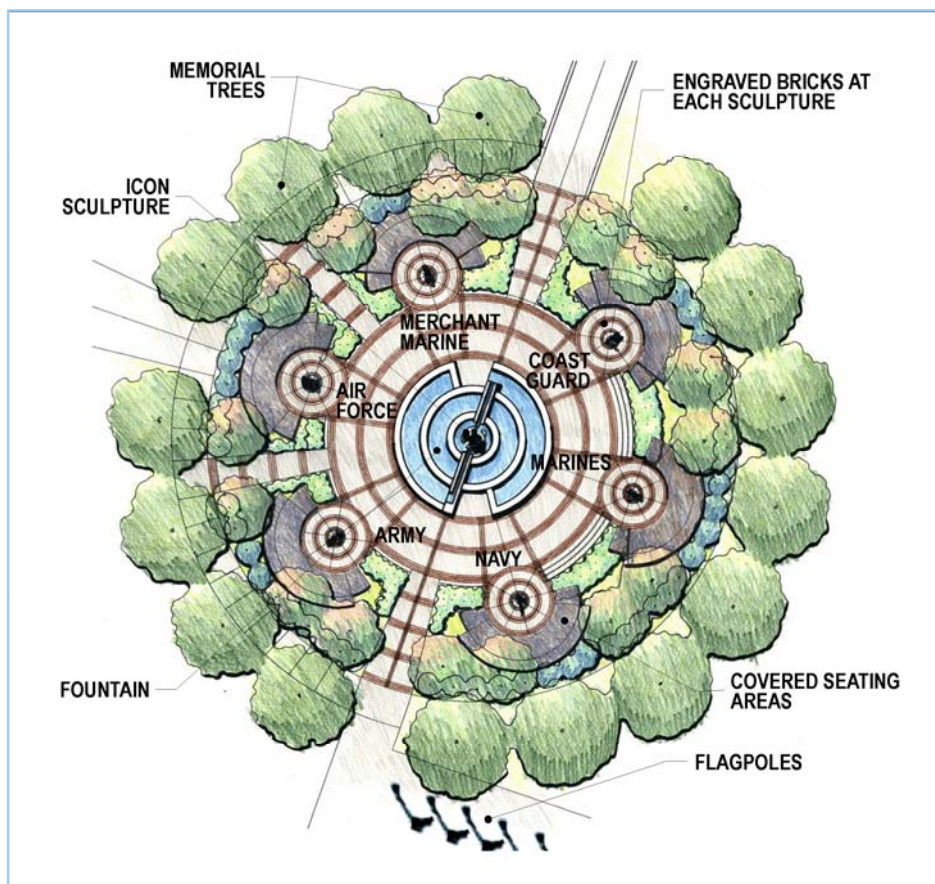
Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



Location Map



Master Plan (core area)



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** 2007 Trail Repairs Construction Contract Award

**Prepared By:** Richard Dahl, Park Services Manager  
Brad Chronowski, Landscape Architect II

**Recommended City Council Action**

Authorize the City Manager to execute a contract with the low bidder, Keene Concrete Construction, in the amount of \$102,200 for the construction of the 2007 trail repairs and authorize a five percent contingency fund in the amount of \$5,110.

**Summary Statement**

- Staff has developed a list of prioritized trail repair projects that will reduce repetitive maintenance and improve usability of the City's major trail system.
- The first site is Countryside Greenbelt where the deteriorated six-foot asphalt portion of the trail will be replaced with concrete of the same width. The trail extends from Oak Street to Countryside Drive.
- The City has received a \$50,000 grant from Jefferson County Open Space for this segment of trail, and improvements to Kensington Park.
- The second site is a 300-lineal-foot segment of trail connecting 104<sup>th</sup> Avenue to the trail system near Mayfair Park. The existing 6-foot-wide asphalt trail will be replaced with concrete.
- The third site is along Big Dry Creek Trail where erosion has created unsafe conditions.
- The scheduled improvements will be completed during the summer months of 2007.

**Expenditure Required:** \$107,310

**Source of Funds:** General Fund Capital Improvement Fund – Trails Development Project

**Policy Issue**

Should the City continue with trail repair work in the Countryside neighborhood and adjacent to the Big Dry Creek Trail?

**Alternative**

City Council could choose not to continue with the repairs and request that Staff employ alternate methods to improve the problem areas. Staff does not recommend this alternative, as the current condition of the trail sections overburden maintenance staff and leave the trails in an unsafe or unusable condition.

**Background Information**

Open space and trails maintenance Staff have identified areas along the City's trail system that experience the greatest amount of closures and repetitive maintenance activity. Most of the problem areas are related to the materials chosen when the trails were initially installed, tree growth over the past 20 years, and localized poor drainage. The ruts, potholes and heaved trail surface result in an unsafe or unusable trail.

The recent opening of the Wayne Carle Middle School has placed the Countryside Greenbelt trail at a higher priority as the school children use this trail as they walk to school. The Jefferson County Open Space Board has generously awarded a grant to the City to aid in this improvement.

The Mayfair site also aids in helping school children get to school safely and effectively. This short trail connection has steadily degraded and replacement is urgent.

Along the Big Dry Creek Trail, near the Federal/Zuni extension, runoff from the street has caused severe erosion of the gravel trail due to its alignment with the topography. Replacing this trail with concrete will allow this important connection to remain open during and after storm events and will drastically reduce the need for constant maintenance from the City's open space crews.

The bids received are as follows:

Keene Concrete	\$102,200.00
AJI	\$137,947.88
T2	No Bid
Millan Brothers	No Bid

Keene Concrete's bid is accurate, complete and competitive based on current prices and site access constraints. This firm is capable of performing the work scheduled for this project.

This project meets Council's Strategic Plan goals of Financially Sustainable City Government and Beautiful City by utilizing grant funds to reduce the capital outlay needed from the General CIP Fund and improving the service level at the City's parks and trails.

Respectfully submitted,

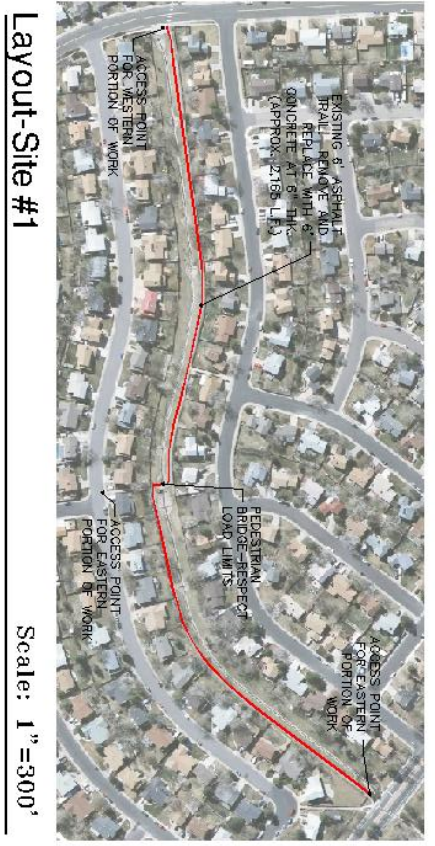
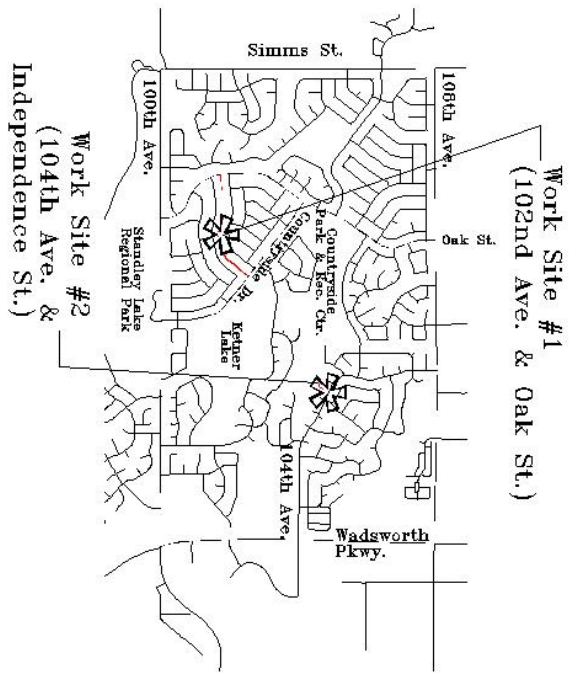
J. Brent McFall  
City Manager

Attachments



**NOTES:**

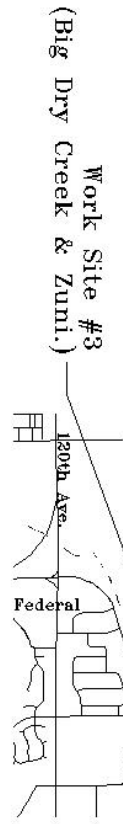
1. All trail replacements shall be 6' wide x 6" deep concrete, 3750 p.s.i. per Westminster Specs., except where noted.
2. Provide bid alternate for Davis Color throughout the work. Use Color#3054, Dark Gray. Provide sample prior to ordering concrete.
3. Bid shall include site restoration. Site restoration shall include seeding along trail edge (drill or hand) and hydro-mulch where applicable. Where extensive damage is sustained due to stoging and access, sod will be the required restoration method.
4. Include square foot cost for concrete bid to adjust quantities in the event of discrepancies or additions.
5. Contractor shall take special care of adjacent parkland and repair any damage caused by construction.
6. Asphalt and earth spoils and waste shall be hauled away and disposed of by contractor.
7. Contractor shall repair irrigation systems and revegate all disturbed areas as a result of this work. Coordinate with the owner for irrigation repairs. The Owner shall mark all necessary heads and valve boxes prior to commencement of the work.
8. Contractor shall notify Owner where tree roots over 1" diameter are encountered to evaluate the conditions. Do not cut any tree root over 1" without permission from the Owner. Carefully excavate when within 30' from any tree adjacent to trail.
9. Place barrier at each end of work to temporarily close trail. Trail shall be re-opened as soon as possible.
10. Backfill against new concrete with screened topsoil and seed with bluegrass blend. Minimize excavation adjacent to existing and proposed trail.
11. Contractor shall compact subgrade prior to placing concrete. Contractor shall notify Owner prior to all scheduled concrete placements for inspection of subgrade.
12. Contact Owner's Rep. for layout and staking prior to commencement of work.



**OWNER**  
**CITY of WESTMINSTER**  
 Brad Chronowski  
 4800 WEST 32ND AVENUE  
 Westminster, CO. 80031  
 303-430-2400 x2203



**Location Maps**  
 NO SCALE



DATE	BY	DESCRIPTION
03/03/07	J. M. [unreadable]	ISSUE FOR MAP & PLAN
03/03/07	J. M. [unreadable]	ISSUE FOR MAP & PLAN
03/03/07	J. M. [unreadable]	ISSUE FOR MAP & PLAN
03/03/07	J. M. [unreadable]	ISSUE FOR MAP & PLAN







**Countryside Greenbelt Trail**



**104<sup>th</sup> Ave. near Mayfair Park**



**Big Dry Creek Trail near Zuni St.**



## Agenda Item 8 E

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
June 25, 2007



**SUBJECT:** Amendment to the Purchase & Sale Agreement with Church Ranch Crossing, LLC

**Prepared By:** Susan F. Grafton, Economic Development Manager  
Marty McCullough, City Attorney

### Recommended Action

Authorize the City Manager to sign an Amended Purchase & Sale Agreement with Church Ranch Crossing, LLC and all documents necessary to complete the closing of this transaction.

### Summary Statement

- On February 13, 2006, Council approved the sale of this City property located near 100<sup>th</sup> Avenue and Dover Street to Church Ranch Crossing, LLC.
- The amendment is needed to exclude a 7,536 s.f. small parcel of land from the sale to retain for public art.
- As a result of this parcel exclusion, the purchase price of the property is reduced from \$635,755.50 to \$602,109.
- Closing on the property is to occur no later than September 15, 2007.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the Purchase and Sale Agreement be modified to exclude the public art parcel?

**Alternative**

Do not authorize a change to the current Purchase and Sale Agreement; and require that Church Ranch Crossing, LLC deed the public art parcel back to the City. This is not recommended because the requirement to dedicate land to the City for public art was not in place when this purchase was negotiated.

**Background Information**

The City obtained the property now being sold to Church Ranch Crossing in 1997 as part of a right-of-way acquisition for the widening of Church Ranch Boulevard. A Purchase Agreement was executed with Eastcor Company and Cadence Development in February, 2006 to acquire the property from the City. Subsequently, the purchasing entity has changed to Church Ranch Crossing, LLC and the original agreement was amended to reflect the name change. As the project has neared completion of the plan review process, it was determined that a small parcel of land needed to be deeded back to the City for public art as a result of the City's new public art guidelines. These guidelines were not in place when the original Purchase Agreement was agreed to. It was deemed by Staff to be more appropriate for the City to simply retain the 7,500 s.f. public art parcel instead of selling it and then having it deeded back.

Attached is the Second Amendment to the Amended and Restated Contract to Buy and Sell Real Estate between the City of Westminster and Church Ranch Crossing, LLC. Staff is requesting approval of this amendment and authorization to execute this and other documents to complete the closing of this transaction.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**SECOND AMENDMENT TO THE  
AMENDED AND RESTATED CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN  
THE CITY OF WESTMINSTER AND CHURCH RANCH CROSSING, LLC,  
DATED FEBRUARY 12, 2007**

Church Ranch Crossing, LLC, a Colorado Limited Liability Company (“Buyer”) and the City of Westminster (“Seller”) agree to amend the Amended and Restated Contract described above as follows:

1. Section 2.b., Property under Defined Terms, shall be replaced in its entirety with Exhibit A attached hereto and incorporated herein by this reference.

2. Section 4., Purchase Price and Terms, shall be amended as follows:

**4. PURCHASE PRICE AND TERMS.** The Purchase Price set forth below shall be payable in U. S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4	Purchase Price	\$ 635,755.50 602,109.00	
2	§ 4a	Earnest Money		\$ 25,000
3	§ 4b	New Loan		\$ -
4	§ 4c	Assumption Balance		\$ -
5	§ 4d	Seller or Private Financing		\$ -
6	§ 4e	Cash at Closing		\$ 610,755.50 577,109.00
7		<b>TOTAL</b>	\$ 635,755.50 602,109.00	\$ 635,755.50 602,109.00

THE PARTIES AGREE THAT THE PURCHASE PRICE IS EQUAL TO \$4.50 PER SQUARE FOOT TIMES THE NUMBER OF SQUARE FEET OF LAND IN THE PROPERTY, AS DETERMINED BY THE SURVEY PREPARED BY JONES ENGINEERING ASSOCIATIONS, DATED APRIL 17, 2006 AND UPDATED ON MAY 1, 2007.

3. All other terms and conditions of the Contract shall remain in effect.

This Second Amendment is dated the \_\_\_\_\_ day of June, 2007.

**CHURCH RANCH CROSSING, LLC**

**CITY OF WESTMINSTER**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Secretary

City Clerk

(Corporate Seal,  
if applicable)

(Seal)

Approved as to legal form and content:

\_\_\_\_\_

City Attorney

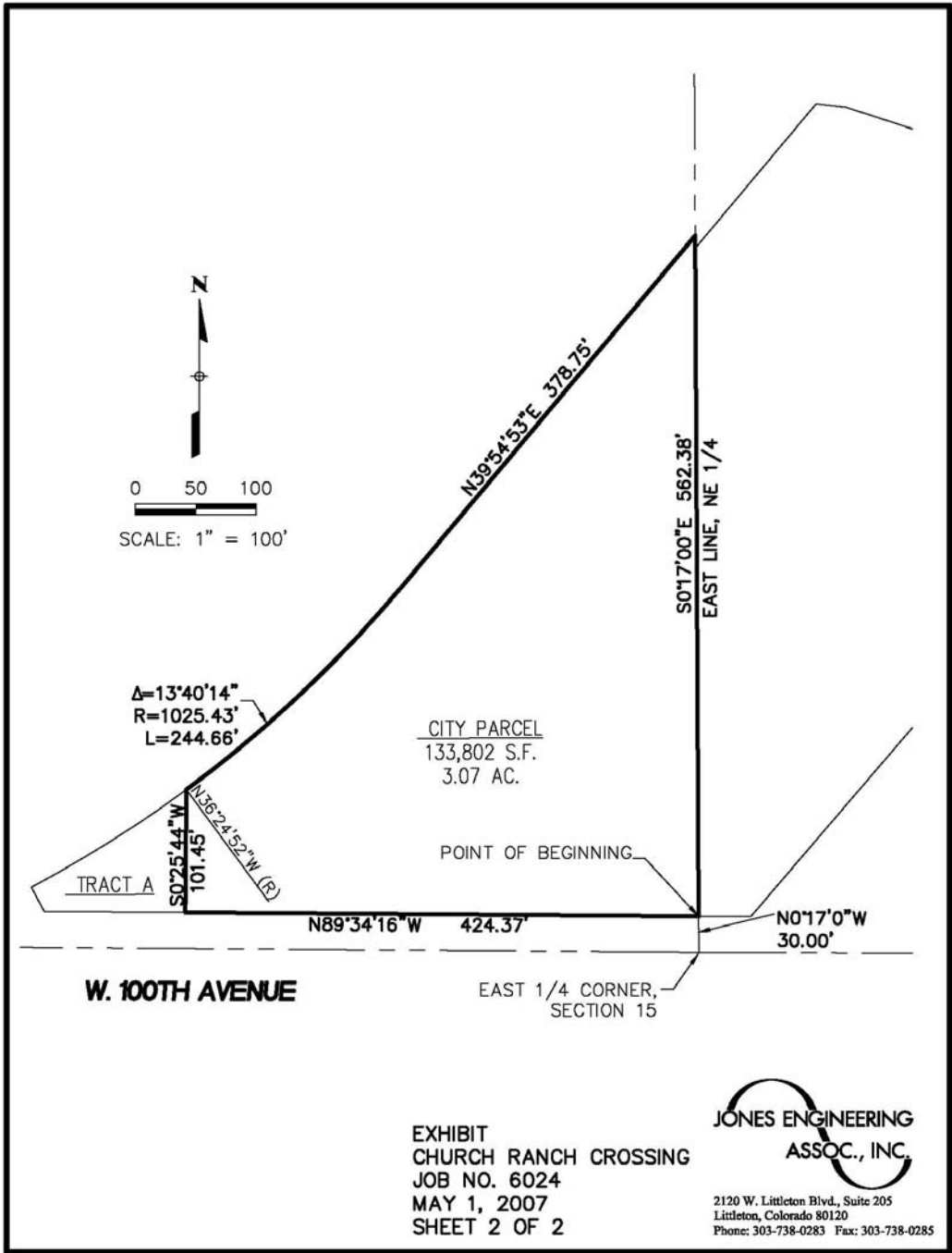


EXHIBIT  
 CHURCH RANCH CROSSING  
 JOB NO. 6024  
 MAY 1, 2007  
 SHEET 2 OF 2

**JONES ENGINEERING  
 ASSOC., INC.**

2120 W. Littleton Blvd., Suite 205  
 Littleton, Colorado 80120  
 Phone: 303-738-0283 Fax: 303-738-0285

## City Parcel

### Legal Description

A portion of Mandalay Gardens Subdivision as platted in the records of Jefferson County, Colorado at Book 5, Page 36, located in the City of Westminster in the NE ¼, Section 15, T. 2 S., R. 69 W., 6th P.M., more particularly described as follows:

Commencing at the east ¼ corner, Section 15;

Thence N0°17'00"W along the east line of said NE ¼, a distance of 30.00 feet to the Point of Beginning in the north right-of-way line of W. 100<sup>th</sup> Avenue;

Thence along said north line N89°34'16"W, 424.37 feet;

Thence N0°25'44"E, 101.45 feet to a non-tangent, 1025.43-foot radius curve being the south right-of-way line of Church Ranch Boulevard;

Thence along last said south line through the following two courses:

- 1) Northeasterly along said 1025.43-foot radius curve (from which the center bears N36°24'52"W) concave northwesterly through a central angle of 13°40'14", a distance of 244.66 feet;
- 2) N39°54'53"E, 378.75 feet to said east line of said section;

Thence S0°17'00"E along said east line, 562.38 feet to the Point of Beginning.

Containing an area of 3.07 acres or 133,802 square feet, more or less.

### Basis of Bearings

The west line of the NW ¼, Section 14, T2S, R69W of the 6th P.M. bears N0°17'00"W per said Mandalay Gardens Subdivision.





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Amendment to Legal Services Agreement with Carlson, Hammond and Paddock, LLC

**Prepared By:** Josh Nims, Senior Water Resources Engineer  
Michael Happe, P.E., Water Resources and Treatment Manager

**Recommended City Council Action**

Based on the report and recommendation of the City Manager, determine that the public interest will best be served by authorizing the City Manager to execute an amendment to the City's legal services agreement with Carlson, Hammond and Paddock, LLC for water resources investigation of future water supply/storage alternatives in an amount not to exceed \$100,000.

**Summary Statement**

- In December 2006, City Council authorized retaining Carlson, Hammond and Paddock, LLC (CHP) as special water counsel on behalf of the City in connection with water matters for 2007 and 2008.
- Staff is involved in on-going efforts to investigate and to enhance the City's water rights and pursue water development alternatives to meet the ultimate demand of the City at build out.
- The current legal services agreement with CHP will be amended to pay for the services of CHP to assist in an investigation of future water supply alternatives and the associated water rights and legal implications.
- The attorneys at CHP have effectively and successfully represented the City in water matters since 1977 and have developed a very thorough knowledge of Westminster water supply and water rights issues.
- The cost of the water resources investigation will not exceed \$100,000.

**Expenditure Required:** Not to exceed \$100,000

**Source of Funds:** Capital Improvement Project - Utility Fund Water Purchase

**Policy Issue**

Whether to retain Carlson, Hammond and Paddock, L.L.C. to perform a water resources investigation of future water supply/storage alternatives.

**Alternative**

Do not amend the legal services agreement or seek another firm to assist in the water resources investigation; however, given the good work, long-term relationship and expertise of the representation from Carlson, Hammond and Paddock, LLC, this alternative does not appear attractive. The City could alternately hold off on the water resources investigation, but given the increasing competition for water supplies and the declining window of opportunity for some of the alternatives, it is best to pursue this investigation in a timely manner.

**Background Information**

Staff is pursuing the development of water supply to meet the water needs of the City as it approaches build-out and prepares for future water supply requirements. In order for Staff to meet the future water supply requirements, it is necessary to examine and evaluate future water supply/storage development alternatives. Many of these alternatives encompass complex water rights and legal components that require the expertise of special water counsel. Performing water resources investigations and pursuing water development alternatives in a timely manner is very important since the ability to develop water supply in the future will be greatly reduced, if not completely eliminated due to competition, growth, and cost.

The City of Westminster has a long history of representation on water matters from the principal members of the CHP firm. Mary Hammond and Lee Johnson are the principal attorneys representing the City on water matters. Mary Hammond and Lee Johnson have been working on Westminster water matters for 30 years and 19 years, respectively.

CHP has developed a very thorough knowledge of Westminster's water supply and water quality issues and is a key player in helping develop and protect Westminster's raw water supply. The fees charged by CHP to the City are very favorable when compared with other major water suppliers in Colorado.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Amendment to Professional Services Contract re Reclaimed Water Open Storage Feasibility Study

**Prepared By:** Jenny Fifita, Reclaimed Water System Analyst

**Recommended City Council Action**

Based on the report and recommendation of the City Manager, City Council finds the public interest will best be served by authorizing the City Manager to execute an amendment in the amount of \$49,970 to a professional services agreement with Deere & Ault Consultants, Inc. as the sole source for analyzing the feasibility of constructing a reclaimed water open storage facility, increasing the total contract amount to \$90,880.

**Summary Statement**

- The Extended Reclaimed Water Master Plan, completed by HDR Engineering, Inc. in 2006, identified that the City would need to construct a facility to store at least 175 acre-feet of treated effluent (reclaimed water) in order to meet an average year irrigation demand of 3,500 acre-feet of reclaimed water. This facility would store excess reclaimed water in the spring and fall when the volume of available effluent used to produce reclaimed water exceeds reclaimed customer irrigation demand.
- The City has an existing agreement with Deere & Ault Consultants for \$40,910 that was authorized and signed by the City Manager since the contract amount was under \$50,000. The agreement was for engineering services to examine the feasibility of constructing the reclaimed water open storage facility just east of the Reclaimed Water Treatment Facility, where HDR assumed the reclaimed water open storage would be located.
- The Erickson Senior Housing Development (Erickson), located directly south of the Reclaimed Water Treatment Facility and potential open storage facility, is interested in purchasing a portion of the property that is being analyzed for the construction of the reclaimed water open storage facility. Before seriously considering the offer to purchase that property, it should be clear if the reclaimed water storage facility is best located at this site or elsewhere, and what the cost implications may be.
- Deere & Ault Consultants' new scope of work allows for the consideration of other potential reclaimed water open storage locations. Some of these sites will undergo additional geotechnical investigation, grading contours will be created and, estimated construction costs for reclaimed water open storage will be provided. These actions are the next steps in designing such a storage facility. The total amount of \$90,880 includes the cost of the original contract (\$40,910) and the expanded services (\$49,970).

**Expenditure Required:** \$90,880

**Source of Funds:** Utility Fund – Reclaimed Water Treatment Plant Expansion Study  
Capital Improvement Project

**Policy Issue**

Should the City amend the sole source negotiated contract to Deere & Ault Consultants, Inc. for completing a feasibility study on the construction of a reclaimed water open storage facility at one of several potential locations?

**Alternatives**

As an alternative to awarding the contract to Deere & Ault Consultants, the City could choose to solicit proposals from several engineering firms. However, if another firm were selected they would not be familiar with the work that Deere & Ault Consultants is currently doing and it may be difficult to evenly compare the results and recommendations for potential reservoir sites if the investigations are conducted by different firms. It would also take time for another firm to be selected and get started. Time is sensitive for this project because Erickson is trying to move forward and needs additional land to make their project work.

A second alternative would be for the City to not complete this analysis. This alternative is not recommended because a decision on the sale of the property to Erickson needs to be made. Making the decision without gathering information about the cost and feasibility of constructing the storage facility at the recommended location versus other potential sites would put the City in a position that could compromise its ability to construct the storage facility and maximize the reclaimed system or could significantly impact the cost of doing so.

A third alternative would be to complete the analysis at a later date. This would not provide the information needed to negotiate with Erickson on the potential sale of the property east of the reclaimed facility. As the City continues to develop, there will be fewer potential sites available. This option is not recommended.

**Background Information**

In 2000 the City put the Reclaimed Water Treatment Facility into operation. The Facility was designed to produce six million gallons per day and meet a 2,600 acre-foot average year demand. The facility was built to be easily expanded to produce 10 million gallons a day and meet an average annual demand of 3,500 acre-feet. In 2006, the Extended Reclaimed Water Master Plan was completed. The master plan identified that it would be necessary to construct 175 acre-feet of reclaimed water open storage to maximize the functionality of the system and to serve 3,500 acre-feet of average annual irrigation demand.

Following completion of the 2006 Extended Reclaimed Water Master Plan, the City signed a \$40,910 contract with Deere & Ault Consultants, Inc. to perform an analysis of the feasibility of locating the reclaimed water open storage facility directly east of the Reclaimed Water Treatment Facility. Erickson Senior Housing Development, located directly south of this site, approached the City about the possibility of purchasing the land identified as the potential site for the reclaimed water open storage. If the land were to be purchased by Erickson, the City would need to find an alternate storage location. It was determined that the financial impacts of relocating the potential storage site should be considered prior to negotiations with Erickson on a land deal. The goal of any negotiated land sale would be to benefit the reclaimed system both operationally and financially.

As a result, staff asked Deere & Ault Consultants to develop a scope of work that would provide for the analysis and comparison of a series of potential reclaimed open water storage site locations. The cost of the additional identified work is \$49,970.

Staff recommends that City Council authorize the City Manager to sign an amendment to Deere & Ault Consultants' existing contract to include these engineering services because it is a natural extension of the work they are already doing for the City. The total contract amount would be \$90,880. This amount includes the cost of the ongoing study, \$40,910 plus \$49,970 for the additional work to be amended to the contract.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**

**Agenda Item 8 H**

**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Second Reading of Councillor’s Bill No. 26 re the Boulevard Plaza Comprehensive Land Use Plan Amendment

**Prepared By:** Patrick Caldwell, Planner II

**Recommended City Council Action**

1. Pass Councillor’s Bill No. 26 on second reading approving the Comprehensive Land Use Plan (CLUP) amendment for the Boulevard Plaza property changing the designation from Industrial to Retail Commercial. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
  - a. There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b. The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c. The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d. The proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems.

**Summary Statement**

- Councillor’s Bill No. 26 was approved on first reading by City Council on June 11, 2007.
- This proposal went before the Planning Commission on May 22, 2007. The Commission voted unanimously (6-0) to recommend approval on this request.
- The Boulevard Plaza property is comprised of 2.833 acres and is located north of 92<sup>nd</sup> Avenue, west of Wadsworth Boulevard, just north of the State Farm office building site.
- The CLUP designation for this parcel was changed in 2002 from Business Park to Industrial to accommodate a proposal for a Hank’s Auto Body repair facility.
- The applicant has proposed to change the Boulevard Plaza CLUP designation from Industrial to Retail Commercial, a PDP amendment and an ODP amendment in order to develop the site for a three-story, 119,114 square foot indoor self storage facility.

**Expenditure Required:** \$0  
**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

**Attachments**

- Comprehensive Land Use Plan Ordinance
- Comprehensive Land Use Plan Map (Exhibit A)

BY AUTHORITY

ORDINANCE NO. **3356**

COUNCILLOR'S BILL NO. **26**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Dittman - Price**

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER  
COMPREHENSIVE LAND USE PLAN

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described below incorporated herein by reference, requesting a change in the land use designations from "Industrial" to "Retail Commercial" for the Boulevard Plaza Planned Unit Development for a 2.833 acre parcel located at 9241 Wadsworth Boulevard.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on May 22, 2007 after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly by providing commercial areas necessary to serve the needs of surrounding neighborhoods.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described as follows: That part of the Northwest ¼ of Section 23, Township 2 South Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, described as follows:

Beginning at the southeast corner of the northwest ¼ of said Section 23;  
Thence North 00° 09 Minutes 49 Seconds East along the east line of the said northwest ¼ a distance of 330.00 feet;  
Thence south 89° 00 Minutes 14 Seconds West a distance of 30.00 feet to the true point of beginning;  
Thence continuing south 89° 00 Minutes 14 Seconds West along the north line of a parcel ~ described in Book 720 at Page 362, Jefferson County Records, a distance of 549.69 feet;  
Thence North 00° 09 Minutes 49 Seconds East and parallel to said East line of the Northwest 1/4, a distance of 230.62 feet to a point on the southerly line of that parcel described in Book 2170 at Page 429, Jefferson County Records;  
Thence South 89° 43 Minutes 45 Seconds East along said South line a distance of 549.58 feet to a point on the West right-of-way line of Wadsworth Boulevard;

Thence South 00° 09 Minutes 49 Seconds West along said West right-of-way line a distance of 218.47 feet to the true point of beginning, County of Jefferson, State of Colorado. Containing 123,404 square feet or 2.833 acres more or less to

“Retail Commercial,” as depicted on the map attached as Exhibit A.

Section 3. Severability: 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 deemed unenforceable shall not affect any of the remaining provisions.

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

Section 5. 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 11th day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of June, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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

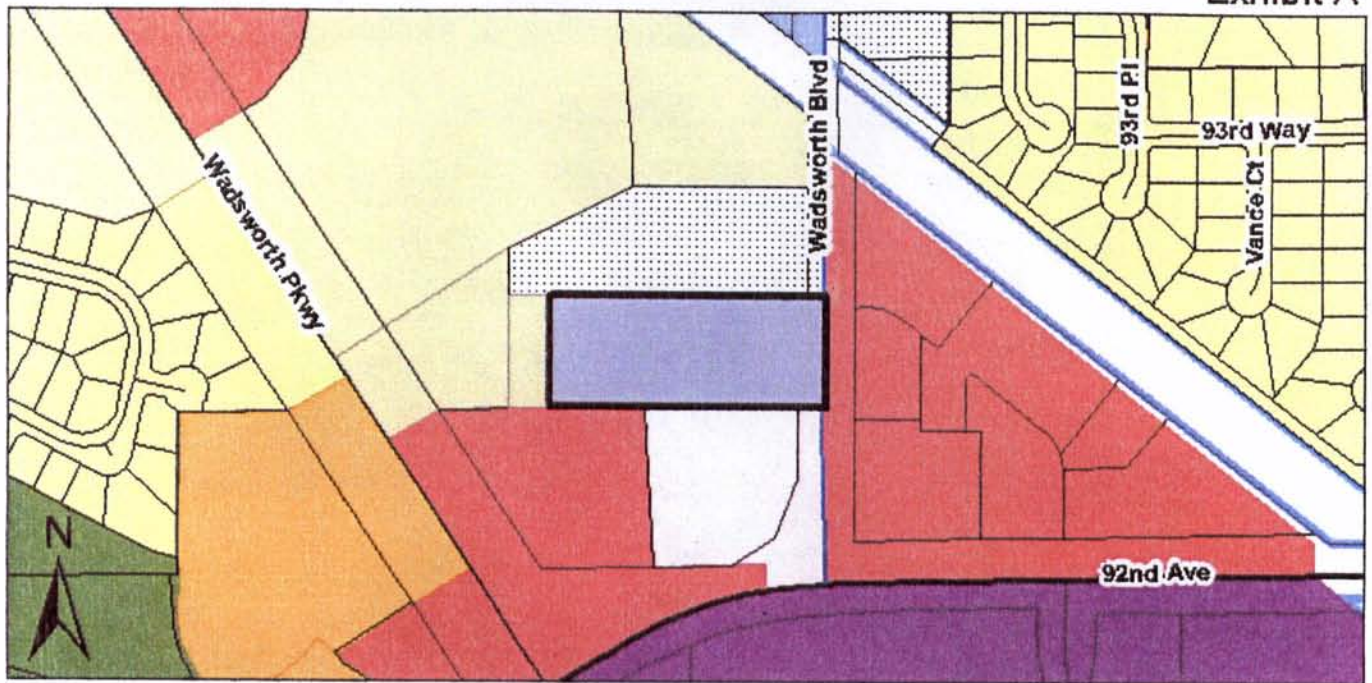
APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office



# CLUP Designation

Exhibit A

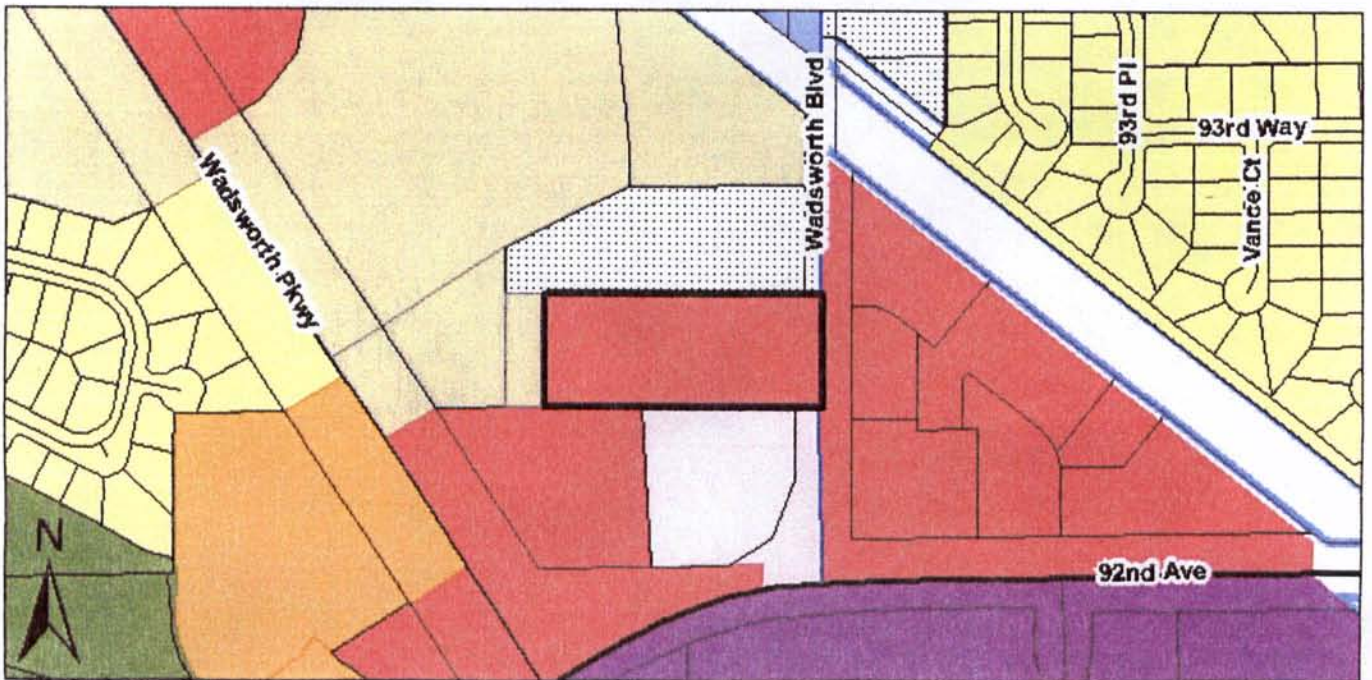


**LEGEND**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Commercial	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comprehensive Dev. Plan
R-8	Business Park	Public Parks	Major Creek Corridor Non Public

Description of Change: Industrial to Retail Commercial

# New CLUP Designation





## Agenda Item 8 I

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Second Reading for Councillor's Bill No. 27 re Sun Edison Economic Development Agreement

**Prepared By:** Susan F. Grafton, Economic Development Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 27 on second reading authorizing the City Manager to execute and implement the Economic Development Agreement (EDA) with Sun Edison.

**Summary Statement**

- This Councillor's Bill was passed on first reading on June 11, 2007.
- Sun Edison is a renewable energy business planning to move into 12,000 square feet of existing vacant space in Lake Arbor Business Center by Costco near 90<sup>th</sup> Avenue and Pierce Street.
- The project is expected to employ approximately 35 employees with average salaries of \$45,000.
- Assistance is based on the City's desire to fill existing office space and to encourage renewable energy businesses to locate in Westminster.
- Should Sun Edison decide to move out of Westminster within 5 years of the approval of this EDA, the assistance would have to be reimbursed to the City by the company.
- The company representatives have looked at sites from Denver to Boulder along US36.
- The City's EDA totals \$17,865, which includes rebates of permit fees and construction use tax, as well as use tax rebates on equipment and furnishings at move-in and over the first five years of operation.

**Expenditure Required:** \$17,865

**Source of Funds:** The business assistance package with Sun Edison will be funded through revenue received from use tax on furniture, fixtures, and equipment at move-in, and over the next five years of business operations, as well as rebates of building related permit fees and construction use tax.

Respectfully submitted,

J. Brent McFall  
City Manager

BY AUTHORITY

ORDINANCE NO. **3357**

COUNCILLOR'S BILL NO. **27**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Major - Dittman**

**A BILL  
FOR AN ORDINANCE AUTHORIZING A ECONOMIC DEVELOPMENT AGREEMENT  
WITH SUN EDISON TO AID IN THEIR LOCATION IN LAKE ARBOR BUSINESS CENTER**

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

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

WHEREAS Sun Edison plans to lease 12,000 s.f. feet in Lake Arbor Business Center in Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and Sun Edison is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

**THE CITY OF WESTMINSTER ORDAINS:**

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with Sun Edison in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

## Exhibit A

### ECONOMIC DEVELOPMENT AGREEMENT FOR SUN EDISON IN THE CITY OF WESTMINSTER

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, between the CITY OF WESTMINSTER (the "City"), and Sun Edison.

WHEREAS, the City wishes to provide assistance to Sun Edison to aid in the location of this company in the City; and

WHEREAS, Sun Edison plans to lease 12,000 s.f. of office space in Lake Arber Business Center, thus providing primary job retention and growth within the City; and

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

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

1. Building Permit Fee Rebates. The City shall rebate to Sun Edison 50% of the building permit fees that are otherwise required under W.M.C. Section 11-10-3 (E). This rebate excludes water and sewer tap fees, collected from Sun Edison. The permit fee rebate will be approximately \$1,125.

2. Use Tax Rebate- Construction. The City shall rebate to Sun Edison 50% of the Building Use Tax on the construction materials, collected from Sun Edison that are otherwise required under W.M.C. sections 4-2-9 and 4-2-3. The rebate will be approximately \$765.

3. Sales and Use Tax Rebate- Furniture and Fixtures. The City will rebate 50% of the General Sales and Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected on the furnishings and equipment purchased for the project during the period three months prior to receipt of the Certificate of Occupancy and/or Final Inspection and over the next 60 month period. This rebate will be approximately \$15,975.

4. Payments of Rebates. The total rebate is not to exceed \$17,865. The rebates will be paid to Sun Edison by the City in quarterly installments from revenue actually collected and received by the City from Sun Edison. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically.

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

6. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if Sun Edison has not moved into their new location by June 1, 2008 or should Sun Edison not comply with the City regulations or code.

7. Business Termination. In the event Sun Edison ceases business operations within the City within five (5) years after the expanded operations commence, then Sun Edison shall pay to the City the total amount of fees and taxes that were due and payable by Sun Edison to the City but were rebated by the City, pursuant to this Agreement.

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

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

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

**SUN EDISON**

**CITY OF WESTMINSTER**

\_\_\_\_\_  
President

\_\_\_\_\_  
J. Brent McFall  
City Manager

ATTEST:

\_\_\_\_\_  
Linda Yeager  
City Clerk

**Adopted by Ordinance No. 3357**



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Second Reading for Councillor's Bill No. 28 re TAB Boards International, Inc. (TAB) Economic Development Agreement

**Prepared By:** Susan Grafton, Economic Development Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 28 on second reading authorizing the City Manager to execute and implement an Economic Development Agreement (EDA) with TAB Boards International, Inc.

**Summary Statement\**

- This Councillor's Bill was passed on first reading on June 11, 2007.
- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the attached EDA with TAB to assist with the relocation of their corporate headquarters to Westminster.
- TAB is a franchisor of Peer Advisory Board and Business Coaching services.
- The company is planning to buy the building at 11031 Sheridan Boulevard that was formerly occupied by Melody Homes/D.R. Horton.
- The company will move 32 employees from Denver with a median salary of \$70,000.
- The proposed assistance is based on the City's desire to fill existing office space.
- The Economic Development Agreement, which is valued at \$29,500, will terminate after 5 years and is funded with rebates from permit fees and use tax on construction, furniture, and fixtures.
- The assistance would have to be reimbursed to the City by the company if TAB moves out of Westminster within 5 years of the approval of this EDA.
- The firm has looked at locations in Arvada and Westminster.

**Expenditure Required:** \$29,500

**Source of Funds:** The EDA with TAB will be funded through revenue received from permit fees and use tax on construction, furniture and fixtures directly generated from the location of TAB in the new Westminster facility.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment



BY AUTHORITY

ORDINANCE NO. **3358**

COUNCILLOR'S BILL NO. **28**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Price - Dittman**

**A BILL  
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT  
WITH TAB BOARDS INTERNATIONAL, INC.  
FOR THE LOCATION OF THE CORPORATE OFFICES IN  
WESTMINSTER, COLORADO**

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

WHEREAS, TAB Boards International, Inc. (TAB) plans to redevelop and fill vacant space at 11031 North Sheridan Boulevard; and

WHEREAS, a proposed Economic Development Agreement between the City and TAB is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with TAB in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING AND TITLE AND PURPOSE ORDERED  
this 11th day of June 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 25th<sup>th</sup> day of June, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
City Attorney's Office

## EXHIBIT A

### ECONOMIC DEVELOPMENT AGREEMENT WITH TAB BOARD INTERNATIONAL, INC.

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, between the CITY OF WESTMINSTER (the "City"), and TAB Board International, Inc. (TAB);

WHEREAS, the City wishes to provide certain assistance to TAB to encourage the location of TAB's corporate offices to Westminster; and

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

In consideration of the mutual promises set forth below the City and TAB agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to TAB 50% of the building related permit fees for the tenant finish of the building at 11031 N. Sheridan Boulevard, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees. The rebate will be approximately \$1,750.

2. Use Tax Rebate - Construction. The City shall rebate to TAB 50% of the building use tax on the construction materials (excluding the City's .25% open space tax and .6% public safety tax), resulting from the tenant finishes at 11031 N. Sheridan Boulevard, required under W.M.C. sections 4-2-9 and 4-2-3. The rebate will be approximately \$1,500.

3. Use Tax Rebate – Furnishings and Equipment. For the period 3 months prior and 36 months after TAB obtains its Certificate of Occupancy or Final Inspection for its facility at 11031 N. Sheridan Boulevard, the City shall rebate to TAB 50% of the general use tax (excluding the City's .25% open space tax and .6% public safety tax) collected on equipment and furnishings purchased to furnish the facilities. The rebate will be approximately \$26,250.

4. Payments of Rebates. The total rebate is not to exceed \$29,500. Rebates will be paid to TAB by the City in quarterly installments from the Use Tax actually collected by the City from TAB. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically.

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

6. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City if TAB has not moved into the building at 11031 N. Sheridan Boulevard on or before June 30, 2008; or, should TAB fail to comply with any City code and/or approval process. In the event TAB ceases business operations within the City within five (5) years after the new operations commence, then TAB shall pay to the City the total amount of fees and taxes that were due and payable by TAB to the City but were rebated by the City, as well as reimburse the City for any funds provided to TAB pursuant to this Agreement..

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



revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

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

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

TAB Boards International, Inc.

CITY OF WESTMINSTER

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Alan Fishman  
Chief Executive Officer

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J. Brent McFall  
City Manager

ATTEST:

ATTEST:

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*Adopted by Ordinance No. 3358*

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Linda Yeager  
City Clerk



**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Second Reading of Councillor’s Bill No. No 29 re Big Dry Creek Park and Cheyenne Ridge Park Supplemental Appropriation

**Prepared By:** Richard Dahl, Park Services Manager

**Recommended City Council Action:**

Pass Councillor’s Bill No. 29 on second reading approving the supplemental appropriation in the amount of \$1,080,000 reflecting the City’s receipt of an Adams County Open Space Grant for Big Dry Creek Park in the amount of \$500,000; City’s receipt of a contribution from Hyland Hills Park and Recreation District per the City’s Intergovernmental Agreement (IGA) for construction of the Big Dry Creek Park in the amount of \$500,000; and receipt of an \$80,000 Adams County Open Space Grant for Cheyenne Ridge Park.

**Summary Statement**

- This Councillor’s Bill was passed on first reading on June 11, 2007.
- In February 2007, Staff received City Council’s approval to apply for Adams County Open Space Grants for construction of Big Dry Creek Park and the Cheyenne Ridge Park.
- On May 21, 2007, the Adams County Open Space Board awarded the City \$500,000 toward the Big Dry Creek Park and \$80,000 toward the Cheyenne Ridge Park.
- Per an August 2002 IGA with Hyland Hills Park and Recreation District, Hyland Hills is to contribute \$500,000 towards the Big Dry Creek Park as part of its 2002 general obligation bond.
- The Parks, Recreation and Libraries Department has appropriate matching funds in the 2007 Capital Improvement Program for the Big Dry Creek Park and Cheyenne Ridge Park.
- City Council approved a contract with Arrow J Landscape-Design, Inc. on May 21, 2007, for construction of the Big Dry Creek Park.
- Design Development crews will construct Cheyenne Ridge Park.

**Expenditure Required:** \$1,080,000

**Source of Funds:** Adams County Open Space Grant and the Hyland Hills Park and Recreation District

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3359**

COUNCILLOR'S BILL NO. **29**

SERIES OF 2007

INTRODUCED BY COUNCILLORS  
**Kauffman - Kaiser**

**A BILL**

**FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$1,080,000. This appropriation is due to two grants and an IGA contribution.

Section 2. The \$1,080,000 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10G, dated June 11, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement	<u>\$1,080,000</u>
Total	<u>\$1,080,000</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 11<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



## Agenda Item 10 A & B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
June 25, 2007



**SUBJECT:** Public Hearing and Action re Richter and Catt Annexation, CLUP Amendment, Church Ranch Crossing PDP, Church Ranch Crossing ODP, First Amended ODP Church Ranch Crossing Mini Storage, Second Amended ODP Church Ranch Crossing Lot 6 – Car Wash

**Prepared By:** Patrick Caldwell, Planner II

### Recommended City Council Action

1. Open the public hearing for annexation of the Richter and Catt parcels, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash.
2. Continue the public hearing for the annexation of the Richter and Catt parcels, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash until July 9, 2007.

### Summary Statement

- On May 21, 2007 the City Council adopted Resolution No. 20 accepting the annexation petition submitted by Michael E. Richter and Brent Ellsworth Catt, and made the findings required by State Statute on the sufficiency of the petition. This resolution set the date of June 25, 2007, for the annexation hearing.
- The CRS 31-12-108 requires annexation notice to be published once a week for four successive weeks and the first publication of such notice shall be at least thirty days prior to the date of the hearing. The first notice was not published until June 7, 2007. Therefore, the public hearing must be continued until July 9, 2007, in order to meet the notice requirements.
- The required public notices for the Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash are accurate. Continuing the public hearings to July 9, 2007, for these items will keep these notices active.
- The Richter property is located at 10055 Brentwood Way and is approximately 2.05 acres in area.
- The Catt property is located at 10025 Brentwood Way and is approximately 2.59 acres in area.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should City Council continue the public hearing for the Richter and Catt annexation, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash to keep the public notice active?

**Alternative**

Do not continue the public hearing on the Richter and Catt annexation, Comprehensive Land Use Amendment, Church Ranch Crossing Preliminary Development Plan, Church Ranch Crossing Official Development Plan, First Amended Official Development Plan Church Ranch Crossing Mini Storage, and Second Amended Official Development Plan Church Ranch Crossing Lot 6 – Car Wash. This is not recommended as a viable alternative due to the notice requirements of the State Statute.

**Background Information**

The background information on the proposals will be sent to City Council with the July 9 City Council packets.

Location

The site is located generally south and east of Church Ranch Boulevard, east of Dover Street, north of 100<sup>th</sup> Avenue, south of a portion of the Mandalay Ditch and north and west of a portion of Brentwood Way and the right of way of the Burlington Northern railroad right of way. (Please see attached vicinity map).

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

- Vicinity Map







WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
June 25, 2007



**SUBJECT:** Councillor’s Bill No. 32 Re Pension Plan Amendments

**Prepared By:** Gordon Tewell, Pension Administrator

**Recommended City Council Action**

Pass Councillor’s Bill 32 on first reading amending the Westminster Municipal Code concerning the General Employee and Police Pension Plans.

**Summary Statement**

During 2006, the U.S. Congress passed the Pension Protection Act of 2006 (PPA). The PPA includes several provisions that are beneficial to defined contribution plans like the City of Westminster Police and General Employee Pension Plans (Plans). In order for plan participants to receive the full benefit of the changes allowed by the PPA these provisions must be affirmatively adopted by the Plans. As Title XIV of the Westminster Municipal Code is the plan document for the Plans, the Municipal Code must be amended for these provisions to be available to plan participants.

While most of the recommended changes to Title XIV are required to implement provisions of the PPA, Title XIV also currently includes language that is administratively cumbersome or unnecessary as required by Internal Revenue Code. The primary changes are as follows: modify language to reflect operational procedures; change provisions for distributions to non-spouse beneficiaries; eliminate the early retirement age and modify normal retirement age so public safety employees may take advantage of provisions of the PPA; allow in-service distributions for employees who attain the age of 62 and have a reduction in compensation of at least 25%; and eliminate the limit on after-tax voluntary contributions.

The IRS requires pension plan documents be amended to comply with changes to the Internal Revenue Code as the result of laws passed by Congress. Amendments to the Plans are required in order for the Plans to conform to law as modified by the PPA. The plan must be amended and filed with the IRS no later than January 31, 2009.

Outside counsel has been retained to provide guidance and assistance in amending the Plans. Other than the cost for outside counsel there are no costs related to updating the Plans, and since Westminster manages defined contribution pension plans there are no costs to the pension plans for these changes.

**Expenditure Required:** \$0

**Source of Funds:** N/A



**Policy Issue**

Does City Council approve the recommendations for amendments to Title XIV of the Westminster Municipal Code to comply with laws established by the Pension Protection Act of 2006 and to make administrative changes to the operation of the plans?

**Alternative**

Do not approve the amendments. Staff does not recommend this option as amendments to the plan implementing provisions of the PPA are beneficial to pension plan participants, don't result in additional financial liability to the City, and cannot be utilized by plan participants until they become a part of the Municipal Code.

**Background Information**

The Pension Protection Act of 2006 is the largest overhaul of retirement plan rules and regulations since the Economic Growth and Tax Reconciliation Reform Act of 2001 (EGTRRA). While much of the PPA was directed at revamping traditional defined benefit plans, the Act did make available a number of provisions that benefit defined contribution plans like the City of Westminster Police and General Employee Pension Plans. Additionally, the PPA made permanent many provisions of EGTRRA that were due to sunset in 2010 including increased contribution limits and the Saver's Credit.

Since the passage of the PPA, pension staff has been researching and preparing to implement several provisions from the PPA. This preparation included research on the impact of the changes on the Plan and its participants and consideration of the administrative effect of implementing these provisions. Outside counsel was utilized to fully understand the changes and to ensure that the provisions will be implemented within the correct interpretation of the new tax law.

The proposed changes were discussed with both Pension Boards. The Pension Boards were in agreement with the recommended changes. Highlights of the recommended amendments follow:

- The spouse of a deceased participant may generally rollover the inherited account to an IRA. Non-spouse beneficiaries have, in the past, not been allowed to make such rollovers, requiring that a non-spouse beneficiary incur the full tax liability of receiving the inherited account within five years. Effective for distributions after 2006, the PPA allows a non-spouse beneficiary to rollover an inherited account to an IRA allowing the non-spouse beneficiary to spread the tax liability over their lifetime.
- The PPA includes a provision allowing public safety officers, who separate from service at or after the plan's normal retirement age, or on account of disability, to elect to have up to \$3,000 per year, of their otherwise taxable retirement distributions from a qualified retirement plan, excluded from their taxable income. In order to be eligible for the tax exclusion, the payment must be for health insurance or long-term care insurance and must be paid directly to the insurance carrier by the Plan.
- In order to be more precise with the language regarding retirement ages, it is recommended that reference to early retirement age be stricken from the plan document. Early retirement age as defined in the plan document has no operational affect on employees' retirement. Employees are allowed to retire at any desired age with their age at separation of service having no effect on their retirement benefit as the benefit for a defined contribution plan is simply the employee's account balance at the time of retirement. Retirement ages as defined by Internal Revenue Code dictate the tax treatment of distributions from the Plans. To more realistically reflect City



employees' actual retirement experience it's suggested that normal retirement age be changed to fifty-five for the Police Plan and sixty for the General Employee Plan. Council will recall that Fire employees shifted over to the statewide FPPA plan, which has its own set of rules and regulations.

- Effective for distributions in plan years beginning after January 1, 2007, the PPA provides that pension plans may make in-service distributions to employees who have attained age 62 and are still actively employed. The amendments recommended for the Plan include a new section making in-service withdrawals available to all employees under certain reasonable and non-discriminatory conditions. These conditions have been defined as a reduction in compensation of at least 25%. The availability of in-service withdrawals with these conditions can be used as a tool for the City to keep experienced knowledgeable employees in the workforce on a reduced-hours basis.
- Prior tax law changes changed the limit for contributions to retirement plans to the maximum of 100% of compensation or the dollar amount defined by Section 415 of Internal Revenue Code. City Code currently limits voluntary after-tax contributions by employees to the plan to 10%. Based on the tax law changes established by EGTRRA this limit is no longer statutorily required. Recommended changes to this section include eliminating the 10% voluntary contribution limit and streamlining the administrative process by requiring that these after-tax contributions be made through the payroll process.

The recommended changes were prepared by Staff and reviewed by Attorney Mary Brauer of Reinhart Boerner Van Deuren. Based on her expertise in complying with the changes to the Internal Revenue Code, Staff believes that the proposed amendments are required and beneficial.

Since the passage of the PPA, Internal Revenue Code has been updated. The IRS requires that pension plans update their plan documents in accordance with Code changes and submit applications to the IRS for confirmation that the plan documents comply with current Code. Those plans that do not properly amend their plan documents and submit the amended documents to the IRS by the proper IRS filing date can potentially lose their status as "tax-qualified." Approving the attached amendments will bring the City of Westminster Pension Plans into compliance with updated tax law through the Pension Protection Act of 2006 and allow staff to submit for IRS approval in a timely manner.

Those changes to the City of Westminster Police Pension Plan that are substantive in nature require approval by a vote of the members of the Police Plan. Approval by 65% of those members of the Police Plan who vote is required to implement the changes.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **32**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE AMENDING TITLE XIV OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE POLICE AND GENERAL EMPLOYEE PENSION PLANS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 14-1-2, W.M.C., is hereby amended BY THE ADDITION OF NEW SUBSECTIONS (G), (H), (K) AND (S) to read as follows AND ALL OTHER SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY:

**14-1-2: DEFINITIONS:** When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise and further provided that the masculine gender shall include the feminine, and the singular shall include the plural:

(G) “CURRENT ANNUAL BASE SALARY” COMPENSATION ANNUALIZED FOR THE CURRENT CALENDAR YEAR.

(H) “ELIGIBLE RETIRED PUBLIC SAFETY OFFICER” A POLICE OFFICER WHO IS SEPARATED FROM SERVICE WITH THE CITY AS A PUBLIC SAFETY OFFICER BY REASON OF DISABILITY OR IS SEPARATED FROM SERVICE WITH THE CITY AS A PUBLIC SAFETY OFFICER AND SEPARATED FROM SERVICE AFTER NORMAL RETIREMENT AGE.

(K) “HIGHEST ANNUAL BASE SALARY” THE LARGEST AMOUNT OF COMPENSATION AS CALCULATED FOR ANY CALENDAR YEAR OF EMPLOYMENT.

(S) “QUALIFIED HEALTH INSURANCE PREMIUMS” PREMIUMS FOR COVERAGE OF THE ELIGIBLE RETIRED PUBLIC SAFETY OFFICER, HIS SPOUSE, AND DEPENDENTS, BY AN ACCIDENT OR HEALTH INSURANCE PLAN OR QUALIFIED LONG-TERM CARE INSURANCE CONTRACT AS DEFINED IN CODE SECTION 7702B(B).

Section 2. Section 14-1-4, subsections (C)(2) and (D), W.M.C., are hereby AMENDED to read as follows:

**14-1-4: CONTRIBUTIONS BY THE CITY, THE STATE OF COLORADO AND PARTICIPANTS:**

(C) Contributions by Contributing Participants.

(2) Voluntary Contributions::

(a) Subject to the provisions of Section 14-1-5(B), each Contributing Participant may elect to contribute to the Trust Fund an amount ~~not to exceed ten percent (10%) of his compensation for each pay period in addition to~~ THAT WHEN COMBINED WITH the mandatory contributions required in paragraph (1) of this Subsection DOES NOT EXCEED THE AMOUNT DESCRIBED IN SECTION 14-1-5 (B)(1).

(b) The amount, if any, which a Contributing Participant voluntarily contributes to the Trust Fund ~~may vary from year to year and may~~ MUST be contributed through payroll deductions ~~or in one lump sum, annually, or both, provided that a lump sum contribution for any year must be paid directly by the Contributing Participant instead of through a payroll deduction.~~ A contributing Participant may have the option of increasing, decreasing, or terminating his voluntary contribution at any time. No Participant shall have any obligation to make any voluntary contribution.

(c) For purposes of this Section, amounts representing the Participant's interest in another qualified pension plan transferred in accordance with Section 14-1-12(A), shall not be considered voluntary contributions.

(D) Retirement Medical Savings Accounts.

(1) ~~Subject to approval by the Internal Revenue Service,~~ Each Participant shall have the option of designating up to 25% of his or her combined mandatory and City contributions to be used for future medical expenses as provided for in Section 401(h) of the Federal Internal Revenue Service Code. Contributions to the medical savings accounts will not be taxed at separation from service nor upon use for medical expenses after separation from service. The retirement medical savings accounts will be subject to the rules and requirements as issued by the City Manager.

(2) Contributions designated for future health benefits under Section 401(h) of the Federal Internal Revenue Service Code as described in Subsection (1) of this Section shall be maintained in separate accounts.

Section 3. Section 14-1-6, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**14-1-6: RETIREMENT DATE; DESIGNATION OF BENEFICIARY:**

(A) Retirement Date.

(1) Normal Retirement: The normal retirement age for each Participant shall be ~~sixty-five (65)~~ FIFTY-FIVE (55), and on the last day of the month in which his ~~sixty-fifth~~ FIFTY-FIFTH birthday occurs, he shall be entitled to retire voluntarily. The City may, if it so desires, continue a Contributing Participant in active service after he has attained his normal retirement age with the consent of such Participant, and at any time thereafter the City may, at its option, retire such Participant or such Participant may voluntarily retire. Until actual retirement, a Contributing Participant shall continue to participate in the Plan.

~~(2) Early Retirement: Any Contributing Participant who will attain the age of fifty five (55) during the year may elect to retire earlier than the normal retirement age.~~

Section 4. Section 14-1-7, W.M.C., is hereby AMENDED to read as follows:

#### **14-1-7: DISTRIBUTION FROM TRUST FUND:**

(A) When Interests Become Distributable and Effect Thereof. When a Participant dies, suffers total disability, retires or terminates his employment for any other reason, his interest shall thereupon become distributable. When a Participant's interest shall have become distributable, such Participant's interest shall remain a part of the Trust Fund until it is distributed.

(B) Information to be Furnished to Board. For the purpose of enabling the Board to determine the Participant's distributable interest in the Trust Fund, the Board shall be entitled to rely upon information provided to the Board by the City with respect to the date of the Participant's termination of employment and other such information as is needed and requested.

(C) Distribution of Interests.

(1) Insurance: If there has been an investment in life insurance for the benefit of any Participant whose interest becomes distributable for any reason other than death, such Participant may, subject to any limitation set forth elsewhere in this Plan, obtain an absolute assignment of any such life insurance by informing the Board of his election. If said election is not exercised within thirty (30) days after the termination of employment, and the conversion election provided for is not made, the Board shall cause said contract to be surrendered no later than the end of the policy year and shall add the proceeds of such surrender to the interest of said Participant. After December 31, 1996, no new life insurance contracts may be adopted as pension investments.

(2) Election to Defer Benefits: A Participant may elect to defer the commencement of distribution of his or her benefit, but in no event shall the commencement of distribution be later than the required distribution commencement date specified in subsection ~~(E)~~ (F) of this Section. No election to change the method of payment may be made more than once every six months once payments have commenced.

(3) Distribution of Contributions: Any other provision of this Subsection (C) to the contrary notwithstanding, a Participant, in the event of the termination of his employment for any reason, shall be entitled to receive payment in one lump sum of his interest in the Trust Fund provided he makes written demand therefor upon the Board.

(4) Benefits payable from the 401(h) account:

(a) Benefits are payable from the retirement medical savings account only upon retirement, separation of service, death or total disability.

(b) Benefits payable from a 401(h) account shall include only payments or reimbursements for medical care [as defined in code section 213(d)(1)].

(c) Medical care payments shall only be paid pursuant to a reimbursement application.

(d) No refunds of contributions shall be made. All contributions remain in the 401(h) account until used for medical care payments.

(e) Reimbursements may not be made for any expense for which the retired Participant or his or her spouse or dependents receive, or are eligible to receive, payment or reimbursement from another source.

(f) In order to receive benefits from the 401(h) account, the retired Participant must agree to provide appropriate documentation of the expenditure.

(D) Transfers between Qualified Plans:

(1) In General. The trustee and the plan custodian, upon their mutual agreement, are authorized to receive and add to the interest of any Participant the Participant's vested interest in the assets held under any other qualified employee retirement plan or individual retirement account if

such transfer satisfies the requirements under law for transfers between qualified plans or rollover contributions. In such event, the assets so received shall be fully vested and shall be held in a separate account and shall be administered and distributed pursuant to the provisions of this Plan and Trust, concerning employer contributions. The trustee is also authorized, at the direction of the plan custodian and at the request of the Participant, to transfer such Participant's vested interest which has become distributable under Subsection (A) hereof, directly to another qualified plan or an individual retirement account for the benefit of such Participant, provided such transfer satisfied the requirements under law for such transfers.

(2) For Distributions Made on or After January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(3) For distributions made after December 31, 2001. An eligible retirement plan shall also mean an annuity contract described in section 403(b) of the code and an eligible plan under section 457(b) of the code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the code. The Plan shall be permitted to accept rollovers from any type of eligible retirement plan except to the extent limited in Section 14-2-7.

(4) Definitions.

(1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (I) any distribution that is one of a series of substantially equal period payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (II) any distribution to the extent such distribution is required under section 401(a)(9) of the code; (III) any hardship distribution as described in section 401(k)(2)(b)(I)(iv) of the code (applicable only to distributions after December 31, 1999); and (IV) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. The Plan shall not accept a rollover of after-tax employee contributions unless specifically elected in the adoption agreement or a supplement thereto.

(2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code, that accepts the distributee's eligible rollover distribution.

However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(E) WITHDRAWALS WHILE EMPLOYED: A PARTICIPANT WHO HAS ATTAINED AGE SIXTY-TWO (62) MAY ELECT TO BEGIN DISTRIBUTIONS FROM THE TRUST FUND ACCORDING TO THE RULES DESCRIBED IN THIS SECTION 14-1-7 IF THE PARTICIPANT'S CURRENT ANNUAL BASE SALARY AT THE TIME OF ELECTION IS AT LEAST TWENTY-FIVE PERCENT (25%) LESS THAN THE PARTICIPANT'S HIGHEST ANNUAL BASE SALARY.

~~(E)~~(F) Required Distribution Commencement Date: Distribution of a Participant's interest must begin no later than the April 1 of the calendar year following the later of the year the Participant attains the age of seventy and one half (70 1/2) or the year the Participant retires.

~~(E)~~(G) Spendthrift Provisions:

(1) General Rule: Except as otherwise provided in this Chapter, all amounts payable pursuant to this Chapter by the Trustee shall be paid only to the person or persons entitled thereto, and all such payments shall be paid directly into the hands of such person or persons and not into the hands of any other person or corporation whatsoever, and such payments shall not be liable for the debts, contracts or engagements of any such person or persons, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings; nor shall any such person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any such payments or the benefits, proceeds or avails thereof.

(2) Qualified Domestic Relations Order: Paragraph (1) of this Subsection shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant or alternate payee pursuant to a qualified domestic relations order setting forth the agreement of the parties with respect to the division of benefits pursuant to Colorado Revised Statutes, Section 14-10-113. A lump sum distribution will be made pursuant to such an order within one hundred and twenty (120) days after the date on which a certified court order approving such an agreement permitting such a distribution has been submitted to and received by the Board.

The Board shall establish such reasonable procedures as are necessary to determine the compliance of a domestic relations order with the requirements of Colorado Revised Statutes, Section 14-10-113 and to administer distributions under such qualified orders. Such procedures may be at the discretion of the Board, including standardized forms to be used for such marital agreements and orders. A person who obtains a right to a benefit payable to a Participant pursuant to a qualified domestic relations order shall not have rights to vote in elections held pursuant to this Plan.

~~(G)~~(H) Manner of Distribution: A Participant's interest may be distributed by one or more of the following methods:

(1) Lump Sum Distribution: The Participant's interest may be paid to the Participant or his Beneficiary by the distribution of the total balance of his account in one lump sum. The Participant,

or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in a lump sum by filing a written election with the trustee within such time as the Board shall prescribe.

(2) Installments: The Participant's interest may be paid to the Participant or his Beneficiary in substantially equal periodic installments over a period of time not to exceed the joint life expectancy of the Participant and his beneficiary (or until the account is exhausted) and not in installment frequency greater than monthly. The maximum period shall be determined under the applicable IRS Tables at the time the initial monthly installment payment becomes payable. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in this manner by filing a written elective with the trustee within such time as the Board shall prescribe. In no instance shall any changes in this type of distribution be allowed more than once every six months.

(3) Other Methods: Notwithstanding the foregoing provisions, any interest which has become distributable for any reason may be distributed at such time or times, in such amount or amounts, and in such manner, as the Board and the recipient of such distribution may mutually determine, including a transfer to another qualified plan or individual retirement account.

~~(H)~~(I) Limitation on Duration of Payments:

(1) No distribution shall be made over a period exceeding the joint life expectancy of the Participant and his beneficiary. To the extent distribution is made after the Participant attains the age of seventy and one-half (70 1/2), if not paid in a lump sum, the distribution must be made in substantially equal periodic installments at least annually over the period prescribed in this Subsection subject to a once yearly change that may accelerate payment at the election of the Participant or Beneficiary. The present value of the benefits payable solely to the Participant under any elected method must exceed fifty percent (50%) of the total benefits payable to the Participant and his Beneficiaries, unless distribution is in the form of a qualified joint and survivor annuity.

(2) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, ALL DISTRIBUTIONS FROM THE PLAN SHALL CONFORM TO THE FINAL REGULATIONS ISSUED UNDER INTERNAL REVENUE CODE SECTION 401(A)(9), INCLUDING THE INCIDENTAL DEATH BENEFIT PROVISIONS OF INTERNAL REVENUE CODE SECTION 401(A)(9)(G).

~~(H)~~(J) Withdrawals: A Participant may not at any time withdraw any part of his interest in the Trust Fund, except upon death, disability, retirement or termination of service as provided in this Chapter.

~~(J)~~(K) Special Rules for Distributions after the Participant's Death:

(1) Distributions Commencing Prior to Death: If distribution of a Participant's interest has commenced prior to the Participant's death in accordance with Subsection ~~(H)~~ (I) of this Section, the remaining interest of the Participant shall be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

(2) Distributions Commencing After Death: If distribution of a Participant's interest did not commence prior to his death, the entire interest of the Participant shall be distributed within five (5) years after the death of the Participant, provided that a distribution commencing within one (1) year after the Participant's death to or for the benefit of a designated Beneficiary over the longer of the life or the life expectancy of the designated Beneficiary will be treated as having been distributed within such five (5) year period. If the surviving spouse of the Participant is the designated Beneficiary, distribution is not required to commence until the date on which the Participant would have attained the age of seventy and one-half (70-1/2) and, if distribution had not commenced as of the date of

death of such surviving spouse, the provisions of this paragraph shall be applied as if such spouse were the Participant.

(3) Beneficiaries: If a Participant should die after receiving some part, but not all, of his account, the remaining balance thereof shall be distributed to his Beneficiary in a manner determined pursuant to this Subsection. If the Beneficiary of the Participant should die, cease to exist, or disclaim his interest prior to the completion of distribution of the Participant's interest, the remaining distribution shall be made to the contingent Beneficiary designated by the Participant, if any. If any contingent Beneficiary should die or disclaim his interest, distribution of the remainder of the Participant's interest shall be distributed in a manner determined pursuant to this Subsection to the recipient determined pursuant to Section 14-1-6.

(4) ~~RMSA Distributions after Death:~~

~~(a) Should a Participant with a balance in the retirement medical savings account (RMSA) die prior to exhausting the balance in the RMSA, the account may be used for the benefit of the Participant's spouse and dependents under the terms of section 14-1-7(e)(4).~~

~~(b) Should a Participant with a balance in the retirement medical savings account die prior to exhausting the balance in the RMSA and without a spouse or dependent, the Participant's designated beneficiary, if any named, shall be eligible to receive the remaining benefits.~~

DISTRIBUTION TO IRA OF NONSPOUSE BENEFICIARY: A PARTICIPANT'S NONSPOUSE BENEFICIARY MAY ELECT PAYMENT OF ANY PORTION OF THE DECEASED PARTICIPANT'S ACCOUNT IN A DIRECT TRUSTEE TO TRUSTEE TRANSFER TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 402(C)(8)(B)(I) OR (II) OF THE CODE THAT IS ESTABLISHED TO RECEIVE THE PLAN DISTRIBUTION ON BEHALF OF THE BENEFICIARY. FOR PURPOSES OF THIS SECTION, A TRUST MAINTAINED FOR THE BENEFIT OF ONE OR MORE DESIGNATED BENEFICIARIES MAY BE THE BENEFICIARY TO THE EXTENT PROVIDED IN RULES PRESCRIBED BY THE SECRETARY OF TREASURY. IF THE PARTICIPANT DIES AFTER THE PARTICIPANT'S REQUIRED BEGINNING DATE AS DEFINED IN SECTION 14-1-7(F), THE REQUIRED MINIMUM DISTRIBUTION IN THE YEAR OF DEATH MAY NOT BE TRANSFERRED ACCORDING TO THIS SECTION. THE REQUIREMENTS OF SECTION 402(C)(11) OF THE CODE APPLY TO DISTRIBUTIONS UNDER THIS SECTION.

(L) PAYMENT FOR QUALIFIED HEALTH INSURANCE PREMIUMS: A PARTICIPANT WHO HAS SEPARATED FROM SERVICE AS A PUBLIC SAFETY OFFICER WITH THE CITY DUE TO DISABILITY OR ATTAINMENT OF NORMAL RETIREMENT AGE MAY ELECT TO HAVE AMOUNTS NOT YET PAID FROM THE PLAN PAID DIRECTLY TO A PROVIDER OF AN ACCIDENT OR HEALTH INSURANCE PLAN OR A QUALIFIED LONG TERM INSURANCE CONTRACT TO COVER THE COST OF UP TO \$3,000 PER YEAR OF "QUALIFIED HEALTH INSURANCE PREMIUMS" FOR THE PARTICIPANT AND THE PARTICIPANT'S SPOUSE AND DEPENDENTS, IN ACCORDANCE WITH SECTION 402(L) OF THE CODE. THE REQUIREMENTS OF SECTION 402(L) OF THE CODE APPLY TO PAYMENTS UNDER THIS SECTION.

Section 5. Section 14-2-2, W.M.C., is hereby amended BY THE ADDITION OF NEW SUBSECTIONS (G) and (J) to read as follows AND ALL OTHER SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY:



**14-2-2: DEFINITIONS:** When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise and further provided that the masculine gender shall include the feminine, and the singular shall include the plural.

(G) “CURRENT ANNUAL BASE SALARY” COMPENSATION ANNUALIZED FOR THE CURRENT CALENDAR YEAR.

(J) “HIGHEST ANNUAL BASE SALARY” THE LARGEST AMOUNT OF COMPENSATION AS CALCULATED FOR ANY CALENDAR YEAR OF EMPLOYMENT.

Section 6. Section 14-2-4, subsections (B)(2) and (C), W.M.C., are hereby AMENDED to read as follows:

**14-2-4: CONTRIBUTIONS BY THE CITY AND PARTICIPANTS:**

(B) Contributions by Contributing Participants.

(2) Voluntary Contributions::

(a) Subject to the provisions of Section 14-2-5(B), each Contributing Participant may elect to contribute to the Trust Fund an amount ~~not to exceed ten percent (10%) of his compensation for each pay period in addition to~~ THAT WHEN COMBINED WITH the mandatory contributions required in paragraph (1) of this Subsection DOES NOT EXCEED THE AMOUNT DESCRIBED IN SECTION 14-2-5 (B)(1).

(b) The amount, if any, which a Contributing Participant voluntarily contributes to the Trust Fund ~~may vary from year to year and may~~ MUST be contributed through payroll deductions ~~or in one lump sum, annually, or both, provided that a lump sum contribution for any year must be paid directly by the Contributing Participant instead of through a payroll deduction.~~ A contributing Participant may have the option of increasing, decreasing, or terminating his voluntary contribution at any time. No Participant shall have any obligation to make any voluntary contribution.

(c) For purposes of this Section, amounts representing the Participant’s interest in another qualified pension plan transferred in accordance with Section 14-2-12(A), shall not be considered voluntary contributions.

(C) Retirement Medical Savings Accounts.

(1) ~~Subject to approval by the Internal Revenue Service,~~ Each Participant shall have the option of designating up to 25% of his or her combined mandatory and City contributions to be used for future medical expenses as provided for in Section 401(h) of the Federal Internal Revenue Service Code. Contributions to the medical savings accounts will not be taxed at separation from service nor upon use for medical purposes after separation from service. The retirement medical savings accounts will be subject to the rules and requirements issued by the City Manager.

(2) Contributions designated for future health benefits under Section 401(h) of the Federal Internal Revenue Service Code as described in Subsection (C)(1) of this Section shall be maintained in separate accounts.

Section 7. Section 14-2-6, subsection (A), W.M.C., is hereby AMENDED to read as follows:

#### **14-2-6: RETIREMENT DATE; DESIGNATION OF BENEFICIARY:**

##### **(A) Retirement Date.**

(1) Normal Retirement: The normal retirement age for each Participant shall be ~~sixty-five (65)~~ SIXTY (60), and on the last day of the month in which his ~~sixty-fifth~~ SIXTIETH birthday occurs, he shall be entitled to retire voluntarily. The City may, if it so desires, continue a Contributing Participant in active service after he has attained his normal retirement age with the consent of such Participant, and at any time thereafter the City may, at its option, retire such Participant or such Participant may voluntarily retire. Until actual retirement, a Contributing Participant shall continue to participate in the Plan.

~~(2) Early Retirement: Any Contributing Participant who will attain the age of fifty-five (55) during the year may elect to retire earlier than the normal retirement age.~~

Section 8. Section 14-2-7, subsections (E) through (J), W.M.C., are hereby AMENDED to read as follows:

#### **14-2-7: DISTRIBUTION FROM TRUST FUND:**

(E) WITHDRAWALS WHILE EMPLOYED: A PARTICIPANT WHO HAS ATTAINED AGE SIXTY-TWO (62) MAY ELECT TO BEGIN DISTRIBUTIONS FROM THE TRUST FUND ACCORDING TO THE RULES DESCRIBED IN THIS SECTION 14-1-7 IF THE PARTICIPANT'S CURRENT ANNUAL BASE SALARY AT THE TIME OF ELECTION IS AT LEAST TWENTY-FIVE PERCENT (25%) LESS THAN THE PARTICIPANT'S HIGHEST ANNUAL BASE SALARY.

~~(E)~~(F) Required Distribution Commencement Date. Distribution of a Participant's interest must begin no later than the April 1 of the calendar year following the later of the year the Participant attains the age of seventy and one half (70 1/2) or the year the Participant retires.

~~(F)~~(G) Spendthrift Provisions.

(1) General Rule. Except as otherwise provided in this Chapter, all amounts payable pursuant to this Chapter by the Trustee shall be paid only to the person or persons entitled thereto, and all such payments shall be paid directly into the hands of such person or persons and not into the hands of any other person or corporation whatsoever, and such payments shall not be liable for the debts, contracts or engagements of any such person or persons, or taken in execution by attachment or garnishment or by any other legal or equitable proceedings; nor shall any such person or persons have any right to alienate, anticipate, commute, pledge, encumber or assign any such payments or the benefits, proceeds or avails thereof.

(2) Qualified Domestic Relations Order. Paragraph (1) of this Subsection shall not apply to the creation, assignment or recognition of a right to any benefit payable with respect to a Participant or alternate payee pursuant to a qualified domestic relations order setting forth the agreement of the parties with respect to the division of benefits pursuant to Colorado Revised Statutes, Section 14-10-113. A lump sum distribution will be made pursuant to such an order within one hundred twenty (120) days after the date on which a certified court order approving such an agreement permitting such a distribution has been submitted to and received by the Board.

The Board shall establish such reasonable procedures as are necessary to determine the compliance of a domestic relations order with the requirements of Colorado Revised Statutes, Section 14-10-113 and to administer distributions under such qualified order. Such procedures may

be at the discretion of the Board, including standardized forms to be used for such marital agreements and orders. A person who obtains a right to a benefit payable to a Participant pursuant to a qualified domestic relations order shall have no rights to vote in elections held pursuant to this Plan.

~~(G)~~(H) Manner of Distribution. A Participant's interest may be distributed by one or more of the following methods:

(1) Lump Sum Distribution. The Participant's interest may be paid to the Participant or his Beneficiary by the distribution of the total balance of his account in one lump sum. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in a lump sum by filing a written election with the trustee within such time as the Board shall prescribe.

(2) Installments. The Participant's interest may be paid to the Participant or his Beneficiary in substantially equal periodic installments over a period of time not to exceed the joint life expectancy of the Participant and his beneficiary (or until the account is exhausted) and not in installment frequency greater than monthly. This maximum period shall be determined under the applicable IRS Tables at the time the initial monthly installment payment becomes payable. The Participant, or his Beneficiary in the event of the Participant's death, shall have the right to have the distribution made in this manner by filing a written elective with the trustee within such time as the Board shall prescribe. In no instance shall any changes in this type of distribution be allowed more than once every six months.

(3) Other Methods. Notwithstanding the foregoing provisions, any interest which has become distributable for any reason, may be distributed at such time or times, in such amount or amounts, and in such manner, as the Board and the recipient of such distribution may mutually determine, including a transfer to another qualified plan or individual retirement account.

~~(H)~~(I) Limitation on Duration of Payments.

(1) No distribution shall be made over a period exceeding the joint life expectancy of the Participant and his beneficiary. To the extent distribution is made after the Participant attains the age of seventy and one-half (70 1/2), if not paid in a lump sum, the distribution must be made in substantially equal periodic installments at least annually over the period prescribed in this Subsection subject to a once yearly change that may accelerate payment at the election of the Participant or Beneficiary. The present value of the benefits payable solely to the Participant under any elected method must exceed fifty percent (50%) of the total benefits payable to the Participant and his Beneficiaries, unless distribution is in the form of a qualified joint and survivor annuity.

(2) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, ALL DISTRIBUTIONS FROM THE PLAN SHALL CONFORM TO THE FINAL REGULATIONS ISSUED UNDER INTERNAL REVENUE CODE SECTION 401(A)(9), INCLUDING THE INCIDENTAL DEATH BENEFIT PROVISIONS OF INTERNAL REVENUE CODE SECTION 401(A)(9)(G).

~~(I)~~(J) Withdrawals. A Participant may not at any time withdraw any part of his interest in the Trust Fund, except upon death, disability, retirement or termination of service as provided in this Chapter.

~~(J)~~(K) Rules for Distributions after the Participant's Death.

Special

(1) Distributions Commencing Prior to Death. If distribution of a Participant's interest has commenced prior to the Participant's death in accordance with subsection ~~(H)~~ (I) of this Section, the

remaining interest of the Participant shall be distributed at least as rapidly as under the method of distribution being used as of the date of his death.

(2) Distributions Commencing After Death. If distribution of a Participant's interest did not commence prior to his death, the entire interest of the Participant shall be distributed within five (5) years after the death of the Participant, provided that a distribution commencing within one (1) year after the Participant's death to or for the benefit of a designated Beneficiary over the longer of the life or the life expectancy of the designated Beneficiary will be treated as having been distributed within such five (5) year period. If the surviving spouse of the Participant is the designated Beneficiary, distribution is not required to commence until the date on which the Participant would have attained the age of seventy and one-half (70-1/2) and, if distribution had not commenced as of the date of death of such surviving spouse, the provisions of this paragraph shall be applied as if such spouse were the Participant.

(3) Beneficiaries. If a Participant should die after receiving some part, but not all, of his account, the remaining balance thereof shall be distributed to his Beneficiary in a manner determined pursuant to this Subsection. If the Beneficiary of the Participant should die, cease to exist, or disclaim his interest prior to the completion of distribution of the Participant's interest, the remaining distribution shall be made to the contingent Beneficiary designated by the Participant, if any. If any contingent Beneficiary should die or disclaim his interest, distribution of the remainder of the Participant's interest shall be distributed in a manner determined pursuant to this Subsection to the recipient determined pursuant to Section 14-2-6.

~~(4) RMSA Distributions after Death:~~

~~(a) Should a Participant with a balance in the retirement medical savings account (RMSA) die prior to exhausting the balance in the RMSA, the account may be used for the benefit of the Participant's spouse and dependents under the terms of section 14-2-7(e)(4).~~

~~(b) Should a Participant with a balance in the retirement medical savings account die prior to exhausting the balance in the RMSA and without a spouse or dependent, the Participant's designated beneficiary, if any named, shall be eligible to receive the remaining benefits.~~

DISTRIBUTION TO IRA OF NONSPOUSE BENEFICIARY: A PARTICIPANT'S NONSPOUSE BENEFICIARY MAY ELECT PAYMENT OF ANY PORTION OF THE DECEASED PARTICIPANT'S ACCOUNT IN A DIRECT TRUSTEE TO TRUSTEE TRANSFER TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 402(C)(8)(B)(I) OR (II) OF THE CODE THAT IS ESTABLISHED TO RECEIVE THE PLAN DISTRIBUTION ON BEHALF OF THE BENEFICIARY. FOR PURPOSES OF THIS SECTION, A TRUST MAINTAINED FOR THE BENEFIT OF ONE OR MORE DESIGNATED BENEFICIARIES MAY BE THE BENEFICIARY TO THE EXTENT PROVIDED IN RULES PRESCRIBED BY THE SECRETARY OF TREASURY. IF THE PARTICIPANT DIES AFTER THE PARTICIPANT'S REQUIRED BEGINNING DATE AS DEFINED IN SECTION 14-2-7(F), THE REQUIRED MINIMUM DISTRIBUTION IN THE YEAR OF DEATH MAY NOT BE TRANSFERRED ACCORDING TO THIS SECTION. THE REQUIREMENTS OF SECTION 402(C)(11) OF THE CODE APPLY TO DISTRIBUTIONS UNDER THIS SECTION.

Section 9. This ordinance shall take effect upon its passage after second reading.

Section 10. 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, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
City Attorney's Office



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Councillor's Bill No. 33 re Appropriation of FY2006 Carryover Funds into FY2007

**Prepared By:** Steve Smithers, Assistant City Manager  
Aric Otzelberger, Management Analyst

**Recommended City Council Action**

Pass Councillor's Bill No. 33 on first reading, appropriating FY2006 carryover funds into the FY2007 budgets of the General, General Capital Outlay Replacement, General Capital Improvement, Utility, Storm Drainage, and Open Space Fleet, Sales and Use Tax, and Conservation Trust Funds.

**Summary Statement**

- The City Council annually reviews and appropriates carryover funds from the previous year's budget into the current year budget for the following:
  - those items and services included in the previous year's budget but not received or provided until the current year's budget;
  - new items and services not included in the previous year's budget and funds were identified as available for these new priorities in late 2006, but the items or services were not received or provided until the current year's budget;
  - existing or new capital projects and key operating priorities for which funds are needed and carryover funds are available.
- The total proposed carryover appropriation is \$37,080,916. The items listed in this agenda memorandum total \$29,210,321 (including \$12,439,065 in Utility Fund Reserves: Rate Stabilization and Capital Project) and come from unrestricted revenues and unexpended 2006 funds in the various amounts identified. Further detail on these items is provided in the background section of this memo. \$7,870,595 of the appropriation is due to interfund transfers and other original budget modifications.
- Given the continuing challenge the City faces with Sales and Use Tax revenue collections, Staff is recommending leaving \$1.4 million of 2006 carryover funds in the Sales and Use tax fund to protect against any potential shortfall in 2007.
- City Council reviewed the proposed carryover items included within this Staff Report at the June 18 Study Session, and directed Staff to bring forward the attached ordinance for action at the June 25 City Council meeting.

**Expenditure Required:** \$37,080,916

**Source of Funds:** General, General Capital Improvement, General Capital Outlay Replacement, Utility, Storm Drainage, Open Space, Fleet, Sales and Use Tax and Conservation Trust Funds

**Policy Issue**

Should the City appropriate carryover funds as outlined below?

**Alternatives**

1. City Council could decide not to appropriate 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 FY2006 Budget process as priority expenditures for the City.
2. City Council could choose to approve the carryover appropriation for only previously appropriated operating items. Staff recommends utilizing the carryover funds for both the previously appropriated operating items as well as the new operating and capital improvement projects noted in this memorandum to maximize the use of these funds in providing services to residents.

**Background Information**

City Council is requested to pass the attached Councillor's Bill on first reading appropriating the list of items proposed to be funded with FY 2006 carryover funds as described below, into the General, General Capital Outlay Replacement, General Capital Improvement, Utility, Storm Drainage, Open Space , Fllet, Sales and Use Tax, and Conservation Trust Funds. The carryover appropriation takes place annually once the audit is substantially completed for the prior year.

PROPOSED RE-APPROPRIATION OF OPERATING ITEMS APPROVED IN 2006

Certain items were budgeted and ordered in 2006 but were not received until 2007. In addition, certain services, authorized in 2006, 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 funds described below be re-appropriated in 2006.

**GENERAL FUND:**

Central Charges – One item totaling \$20,000 for legal services for Barbara Banks' work on development agreements that were not completed in 2006. \$30,000 was originally approved by City Council in 2006 for Ms. Banks' work, and \$13,920 remains on that original contract. This request would fund an additional \$6,080 for Ms. Banks' services. Ms. Banks is a respected real estate attorney who provides unique expertise on certain City development projects.

General Services – One item totaling \$6,700 for office equipment that was purchased in 2006, but delivery was delayed due to the previous company going out of business and transferring the order to a new company. The snow events at year end further delayed this delivery.

Police Department – One item totaling \$26,200 for an interface between Livescan fingerprinting software (Intergraph) and the department's report management software (I/Leads). The Police Department purchased the new Livescan fingerprinting equipment in late 2005 and had to wait until mid-2006 for the Colorado Bureau of Investigation to install their new software on the Livescan machine before the design document from the Intergraph Corporation could be completed. There were also other projects that were being dealt with through the Intergraph Corporation, and the Livescan project was not completed before the end of 2006. The interface will make the booking process more accurate and efficient. The interface will allow an officer to input data into the arrest module of I/Leads and then push all of the data to the Livescan machine. Duplication of data entry is eliminated, and finger prints are automatically sent to CBI electronically for identification and processing before being sent to the FBI.

Fire Department – Two items totaling \$11,920 as follows:

1. \$9,539 to cover costs for the Officer Development program that is in process of being finalized. This money is what remains from the one-time payoff from Red Rocks Community College for our assistance

to their Fire Science Program. This class has been targeted for 15 personnel and is intended to better prepare them for leadership roles in our department. Lack of funding in the past has caused this program to be delayed for several years. Program implementation had been expected in 2006 however, development has gone into 2007.

2. \$2,381 for Emergency Management Preparedness Grant funds from the State of Colorado in 2006. The Emergency Preparedness Program has received these types of funds in previous years and has been spending the funds as required.

Community Development – Five items totaling \$68,872 as follows:

1. \$14,000 for 120th Avenue and I-25 Gateway Design. This project commenced in 2006 but was not completed. Weather and other delays extended the project into 2007.

2. \$10,000 for Schoenberg Farm Historic Preservation Projects. This would fund the Schoenberg Farm building survey and documentation. It would also provide funds for preparing Schoenberg Farm marketing material. Both of these projects were planned but not started in 2006 due to ongoing negotiations with the property owner.

3. \$4,000 for the development of additional art and history panels at the Promenade to expand on those already in place near the Westin Hotel. This project was started late in the year but not completed in 2006.

4. \$872 for a 2-drawer file cabinet and 5-drawer fixed-cabinet for the Planning Division. These items were ordered in 2006, but they were not received until 2007 due to winter storms in December.

5. \$40,000 for an update of the Economic Development section of the City's Web site, a real estate inventory update, and a survey of basic employers. In 2006, these projects were not started as planned due to Economic Development experiencing a transition period with new Staff. Now, an Economic Development Aide has been trained and a new Economic Development Specialist has been hired. With Staff in place, these funds are needed to develop industry specific marketing materials, update the Web site and better understand the City's basic employment base.

Parks, Recreation & Libraries – One item totaling \$8,116 in scholarship funds, received in 2006 from citizens and recreation program participants, for the Youth Sports Program. These funds are intended to supplement registration fees for individuals needing assistance. These funds will be available for scholarships in 2007.

Public Works & Utilities – One item totaling \$7,500 that was paid by Max Retaining Walls for damages to the pavement on 88th Avenue west of Wadsworth Parkway. This amount would be used to restore the surface back to new condition. Although the funds were received in 2006, repairs of the damaged asphalt were not scheduled to be completed until the spring of 2007.

UTILITY FUND:

Finance – One item totaling \$427 for an office chair for Utility Billing. The chair was purchased in 2006, but delivery was delayed due to snow storms.

Information Technology – Three items totaling \$28,773 as follows:

1. \$12,520 for VMware Licenses. This software will allow the City to "virtualize" computer servers, thereby consolidating and reducing the number of physical computer servers in our environment. This will reduce the cost of server replacements in future years, reduce cooling costs, reduce electrical consumption, and improve performance. The software was ordered in 2006, but not delivered until 2007.



2. \$13,453 for Poweredge 2950 Servers for VM Ware (2 units). These two servers were ordered in 2006, but not delivered until 2007.

3. \$2,800 for a color printer that was ordered in 2006, but not delivered until 2007.

Public Works & Utilities – Seven items totaling \$316,503 as follows:

1. \$11,000 for the delivery of Moffat Water from Denver Water that was requested early in December 2006 to fulfill the remainder of what Westminster was scheduled to take for the year. Denver was unable to deliver this scheduled water because of maintenance issues that arose in the South Boulder Diversion Canal. Westminster is still required to take or pay half of the contract amount before June 30, 2007. This money is being requested for carryover to pay for the water not delivered in 2006 but that Westminster is still required to take contractually in 2007.

2. \$76,800 for a tanker trailer that was ordered in 2006 that replaced a 1979 tanker trailer (unit 9229). Delivery of the tanker trailer was delayed due to inclement weather between Kansas and Colorado at the end of 2006.

3. \$26,376 for outfitting a utility van that was purchased in 2006. The \$26,376 is the difference between the \$100,000 budgeted for the unit and the \$73,624 spent in 2006. Due to issues with the van's body work, the chassis was not delivered until late December. Some equipment could not be ordered until the chassis was on hand and could be measured to make sure the equipment fit. The funds being carried over will be used to complete the purchase and installation of the power equipment and make the unit usable. If approved, the vehicle will be outfitted with compressed air, electric power and hydraulic power equipment.

4. \$9,667 for Westminster's portion of a 2006 contract with Western Environmental Service Inc. for their work on the Big Dry Creek Wastewater Treatment Facility's NPDES permit renewal. The data for this permit renewal was collected in 2006. However, the work will not be completed until 2007.

5. \$2,440 for a contract with Colorado State University for a water quality study. CSU will issue the final report on this study in 2007 and will request payment on the rest of the contract at that time. Carryover funds are requested to make this final contract payment. This contract with CSU spans from June 2006 to June 2007.

6. \$1,692 for the remodeling of cubicles in City Hall to accommodate the new engineer in the Capital Projects and Budget Management Division that was authorized in the 2007 budget. Staff was expecting this cubicle remodel to be completed by the end of 2006. However, the installation of the cubicles was delayed until the middle of January 2007.

7. \$188,528 for Street Cut Impact Fees. During the course of each year, the Utilities Division conducts water and sewer line replacement, rehabilitation, and repair. To complete these projects, pavement is sometimes cut into to access the water or sewer infrastructure. The Street Cut Impact Fee is assessed on a quarterly basis based on the impact of projects and transferred from the Utilities Division in the Utility Fund to the Street Division in the General Fund. This provides funding for Street Operations to repair impacted roadways following work on water and sewer lines. In 2006, these Street Cut Impact Fees were not transferred in the third and fourth quarters of the year. The Street Division absorbed the additional costs of repairing streets following utilities projects in 2006. If approved, the requested carryover would be transferred to the General Fund for street rehabilitation and repair for 2007. The requested carryover represents the total amount of Street Cut Impact Fees that should have been paid for work completed in the third and fourth quarters of 2006. Staff has implemented new mechanisms to track Street Cut Impact Fee payments to ensure proper oversight and prompt payment of these fees each quarter.

**OPEN SPACE FUND:**

Central Charges – 2 items totaling \$1,092,269 for the following:

1. \$747,422 for the purchase of open space land and construction of open space facilities. The majority of this amount reflects the open space funds that were unspent in 2006 on land purchases that will be available to purchase as open space in 2007. An additional \$344,847 from cash-in-lieu funds (noted below) in the General Capital Improvement Fund will be added for the purchase and construction of open space facilities.
2. \$344,847 transfer payment to the Open Space Fund from the Parks General Capital Improvement Fund. These are funds collected from developers as cash-in-lieu for open space or park land acquisition. These funds were collected in 2006 and are recommended to be deposited into the open space land acquisition account for the purchase of future open space parcels in the Open Space Fund.

**STORMWATER FUND:**

1. One item totaling \$5,000 for the household hazardous waste pick-up program. Funds for this program were reduced by \$5,000 in 2006 to help reduce expenditures and balance the general fund budget. Staff requests that this program be funded in 2007 at its Approved 2006 level and the \$5,000 be restored.

**WORKERS COMPENSATION FUND:**

The appropriations for the Workers Compensation Fund do not change with the proposed carryover appropriation, but two proposed expenditure items totaling \$5,579 are shown below for informational purposes:

1. \$579 for a file cabinet that was ordered in 2006, but not received until 2007 due to winter storms.
2. \$5,000 for temporary staff to scan legal documents into the laserfiche system, including claims information in the Risk Management Office. Funds were budgeted for this purpose in 2006, but not fully expended due to other pressing issues. These funds will allow Staff to continue the exceptionally large amount of scanning that needs to take place in the Risk Management Office.

**PROPOSED APPROPRIATION OF NEW OPERATING ITEMS**

Staff recommends utilizing some of the General, General Capital Improvement, and Utility Funds' carryover moneys available to help address new spending needs. The items listed below are intended to be proactive measures to help minimize the impact on future budgets for needed items.

**GENERAL FUND:**

City Manager's Office – One item totaling \$50,000 for a complete redesign and overhaul of City's Web site. This project is per recommendation of the City's 2006 communications plan.

Central Charges – Six items totaling \$1,127,491 as follows:

1. \$100,000 for General Leave Buyback. This program allows employees to receive payment for unused general leave up to 24 hours at a 75% rate. This program was an annual budgeted item eliminated in 2002 due to the City's tight financial status. This program helps reduce the City's unfunded liability of general leave at today's dollars instead of an increasing pay rate as time continues. These dollars represent savings in the Central Charges 2006 operating budget. An additional \$60,000 is requested in the Utility Fund for this program (total = \$160,000).
2. \$807,462 to cover Thornton Payment for COP in North Huron Urban Renewal Area. Per the IGA for North Huron, Thornton is obligated to pay us no more for their annual COP contribution than they receive from the revenue sharing IGA. 2006 revenues were collected but not paid to Thornton until 2007. Those revenues total \$268,671. Now that more retail activity is underway, Thornton will receive more revenue and pay their full contribution to the COPs. Ultimately, Thornton will have to repay their entire obligation for the COPs and Westminster will be made whole.

3. \$150,000 for miscellaneous studies and projects unanticipated in 2007 (budget was reduced to \$55K in 2007). These funds represent savings in Central Charges 2006 operating budget and are proposed to offset additional costs associated with special projects, economic development, redevelopment, and special studies that might arise per City Council and staff requests.
4. \$10,000 for audio-visual replacements for the Council Board Room. These funds would replace existing equipment in the Council board room while also providing some enhancements to allow for better presentations. Much of the current equipment is in need of replacement. This request would fund a replacement projector, new speakers and related amplification equipment, and a new projection screen.
5. \$10,000 for two-year membership to the Rocky Mountain Regional Rail Authority (RMRA). On March 26, 2007, City Council unanimously voted to have the City of Westminster join the Rocky Mountain Rail Authority. RMRA is working on a proposal to designate the Rocky Mountain Corridor as the eleventh High Speed Rail Corridor in the country. These funds will give the City representation on the RMRA Board of Directors and provide resources for a feasibility study that will explore issues such as the capacity of existing tracks, the cost to relocate freight trains from those existing tracks, the cost to improve tracks to allow passenger train speeds of up to 110 miles per hour, potential ridership and operating costs.
6. \$50,029 toward annual lease payment for the City's Energy Performance Contract with Siemens. In 2005, the City entered into performance contract with the Siemens Company to replace heating, ventilation, and cooling (HVAC) equipment, light bulbs, and other assets at City facilities with more energy efficient equipment. If approved, the requested amount will reduce the annual lease payment for the equipment. This carryover must be appropriated to this lease payment, as the carryover itself was generated from interest earnings.

General Services – Five items totaling \$39,804 as follows:

1. \$4,200 for Federal Lobbying Trips for Deputy City Manager. The Deputy City Manager has assumed the responsibility of directing the City's federal and state legislative program from the Assistant City Manager. The Deputy City Manager participated in two lobbying efforts in Washington D.C. One lobbying trip was with the US 36 Coalition and the other was associated with the annual National League of Cities conference. This requested amount reflects the total costs of both of the lobbying efforts.
2. \$7,700 for replacement jury chairs (18), new chairs in main area of Municipal Court (5), and replacement filing cabinets (3) in the Probation Office. Sufficient carryover funds were available in Municipal Court accounts to cover the purchases of these items.
3. \$6,000 for computer training classes for Staff. Computer training classes remain a popular training option for Staff, and sufficient carryover funds were available at the end of 2006 in training accounts to cover this request.
4. \$7,250 for Oracle Database Service Contract (HR contribution). Human Resources and Accounting propose to split this cost (total = \$14,500). This is not an extra cost for the service contract, but rather a shift in the timing of the contract payment. Oracle recently contracted with a reseller to handle the renewals of existing contracts for service, and the reseller shifted the annual contract. This would require the City to pay a portion of the contract that would have been covered by funds budgeted for 2008. This request will cover that difference.

5. \$14,654 for temporary staffing in City Clerk's Office. Due to staff illness and absence, temporary staff is assisting with the operations of the City Clerk's Office. It is estimated that 985 hours of temporary staffing will be necessary in 2007, at a rate of \$14.88 per hour.

Finance – One item totaling \$7,250 for Oracle Database Service Contract (Finance contribution). Human Resources and Accounting propose to split this cost (total = \$14,500). This is not an extra cost for the service contract, but rather a shift in the timing of the contract payment. Oracle recently contracted with a reseller to handle the renewals of existing contracts for service, and the reseller shifted the annual contract. This would require the City to pay a portion of the contract that would have been covered by funds budgeted for 2008. This request will cover that difference.

Police – One item totaling \$9,500 for Jefferson County Custody Report. In 2006, the department contracted with Intergraph to write an electronic Custody report that would automatically generate from the department's report management system (I/Leads). The project was completed in 2006. As soon as the department started utilizing the new custody report, the Jefferson County Jail raised concerns and requested a custody report to fit their needs, even though the custody report had been approved by the Jefferson County Jail when the Westminster Police Department met with them on two prior occasions. The police department contacted Intergraph for a Statement of Work to ascertain the cost of modifying our current custody to conform to Jefferson County's requirements. Between the meetings with Jefferson County and discussions with Intergraph, the year ended before the project could be finalized. Intergraph will be able to modify our existing software and write code to make this work at about half of the cost of the original custody report software.

Community Development – One item totaling \$9,500 for the replacement of the department's copy machine. Staff started planning for the replacement of the existing shared copy machine located in Community Development in 2006, with the expectation of not moving forward with the replacement until at least 2007. Through careful budgeting, substantial funds were left over from 2006, and with the growing history of repairs and increased maintenance costs on the existing machine, the timing is appropriate to replace the machine. The total cost of replacement via a purchase (not a lease) is just under \$18,000. If this request is approved, the department will absorb the balance of this purchase from their 2007 budget.

Public Works and Utilities – Three items totaling \$229,974 as follows:

1. \$200,000 to cover snow removal costs associated with major winter storm events in 2007. Following the initial blizzard of last winter and subsequent snow storms, the department faced much higher costs than anticipated for contractual services to assist with snow removal and materials. To date, the budget for snow removal materials has been completely expended, and the Street Division has already spent more than was budgeted in 2007 for contractual services for snow removal. Staff recommends addressing this shortfall through carryover versus contingency.

2. \$22,474 that was reimbursed by Arvada for resurfacing done by Westminster in the summer of 2006. Arvada did not pay the reimbursement until November 2006, thus not allowing for any street work to be done prior to the end of the year. These funds would be used to accomplish additional street resurfacing in 2007.

3. \$7,500 for relocation and other associated hiring costs for new Public Works and Utilities Director. This is the General Fund portion of this request. The total request is for \$20,000 (\$7,500 for General Fund and \$12,500 for Utility Fund).

UTILITY FUND:

Central Charges – One item totaling \$60,000 for General Leave Buyback. Staff is recommending that a total of \$160,000 from carryover (\$100,000 from General Fund and \$60,000 from Utility

Fund) be allocated to this program to reduce the City's liability of general leave at today's dollars instead of an increasing pay rate as time continues. This amount is attributable to the Utility Fund.

Public Works & Utilities – three items totaling \$68,500 for the following:

1. \$6,000 for contract costs for landscape maintenance for Jim Baker Reservoir. The contractor (Arrowhead Landscape Services) retained for 2006-2007 landscape maintenance services for Jim Baker Reservoir has backed out of the contract due to non-compliance with the new immigration regulations. Westminster has been able to locate a replacement contractor to finish out this contract for 2007, but at an additional cost of \$6,000 above the original contract amount. Carryover funds are requested to cover the increased cost of this two-year contract.

2. \$50,000 for Platte River Recovery Implementation Program. This program was agreed upon by the States of Wyoming, Colorado, and Nebraska, along with the U.S. Department of the Interior, to improve and maintain habitat for endangered species in the central and lower Platte River in Nebraska. This program was implemented on January 1, and this amount will fund the City's participation in the program to cover depletion associated with the Wattenberg Gravel Lake Project. This participation will also provide Endangered Species Act compliance for future City actions that City might take that requires federal permitting and may impact the South Platte River. City Council approved participating in this program on May 14<sup>th</sup>.

3. \$12,500 for relocation and other associated hiring costs for new Public Works and Utilities Director. This is the Utility Fund portion of this request. The total request is for \$20,000 (\$7,500 for General Fund and \$12,500 for Utility Fund).

#### UTILITY RESERVE FUND – WATER AND WASTEWATER

Staff proposes appropriating \$12,439,065 to the Rate Stabilization Reserve and the Capital Project Reserve. Per Council's adopted Utility Reserve Fund policy, Staff proposes that an additional \$3,746,016 remain in the Operating Reserve Account.

1. Operating Reserve Account - This is essentially a minimum unrestricted fund balance needed to accommodate the short-term cycles of revenues and expenses. Operating Reserves provide a "cushion" that can be used to cover cash balance fluctuations. Per the reserve fund policy, the required balance for operating reserve account for the Water fund is 45 days of operating expenses; the required balance for the Wastewater Fund is 30 days of operating expenses. This amounts to \$2,969,092 for the Water Fund and \$776,924 for the Wastewater Fund. Seeing these amounts represent a fund balance, actual appropriation of carryover into this account is not necessary.

2. Rate Stabilization Reserve – The Rate Stabilization Reserve was established and funded to meet a specific risk such as revenue loss related to a certain level of demand curtailment. The reserve is designed to minimize or mitigate rate impacts. Impacts to the rate stabilization reserves are determined by the annual performance of rates versus the budgeted rate revenue. The target level for this reserve is set at 25% of budgeted revenues for the Water Fund and 5% of budgeted revenues for the Wastewater Fund. The Rate Stabilization Reserve has an upper limit of 140% of the target and a lower limit of 80% of the target. Staff recommends appropriating \$3,129,472 in carryover for the Rate Stabilization Reserve for the Water Fund; staff recommends appropriating \$277,094 to the Wastewater Fund. This level of reserve in the Water Fund will exceed the 140% upper limit for the moment, but staff expects this figure to be reduced, as actual water revenues in 2007 have been below budgeted figures due to the wet spring.

3. Capital Project Reserve – This reserve is to establish a Capital Improvement Program capable of sustaining long-term utility capital requirements. The City established a capital reserve to

accumulate funds in excess of near-term needs. This policy is intended to foster timely system reinvestment, while providing resources for periodic increases in outlays without undue rate burden. Staff recommends appropriating \$6,942,265 in carryover to the Capital Project Reserve in the Water Fund. Staff recommends appropriating \$2,090,234 to the Capital Project Reserve in the Wastewater Fund.

#### PROPERTY/LIABILITY FUND

The appropriations for the Property/Liability Fund do not change with the proposed carryover appropriation, but the one expenditure below totaling \$400,000 is shown for informational purposes.

1. \$400,000 to cover premium increase in 2007 and improve fund reserve level. Due to rising costs, including policy premiums, an additional \$85,000 is needed to cover annual operating expenditures for 2007. Due to several significant claims in 2006, the current estimated year-end fund balance is \$1.4 million. This is a relatively low reserve and the remainder of the funds will improve the reserve level to a healthy amount. If approved, \$200,000 of this request will be appropriated from Public Safety Sales and Use Tax carryover and the remaining \$200,000 will come from General Fund Carryover.

#### GOLF COURSE FUND

One item totaling \$700,000 for the Golf Course Fund. These moneys are one of the steps that Staff is proposing to help offset the \$1,255,465.09 interfund loan covering negative cash that the golf course fund had on 12/31/06 per the recently completed financial audit. Staff shares the auditor's concerns with this interfund loan negative cash balance and is proposing these funds to help pay off 56% of this debt. Staff proposes that General Fund carryover dollars be transferred into the Golf Course Fund for this purpose.

#### GENERAL CAPITAL OUTLAY REPLACEMENT FUND (GCORF) - PUBLIC SAFETY TAX

Staff proposes transferring \$689,724 in public safety sales and use tax carryover from 2006 into the General Capital Outlay Replacement Fund (GCORF) for public safety tax. This Fund is utilized to purchase replacement vehicles and replacement computers. These funds will help address future replacement vehicle and computer needs related to public safety.

#### PROPOSED APPROPRIATION FOR EXISTING OR NEW CAPITAL PROJECTS

Staff has completed a review of potential capital improvement projects for the balance of carryover funds. Staff is recommending that the following new or existing capital projects be appropriated as Capital Improvement Program (CIP) projects. Higher than anticipated revenues and better than anticipated expenditure savings in the General and General Capital Improvement Funds are proposed to be utilized for these projects.

#### GENERAL CAPITAL IMPROVEMENT FUND:

A total of \$10,974,093 for capital projects is proposed to be appropriated into the General Capital Improvement Fund (GCIF) as follows:

1. \$3,000,000 for Westminster Mall Redevelopment. Staff is in discussions with several parties regarding options for redeveloping and reinvigorating the Westminster Mall. At City Council's recent Strategic Planning retreat, Council identified the Westminster Mall Strategy as the top policy action for 2007 under the "Vibrant Neighborhoods and Commercial Areas" Strategic Plan goal. If approved, these funds would be available for redevelopment costs that will arise, including planning and design efforts.

2. \$2,424,688 for 144<sup>th</sup> Avenue widening between Huron and Zuni Streets. Included in the total amount of this request is \$489,008 in Adams County attributable share dollars, which must go to an Adams County road project in the City. With the increasing development in Westminster and Broomfield, it is anticipated that a significant increase in traffic will occur along 144th Avenue between Huron Street and

the western City limits at Zuni Street. The existing two-lane road should be widened to arterial street standards within the next few years. The City has already budgeted \$150,000 for a conceptual design effort that is underway to identify a general alignment, basic right-of-way needs and a preliminary cost estimate for the future construction.

3. \$25,283 for the 144<sup>th</sup> Avenue Interchange Project. This requested carryover represents Certificate of Participation (COP) interest earnings and must be appropriated to the 144<sup>th</sup> Avenue Interchange Project.

4. \$500,000 for South Westminster Revitalization Project. These funds will assist with the redevelopment projects to improve this area of the City. The project currently has \$500,000 budgeted in the Approved 2007 Budget.

5. \$2,536,000 for the renovation and expansion of the Municipal Service Center (MSC). Council approved the revised scope of work for this project earlier in the year. This is the General Fund's contribution for this project. To gain proportionate equity between the Utility and General Funds for historical funding of the MSC, Council approved a funding breakdown where Utilities will contribute \$8,668,000 and the General Fund will contribute \$2,536,000 of the proposed \$11,204,000 renovation costs. In funding the renovation project in this manner, Utilities will effectively have purchased fair-share equity in the facilities. This equity includes the general fund payment for the original construction of the center and ongoing maintenance. The project will include site work, building renovation and construction, drainage control, material testing, office furnishings, and design work.

6. \$400,000 for the Street Rehabilitation Program. With the cost of asphalt materials continuing to escalate with gas prices and the impact from this past winter's snow storms, these funds will help address scheduled improvements to arterial streets. This project had \$500,000 appropriated with the Approved 2007 Budget. These funds will help improve driving conditions on arterials while extending the life of the pavement.

7. \$300,000 for facility major maintenance. These funds are for the maintenance and repair of City facilities that are larger in scope than projects included within the operating budget. The 2007 Adopted Budget included \$400,000 for this work but several unanticipated major repairs have utilized a significant amount of these funds. This includes \$75,000 for mechanical system improvements at the Fleet Maintenance Facility, \$71,400 for a membrane change for the roof at the Fleet Maintenance Facility, and \$53,400 to pay Siemens Technology, Inc. for the lighting retrofit/upgrades at City Park Recreation Center. In 2006, this money was placed in an operational account in the Department of Parks Recreation and Libraries and the project was completed, but the company was not paid. If funds are not carried over into 2007, the money will be taken out of the Major Maintenance Capital Improvement Project resulting in an impact to the schedule of projects identified for 2007. These additional dollars will assist Staff in meeting one of Council's objectives from the strategic plan – maintaining existing City facilities.

8. \$425,000 for tenant finish costs for the old police facility. Recently, the City entered into an agreement with the Department of Parole for the State of Colorado. The department will lease the old police facility, but the City must complete renovation work to both floors of the facility to prepare the building for occupancy. Council previously authorized funds for tenant finish; however, these additional funds are necessary based on the bids received for making the necessary improvements to the building. These renovation costs will be reimbursed to the City from payments during the first five years of the lease.

9. \$150,000 to Recreation Facilities Capital Improvement Project Account for tenant-finish improvements for the former Colorado Rapids Training Facility at City Park. Funds are necessary to make tenant finish improvements to the building in order to lease building to a new tenant. Staff is in the process of exploring options for the facility while also identifying potential tenants who might have an interest in the space.

10. \$35,000 to the Parks Capital Improvement Project Account for the replacement of the irrigation pump at City Hall. This pump was purchased in 1987 and has been rebuilt several times, but it cannot be rebuilt any longer. This is a pressing need that was not budgeted for in 2007.

11. \$24,170 to the Golf Course Improvements Project Account. Of this total amount, \$16,400 is proposed for emergency repairs that were recently completed to the Heritage Golf Course irrigation pump station and the associated computerized communication box. This was not anticipated or budgeted for in 2007. The remaining \$7,770 is for emergency repairs to the Legacy Ridge Golf Course grease trap system. This unanticipated project included replacement of the underground pipe, attic pipe, and adjacent concrete slab.

12. \$1,153,952 transfer to Parks CIP Reserve Account. Staff proposes to place these funds in reserve to be allocated at a later date. This represents the total carryover from the 2006 parks capital improvements; less the \$209,170 proposed for capital projects and the \$344,847 in cash in lieu monies proposed to be transferred to the Open Space fund for land acquisitions. This figure also includes \$363,198 in carryover from the Conservation Trust Fund.

**UTILITY FUND:**

Two items totaling \$375,000 for the following:

1. \$100,000 for the Rocky Flats Wildlife Refuge Project. \$100,000 was received from Kaiser Hill in 2006 as payment to the City for Rocky Flats Closure. These funds will be utilized for water quality monitoring purposes within and around Rocky Flats Wildlife Refuge.

2. \$275,000 to the Water Fund Contingency Capital Improvement Project Account. This project account is for contingency needs of other water-related capital improvement projects. This account was recently utilized for contingency dollars for other projects, and the balance in this account is \$225,000. The City has established a policy to fund this contingency account to retain a balance of \$500,000. This request would put the account back at the \$500,000 level.

**STORM DRAINAGE FUND:**

Three items totaling \$438,140 including:

1. \$300,000 for Quail Creek Drainage Project. The project will rehabilitate the existing Quail Creek channel upstream of Huron Street to improve flow. The low slope of the existing channel has caused standing water problems. 134<sup>th</sup> Avenue will be narrowed to allow for channel improvements, and changes will be made to landscaping. Pedestrian amenities will also be enhanced. The current estimate for the project is \$2.1 million. The City has budgeted \$450,000 in CIP funds to date. Other funds include \$550,000 from the Urban Drainage and Flood Control District and \$200,000 from cash in lieu funds from a commercial developer. Staff proposes to address the remaining balance through the utilization of \$600,000 in unused funds from the Shaw Boulevard/Circle Drive Drainage Project. This request would fund the remaining amount needed for the Quail Creek project.

2. \$100,000 for Cozy Corner Tributary No. 5 Channel Improvements (Sheridan Boulevard to Big Dry Creek along the 116th Avenue alignment). This project includes the construction of the Cozy Corner Tributary No. 5 Channel on the north side of the 116th Avenue alignment between Sheridan Boulevard and Big Dry Creek. Council approved an IGA with the Urban Drainage and Flood Control District (UDFCD) which defines an equal cost sharing for the project. Both entities have budgeted \$500,000 each for the project so far. Recently, Staff was notified that this project will need to proceed through the individual permit process with the Army Corps of Engineers. This permit process was unanticipated and will require additional activities related to wetland mitigation. Staff estimates that an additional \$150,000 in funding will be necessary due to the permit process. UDFCD has committed \$50,000 towards this extra cost, and Staff recommends that the City contribute the remaining \$100,000 through carryover funds.

3. \$38,140 for the Stormwater Utility Miscellaneous Capital Improvement Project Account. Staff utilizes this account to fund unanticipated studies and stormwater construction costs.



REVENUE/EXPENDITURE DETAIL BY FUND

These appropriations will amend the General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	1000.40020.0000	\$0	\$8,278,290	8,278,290
TRF Water	1000.45000.0200	1,593,097	188,528	1,781,625
TRF Sales&Use Tax	1000.45000.0530	55,760,254	200,000	55,960,254
Reimburse – Thornton	1000.43080.0850	1,076,133	(807,462)	268,671
Total Change to Revenues			<u>\$7,859,356</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contract Services PIO	1005050.67800.0387	\$54,189	\$50,000	104,189
General Leave Buy-Back	10010900.62400.0000	0	100,000	100,000
Professional Services	10010900.65100.0000	67,500	150,000	217,500
City Memberships	10010900.67500.0000	137,505	10,000	147,505
Other Equipment	10010900.76000.0000	0	10,000	10,000
Prof Services – Legal Council	10010900.65100.0258	15,000	20,000	35,000
Contract Services	10030050.67800.0000	34,483	37,500	71,983
Office Equipment	10030360.75200.0000	1,915	872	2,787
Contract Services	10030340.67800.0000	41,600	40,000	81,600
Contract Services	10015050.67800.0000	2,520	7,250	9,770
Office Equipment	10012050.75200.0000	0	2,500	2,500
Career Development	10012050.61800.0000	6,620	4,200	10,820
Maint/Rep Equipment	10012130.66100.0000	33,802	4,200	38,002
Office Equipment Probation	10012130.75200.0130	0	2,700	2,700
Office Equipment	10012130.75200.0000	4,198	5,000	9,198

Prof Services – Training	10012060.65100.0612	71,700	6,000	77,700
Maint/Rep Equipment	10012060.66100.0000	48,904	7,250	56,154
Salaries Temp	10012070.60600.0000	2,500	14,654	17,154
Maint/Rep Equip – Tech Services	10020300.66100.0343	172,271	35,700	207,971
Career Development	10025260.61800.0000	40,542	9,539	50,081
Contract Services	10025260.67800.0000	8,610	2,381	10,991
Special Promo Youth Scholarship	10050760.67600.0528	0	8,116	8,116
Maint/Rep – Street Rehabilitation	10035450.66200.0232	2,806,442	218,502	3,024,944
Contract Services	10035450.67800.0000	242,900	200,000	442,900
Employee Recruitment	10012060.61600.0000	15,800	7,500	23,300
Lease Payment – Energy Audit	10010900.67700.0925	254,400	50,029	304,429
Transfers Water	10010900.79800.0200	0	100,000	100,000
Transfers Heritage	10010900.79800.0230	0	700,000	700,000
Transfers Prop/Liab Self Insurance Fund	10010900.79800.0460	695,840	400,000	1,095,840
Transfers GCIF	10010900.79800.0750	119,000	5,655,463	5,774,463
Total Change to Expenses			<u>\$7,859,356</u>	

These appropriations will amend the Utility Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2000.40020.0000	\$0	\$10,704,473	10,704,473
TRF General	2000.45000.0100	0	100,000	100,000
Carryover	2100.40020.0000	0	<u>2,483,795</u>	2,483,795
Total Change to Revenues			<u>13,288,268</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
General Leave Buy-Back	20010900.62400.0000	\$0	\$30,000	\$30,000
Supplies	20015240.70200.0000	19,550	427	19,977

Computer Soft/Hard	20060230.75400.0000	149,800	28,773	178,573
Lease Payment to Others	20035480.67700.0000	404,863	11,000	415,863
Vehicles	20035470.75600.0000	0	26,376	26,376
Professional Services	20035480.65100.0000	206,534	2,440	208,974
Contract Services	20035430.67800.0000	1,692	1,692	3,384
Maint/Repair Infrastructure	20035480.66200.0000	158,453	6,000	164,453
Prof Services Water Quality	20065480.65100.0943	126,000	50,000	176,000
Employee Recruit	20035050.61600.0000	0	12,500	12,500
Rocky Flat Wildlife Refuge	80720035790.80400.8888	0	100,000	100,000
Water Project Contingency	80120035181.80400.8888	224,258	275,000	499,258
Transfers General	20010900.79800.0100	1,593,097	188,528	1,781,625
Transfers Utility Reserve	20010900.79800.0205	0	10,071,737	10,071,737
General Leave Buy-Back	21010900.62400.0000	0	30,000	30,000
Vehicles Biosolids	21035490.75600.0401	260,000	76,800	336,800
Contract Services	21035490.67800.0000	96,268	9,667	105,935
Transfers Utility Reserve	21010900.79800.0205	0	<u>2,367,328</u>	2,367,328
Total Change to Expenses			<u>\$13,288,268</u>	

These appropriations will amend the Storm Drainage Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2500.40020.0000	0	<u>443,140</u>	443,140
Total Change to Revenues			<u>\$443,140</u>	

Description	Account Number	Current Budget	Amendment	Revised Budget
Profess Services – Enviro Services	25012050.65100.0552	\$100,000	\$5,000	\$105,000
Misc. Storm drainage Improv.	80125030082.80400.8888	300	38,140	38,440
Quail Creek Drainage Improv.	80425030613.80400.8888	400,000	300,000	700,000
Cozy Corner Tributary No5	80625030735.80400.8888	150,000	<u>100,000</u>	250,000
Total Change to Expenses			<u>\$443,140</u>	

These appropriations will amend the Fleet Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	3000.40020.0000	\$0	<u>\$284,321</u>	\$284,321
Total Change to Revenues			<u>\$284,321</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers GCIF	30010900.79800.0750	\$0	<u>\$284,321</u>	\$284,321
Total Change to Expenses			<u>\$284,321</u>	

These appropriations will amend the General Capital Outlay Replacement Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
TRF Sales&Use Tax	4500.45000.0530	\$0	<u>\$689,724</u>	689,724
Total Change to Revenues			<u>\$689,724</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Capital Outlay PST	80645010911.80400.8888	\$346,267	<u>\$689,724</u>	\$1,035,991
Total Change to Expenses			<u>\$689,724</u>	

These appropriations will amend the Sales & Use Tax Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	5300.40020.0000	\$0	\$851,976	\$851,976
Carryover PST	5300.40020.0911	0	<u>889,724</u>	889,724
Total Change to Revenues			<u>\$1,741,700</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers General	53010900.79800.0100	\$55,760,254	\$200,000	\$55,960,254
Transfers GCORF	53010900.79800.0450	0	689,724	689,724
Transfers GCIF	53010900.79800.0750	500,000	<u>851,976</u>	1,410,252
Total Change to Expenses			<u>\$1,741,700</u>	

These appropriations will amend the Parks Open Space Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	5400.40020.0000	\$0	\$747,422	\$747,422
TRF GCIF	5400.45000.0750	0	<u>344,847</u>	344,847
Total Change to Revenues			<u>\$1,092,269</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchases	54010900.76600.0000	\$458,917	<u>\$1,092,269</u>	\$1,551,186
Total Change to Expenses			<u>\$1,092,269</u>	

These appropriations will amend the Conservation Trust Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	5500.40020.0000	\$0	<u>\$363,198</u>	\$363,198
Total Change to Revenues			<u>\$363,198</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers GCIF	55010900.79800.0000	\$625,000	<u>\$363,198</u>	\$988,198
Total Change to Expenses			<u>\$363,198</u>	

These appropriations will amend the General Capital Improvement Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	7500.40020.0000	\$0	\$2,819,211	2,819,211
TRF General	7500.45000.0100	0	5,655,463	5,655,463
TRF Fleet	7500.45000.0300	0	284,321	284,321
TRF Sales&Use Tax	7500.45000.0530	500,000	851,976	1,351,976
Carryover	7501.40020.0000	0	1,344,771	1,344,771
TRF Conservation Trust	7501.45000.0550	625,000	<u>363,198</u>	988,198
Total Change to Revenues			<u>\$11,318,940</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Westminster Retail Initiative	80275030527.80400.8888	\$0	\$3,000,000	\$3,000,000
144 <sup>th</sup> Avenue Zuni-Huron	80675030039.80400.8888	0	2,424,688	2,424,688
COP 144 <sup>th</sup> Interchange CIP	80575030733.80400.8888	1,918,150	25,283	1,943,433
South Westminster Revitalization	80175030024.80400.8888	819,568	500,000	1,319,568
Municipal Service Center Renovation	80120035105.80400.8888	4,696,044	2,536,000	7,232,044
Arterial Roadway Improvements	80475035602.80400.8888	506,099	400,000	906,099
BO&M Major Maintenance	80375012312.80400.8888	0	300,000	300,000
88 <sup>th</sup> /Sheridan PD Building Renovation	80675012033.80400.8888	590,000	425,000	1,015,000
Parks Major Maint/Repair	80175050123.80400.8888	0	35,000	35,000
Golf Course Improvements	80675050045.80400.8888	20,000	24,170	44,170

Recreation Center Improvements	80175050027.80400.8888	346,919	150,000	496,919
Capital Projects Reserve	80175050186.80400.8888	938,945	1,153,952	2,092,897
Transfers Open Space	750110900.79800.0540	\$0	<u>344,847</u>	344,847
Total Change to Expenses			<u>\$11,318,940</u>	

The appropriations for the Property/Liability Self Insurance Fund do not change with the appropriation, however, the revenue and expense accounts changed are show below for informational purposes:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
TRF General	4600.45000.0100	\$0	<u>\$400,000</u>	400,000
Total Change to Revenues			<u>\$400,000</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Self Insurance Claims Payable	46010900.68200.0000	\$555,414	<u>\$400,000</u>	\$955,414
Total Change to Expenses			<u>\$400,000</u>	

The appropriations for the Workers Compensation Self Insurance Fund do not change with the appropriation, however, the revenue and expense accounts changed are show below for informational purposes:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	4800.40020.0000	\$0	<u>\$5,579</u>	\$5,579
Total Change to Revenues			<u>\$5,579</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Supplies	48010900.70200.0000	\$700	\$579	\$1,279
Salaries Temp	48010900.60600.0000	\$0	<u>5,000</u>	5,000
Total Change to Expenses			<u>\$5,579</u>	

Respectfully submitted,

J. Brent McFall  
City Manager



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **33**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL, UTILITY, STORM DRAINAGE, FLEET, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS OPEN SPACE, CONSERVATION TRUST, AND GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General, Utility, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space, Conservation Trust, and General Capital Improvement Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$37,080,916. This appropriation is due to the appropriation of 2006 carryover.

Section 2. The \$37,080,916 increase in the General, Utility, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space, Conservation Trust, and General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10E dated June 25, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$7,859,356
Utility Fund	13,288,268
Storm Drainage Fund	443,140
Fleet Fund	284,321
General Capital Outlay Replacement Fund	689,724
Sales & Use Tax Fund	1,741,700
Parks Open Space Fund	1,092,269
Conservation Trust Fund	363,198
General Capital Improvement	<u>11,318,940</u>
Total	<u>\$37,080,916</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 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED  
PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

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Mayor

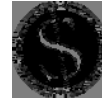
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City Clerk



**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Councillor's Bill No 34 re Westminster Sports Center Supplemental Appropriation

**Prepared By:** Peggy Boccard, Recreation Services Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 34 authorizing a supplemental appropriation in the amount of \$55,000 to fund the 2007 operating expenses for the Westminster Sports Center.

**Summary Statement**

- The expense for this appropriation will be paid for from revenues projected from programs at the Sports Center and other recreation program surplus revenues.
- The Westminster Sports Center, located at 6051 W. 95<sup>th</sup> Avenue, is a City-owned indoor soccer facility that was formerly leased and operated by a private entity, Colorado Soccer LLC.
- In February 2007, City Council gave City Staff the approval to take over the operations of the Westminster Sports Center.
- On May 21, 2007, Colorado Soccer vacated the premises and the facility was turned over to the City of Westminster.
- As the dasher boards, field turf, lights, etc., were all owned by the lessee, the facility will be closed for several months so that Staff can replace the items previously owned by Colorado Soccer. Unfortunately, all of the existing equipment and furnishings are too old, and in disrepair and can not be re-used. Therefore, a complete renovation of the facility is needed. The target date to reopen the facility is late October 2007, which will allow league play to begin in November.
- Included in this budget is a new, temporary 1.0 Recreation Aide position for 2007. This position will be brought forward to Council as a 2008 budget request. Funding for the new Recreation Aide will be covered entirely from the revenues at this center. The remainder of the salaried staffing costs will be absorbed by transferring existing program Staff to operate the facility.

**Expenditure Required:** \$ 55,000

**Source of Funds:** Recreation Programs Revenue

**Policy Issue**

Should the City use Supplemental Funds to establish the initial operating budget for the Westminster Sports Center?

**Alternatives**

1. City Council could direct Staff to find an alternative source of funding. Staff does not recommend this, however, as revenues from this facility and other recreation programs are projected to offset expenses.
2. City Council could direct Staff to wait until 2008 to reopen the facility. Staff does not recommend this action as the prime time for indoor soccer leagues begins in November and monies received for league play will allow the City to recover revenue needed to cover operating expenses.

**Background Information**

The City of Westminster acquired a 33,000-square-foot metal building from The Trend Company, a residential developer, in 1993. A needs assessment conducted at that time revealed there were 700 youth soccer players registered with the City's developmental league. City Staff outlined two scenarios for operating the Trend facility. One was full operation by City staff where programs would be developed and managed by City employees. The second alternative was to engage a private entity to operate and manage the facility for a fee.

In November of 1994, Staff recommended City Council sign a seven-year lease agreement with AMAYA Soccer and Sports Inc. requiring them to pay \$4,000 per month to the City for the purpose of operating an indoor soccer arena. The lease was renewed in 2001 with AMAYA Soccer and Sports Inc. d/b/a as Colorado Soccer at \$5,000 per month for an additional seven years, expiring in November, 2008. The City exercised its option to terminate the lease early in March of 2007 due to unsatisfactory customer feedback and lack of focus given to Westminster teams.

There are currently approximately 7,500 registered youth soccer players in the north metro area (Westminster, Broomfield, Thornton, Northglenn, and Arvada). Staff has developed a pro forma that should operate the facility at a net profit and will focus on providing Youth and Adult Sports leagues, youth sports programs, sport camps, and other activities to the local community.

**2007 PROJECTED REVENUES/EXPENSE**

\$75,700 – 2007 projected gross revenue (two months of operation).  
(Staff will use surplus from other program areas if leagues do not meet these projections.)

\$15,000 – 2007 payments received from Colorado Soccer

**\$90,700 – total projected 2007 revenue**

\$55,000- projected expenses

**\$35,700- projected net revenue**

These projects meet City Council’s Strategic Plan Goal of “Financially Sustainable City Government” by providing the City with additional revenues. Principle C in the Westminster Vision 2101 is also being met by providing a convenient choice for an active, healthy lifestyle to our community.

These appropriations will amend the General Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Activities Sports Center	1000.40950.0035	\$0	\$55,000	\$55,000
Total Change to Revenues			\$55,000	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Regular Salaries Sports Center	10050760.60200.0035	\$0	\$7,142	\$7,142
Salaries Temp Sports Center	10050760.60600.0035	0	17,808	17,808
Equipment Rental Sports Center	10050760.66000.0035	0	500	500
Maint/Rep Equip Sports Center	10050760.66100.0035	0	500	500
Bank Charges Sports Center	10050760.66800.0035	0	500	500
Telephone Sports Center	10050760.66900.0035	0	1,600	1,600
Water & Sewer Sports Center	10050760.67100.0035	0	2,400	2,400
Electricity & Gas Sports Center	10050760.67200.0035	0	12,350	12,350
Contract Services Sports Center	10050760.67800.0035	0	5,000	5,000
Recreation Supplies Sports Center	10050760.71200.0035	0	6,000	6,000
Build & Grnd Mtrls Sports Center	10050760.71800.0035	0	1,000	1,000
Merch for Resale Sports Center	10050760.73400.0035	0	200	200
Total Change to Expenses			\$55,000	

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **34**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL FUND AND  
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED  
REVENUES IN THIS FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$55,000. This appropriation is due to the City directly operating the Sports Center.

Section 2. The \$55,000 increase in the General Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item ##, dated , June 25, 2007, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$55,000</u>
Total	<u>\$55,000</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 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Councillor's Bill No. 35 re 2007 CDBG Fund Appropriation

**Prepared By:** Vicky Bunsen, Community Development Programs Coordinator

**Recommended City Council Action:**

Pass Councillor's Bill No. 35 on first reading appropriating 2007 CDBG funds in the amount of \$575,303.

**Summary Statement:**

- City Council action is requested to pass the attached Councillor's Bill on first reading appropriating the City's 2007 Community Development Block Grant (CDBG) funds in the amount of \$575,303, awarded by the U.S. Department of Housing and Urban Development (HUD).
- The 2007 CDBG allocation was designated to fund the 2007 CDBG projects, pursuant to City Council approval on November 27, 2006.
- CDBG funding has been decreasing for several years, from \$696,000 in 2003 to \$578,260 in 2006. The 2007 allocation is \$2,957 less than the 2006 amount.

**Expenditure Required:** \$575,303

**Source of Funds:** 2007 Community Development Block Grant Funds

**Policy Issues**

Should the 2007 CDBG funds in the amount of \$575,303 be appropriated to the 2007 CDBG projects as previously approved by City Council on November 27, 2006?

**Alternative**

Decline the Community Development Block Grant funding from the U.S. Department of Housing and Urban Development. This is not recommended due to the important projects funded with CDBG funds.

**Background Information**

The 2007 CDBG budget and projects were developed from input provided by Westminster residents, City Staff, and independent human services organizations that serve City residents. Public notices and citizen comment periods were used to solicit community input on the development of the 2007 CDBG Action Plan. CDBG funds are used for community development projects and to fund human services agencies, which primarily benefit the City’s low- to moderate-income populations.

When City Council approved the 2007 projects on November 27, 2006, it was expected that the City’s grant would be reduced to \$520,424 for 2007. The award is \$575,303, which provides another \$10,976 for staff salaries and \$43,904 which has not yet been assigned by City Council to a CDBG project. In recent years, excess amounts of CDBG funding have been accumulated to continue future street improvement projects in south Westminster. It is recommended that the unassigned amount be used to complete the Lowell Boulevard improvements.

The projects approved for 2007 are as follows:

<b>Project</b>	<b>Estimate</b>	<b>Actual</b>
Program Administration (20% - Salaries)	\$104,085	\$115,060
Lowell Boulevard Enhancements	296,339	296,339
Cash Match for Semper Farmhouse Grant Application	45,000	45,000
Human Services Agencies (7 grants)	75,000	75,000
Recommended for Lowell Boulevard Enhancements		43,904
<b>TOTAL</b>	<b>\$520,424</b>	<b>\$575,303</b>

**2007 CDBG Program Administration \$115,060**

Federal regulations allow grantees to utilize up to 20% of the CDBG funding for administration and planning expenses. Program administration funds cover the salaries of the Community Development Programs Coordinator and one full-time CDBG Technician. In the past, the 20% administrative portion has been sufficient to cover salaries, as well as costs such as professional/consultant fees, meeting expenses, professional training, supplies and materials, studies, and environmental reviews. Due to the annual reductions in CDBG, the grant is no longer sufficient to cover the two staff salaries. The \$4,623 financial gap is being paid out of City General Fund revenues. No other costs of administration can be paid for with CDBG funding. HUD requires the City to provide a number of services that require a significant amount of staff time. Those duties include submission of the five-year Consolidated Plan, preparation of the annual action and performance reports, hosting citizen participation activities and community meetings, contracting with and monitoring human services subrecipients, monitoring minority business contract reports, conducting environmental reviews, compliance with the Davis-Bacon Wage Act, national objective and eligibility review, contracting and procurement regulatory procedures.



**Lowell Boulevard Streetscape Improvements**

**\$296,339**

The amount of \$296,339 is assigned to finish this long-term project from 75<sup>th</sup> to 78<sup>th</sup> Avenues, including street-lawn area improvements, landscaping, undergrounding of overhead utilities, decorative lighting, new sidewalk/bicycle trail construction, and repaving the street. There is also the amount of \$43,904 that can be assigned to assist with this project.

**Semper Farmhouse Exterior Restoration**

**\$45,000**

CDBG funds will be used for the cash match required by the State Historical Fund to obtain further grant funding to complete the exterior restoration project. A grant application is pending at the State Historical Fund.

**Human Service Advisory Board Recommendation**

**\$75,000**

The City's Human Services Board Members recommended that the following seven human services organizations be provided CDBG funds totaling \$75,000. These recommendations were previously approved by City Council during the adoption of the 2007 City budget process.

Adams 50 School District Health Centers

\$12,000

Community Health Services provides Adams County School District No. 50 with extended health care services for students and families receiving free or reduced-cost lunch.

Adams County Housing Authority

\$12,000

Adams County Housing Authority offers programs for households in Adams County that provide housing, personal development opportunities, counseling, financial assistance and educational services through networking and collaboration. The Housing Authority creates an environment conducive to growth and development in order to promote self-sufficiency.

Colorado Homeless Families

\$11,000

CHF provides transitional housing and supportive services for homeless families with children, with a goal of helping them to become self-sufficient within eighteen months to two years.

Family Tree, Inc.

\$12,000

Family Tree offers services to help people be safe, strong, and self-reliant. Services include emergency shelter and support services for victims of domestic abuse, comprehensive supportive housing assistance for homeless families and individuals, emergency shelter and outreach services for youth in crisis, and out-client services for families experiencing abuse, divorce, or separation.

The Senior Hub

\$12,000

The Senior Hub provides the Meals on Wheels program, which delivers hot or frozen meals to homebound residents who are unable to prepare nutritious meals themselves, are unable to travel independently to a senior center or restaurant to obtain a balanced meal, and are unable to afford the purchase of meals. Senior Hub also provides respite and in-home supportive services to assist those living at home alone with simple, non-medical assistance.

Clinica Campesina Family Health Services, Inc.

\$11,000

Clinica Campesina provides medical care and health-promoting services to medically underserved, low-income households on a sliding fee scale basis.

Jefferson Center for Mental Health

\$ 5,000

The Jefferson Center for Mental Health promotes mental health and provides quality mental health services to persons with emotional problems and/or serious mental illness. (City Council awarded a total of \$7,000 to the Jefferson Center for Mental Health based on the Human Service Board recommending \$2,000 will be paid for by the General Fund in 2007.)

This appropriation will amend CDBG Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Block Grant-CDBG	7600.40610.0025	\$0	<u>\$575,303</u>	\$575,303
Total Change to Revenues			<u>\$575,303</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Salaries	76030350.60200.0000	\$104,087	\$115,060	\$219,147
CDBG-07 Block Grant	80576030722.80400.8888	0	<u>460,243</u>	460,243
Total Change to Expenses			<u>\$575,303</u>	

Respectfully submitted,

J. Brent McFall,  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **35**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the CDBG Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$575,303. This appropriation is amount approved by the U.S. Department of Housing and Urban Development (HUD) for the City for 2007.

Section 2. The \$575,303 increase in the CDBG Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 F dated June 25, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

CDBG Fund	<u>\$575,303</u>
Total	<u>\$575,303</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 25<sup>th</sup> day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Councillor's Bill No. 36 re Compensation Package for Public Works and Utilities Director

**Prepared By:** Matt Lutkus, Deputy City Manager

**Recommended City Council Action**

Pass Councillor's Bill No. 36 on first reading providing an exception to Section 1-24-4 of the Westminster Municipal Code related to accrual of General Leave by City employees and amending the City's Pay Plan to provide for a City-paid deferred compensation contribution for the new Public Works and Utilities Director.

**Summary Statement**

- The City Manager recently concluded a recruitment and selection process for the vacant Public Works and Utilities Director position. The position has been filled on an interim basis by former long-term Director Ron Hellbusch since Jim Arndt resigned to accept a position in California in April.
- The City Manager has selected Michael Smith who is currently the Utilities General Manager in Fort Collins, Colorado. Mr. Smith has more than 30 years of utilities-related work in Fort Collins and Colorado Springs.
- In order to provide Mr. Smith with a compensation package that takes into account his current salary and benefits as a department head in Fort Collins, it is necessary to augment the compensation available in the City's salary and benefit package. This exception to the usual practice is justified by the fact that the City will be obtaining an experienced and very capable director to fill this very important position in the City organization.
- The attached Councillor's Bill will provide for a City contribution for deferred compensation totaling \$24,000 paid in 2007, 2008 and 2009. The employer contribution to the City's Pension Plan does not start until the 23<sup>rd</sup> month of employment thereby creating the necessity to contribute equivalent funds to a deferred compensation plan. In addition, the ordinance provides an exception to the City Code that will allow Mr. Smith to accrue General Leave at the rate of 12.58 hours per pay period versus the 8.9 hours per pay period that is normally available to new employees.

**Expenditure Required:** \$7,000 (2007)  
\$8,000 (2008)  
\$9,000 (2009)

**Source of Funds:** Utility Fund - Public Works and Utilities Administration

**Policy Issues**

Should City Council authorize an exception to the City's normal new hire compensation practices to attract a highly experienced individual for a vacant department head position in the City?

**Alternative**

Do not approve the proposed Councillor's Bill that will allow a higher compensation package for the new Public Works and Utilities Director. Staff does not recommend this alternative as it would likely prevent the City from being able to successfully recruit Mr. Smith for this position.

**Background Information**

In April 2007, the Public Works and Utilities Director position became vacant with the resignation of Jim Arndt who accepted a position in Manhattan Beach, California. Since that time, Ron Hellbusch, former long-term Public Works and Utilities Director has served as the interim Department Head.

Given the complexity of this position and the high level of activity of the Department, City Manager Brent McFall decided to focus the City's recruitment efforts on selected, experienced managers. A number of long-term professionals with experience in public works were contacted to determine their interest in the position. After a two-month process and extensive reference checks, Michael Smith from Fort Collins was brought in for a series of meetings including interviews with Public Works and Utilities department managers and City department heads. Based on these interviews and a thorough review of his credentials Mr. Smith was offered and has accepted the position.

Mr. Smith has been the Utilities General Manager, a department head level position, in Fort Collins since December 1996. He had held progressively more responsible positions with the City of Fort Collins since 1979. Prior to that time he was the Water Division Superintendent in the City of Colorado Springs. He holds a Bachelor's of Science Degree in Civil Engineering from the University of Colorado. Among other activities, Mr. Smith has been a board member of the Colorado Water Resources and Power Development Authority, the Platte River Power Authority and the Larimer/Weld Council of Governments Water Quality Planning Committee. He has also been an instructor in the Rocky Mountain Water and Waste Water Operators School.

Typically the City's pay and benefit package is sufficient to enable recruitment of experienced individuals who are advancing in their fields. However, in this particular case, the compensation that could be allowed within the parameters of the City's pay plan will not provide a sufficient incentive to motivate a long-term experienced manager to make the move to a new community when all of the personal expenses associated with such a move are considered. It is therefore being recommended that the City's compensation package be augmented to address this particular recruitment. This exception to the normal practice is well justified given the fact that the City will be obtaining an experienced and very capable director to fill the position.

The proposed ordinance will allow for payments totaling \$24,000 to be made into Mr. Smith's deferred compensation account in three calendar years. In addition, in order to recognize Mr. Smith's considerable experience in public works, the ordinance will provide for his rate of General Leave accrual to start at 12.58 hours per pay period, which is comparable to a City employee with 20 years tenure. Mr. Smith has accepted the position with a start date of July 30, 2007, contingent upon the salary and benefits offered by the City Manager including those that require City Council authorization.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **36**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE GRANTING AN EXCEPTION TO THE LEAVE ACCRUAL PROVISIONS BASED ON “CONTINUOUS MUNICIPAL SERVICE” AND PROVIDING FOR A CITY CONTRIBUTION TO THE DEFERRED COMPENSATION PLAN FOR THE PUBLIC WORKS AND UTILITIES DIRECTOR BEYOND THE RANGES IN THE CITY’S 2007, 2008 AND 2009 CITY PAY PLANS.**

WHEREAS, the City Administration has conducted selective recruitment for well qualified City Public Works and Utilities Director candidates, and

WHEREAS, the City Council has determined that it would be in the best interests of the City organization to select a candidate who has extensive experience in public works and related fields, and

WHEREAS, providing a compensation package that is beyond the current City Pay Plan and benefit rates is appropriate given the level of knowledge, experience and aptitude of the top candidate for the Public Works and Utilities Director vacancy,

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Notwithstanding any provision of the City Charter, the City Code or the City’s Personnel Policies and Rules to the contrary, the City Manager is hereby authorized to pay the Public Works and Utilities Director deferred compensation in an amount not to exceed 10.25% of the maximum salary provided to that position in the 2007, 2008 and 2009 pay plans. These payments shall continue until the Director’s 23<sup>rd</sup> month of employment when employer contributions to the City pension plan begin.

Section 2. For the purposes of determining the rate of accrual for General Leave for the Public Works and Utilities Director, the accrual rate for employees designated with “over 20 years” of continuous municipal service in Section 1-24-4 B1 of the Westminster Municipal Code shall be used when calculating his general leave accrual as well as for calculating other leave benefits identified in other sections of the Code and the City’s Personnel Rules and Policies.

Section 3. The benefits intended by this ordinance shall be terminated upon the resignation, termination, or other separation from service of the Public Works & Utilities Director, who is scheduled to commence employment with the City not later than July 30, 2007.

Section 4. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL AND PASSED ON FIRST READING ORDINANCE this 25th day of June, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2007.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney’s Office



## Agenda Item 10 H

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 25, 2007



**SUBJECT:** Resolution No. 22 re Authorization for the Metro Mayors Caucus  
2007B Single Family Mortgage Bond Program

**Prepared By:** Vicky Bunsen, Community Development Programs Coordinator

**Recommended City Council Action**

Adopt Resolution No. 22 re authorization for the Metro Mayors Caucus 2007B Single Family Mortgage Bond Program

**Summary Statement**

- The Metro Mayors Caucus has been cooperating with cities in the metro area to issue bonds for first-time home-buyer low-interest single-family housing loans.
- The program will use private activity bond (PAB) capacity that has been accumulated in recent years.
- There is no cost to the City of Westminster to support this program.
- If the City fails to participate, Westminster homebuyers would not have access to the mortgage program. The program requests a resolution in support of the bond issuance and local promotion of the mortgage program, for example, on the City website and Channel 8.
- The loans will be handled by several financial institutions selected by the program.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City Council show its support, by resolution, of the Metro Mayors Caucus 2007B Single Family Mortgage Bond Program, which does not require any financial obligation or allocation of private activity bond capacity by the city?

**Alternative**

Do not indicate support for the Metro Mayors Caucus 2007B Single Family Mortgage Bond Program. This alternative is not recommended because it would prevent Westminster homebuyers from accessing this low-interest mortgage program.

**Background Information**

The Metro Mayors Caucus is working with the City and County of Denver as issuer to issue a third series of bonds dating from August 2006 to support its first-time home-buyers single-family housing mortgage program. The previous two bond issues provided loans to Westminster homebuyers as follows:

<b>Bond Issue</b>	<b>No. of Homebuyers</b>	<b>Average Loan Amount</b>
2007A	11 (as of 6/4/07)	\$182,731
2006A	8	\$185,264

First-time homebuyers cannot have owned a residence in the past three years and maximum family income for this program is:

Families of 2 or fewer	\$71,700
Families of 3 or more	\$82,455

Upon sale of the bonds, the mortgage loan interest rate will be set for all available funds for a one-year mortgage loan origination period. These 30-year, fixed rate loans will be below market mortgage rate on the bond pricing date and provides a non-repayable 4.00% grant for down-payment and closing cost assistance. All qualifying borrowers under the program will receive this grant assistance. The maximum home purchase price will be \$365,175.

The 2006A bond issue used PAB capacity that had been assigned for this purpose in previous years. The City Council assigned the City's 2006 PAB allocation in the amount of \$4,207,080 to the Metro Mayors Caucus for this program. So far, a total of \$2,010,037 of that assignment has been used to make loans to the nine Westminster homebuyers under the 2007A bond issue. The rest of the City's 2006 allocation will continue to be used for Westminster loans if the City Council passes the attached resolution. If the allocation cannot be used for loans in Westminster, it will be used to provide loans in other parts of the metro area.

In order for City residents to continue to have access to this program, the City Council must pass the attached resolution in support of the program, which allows the Mayor to sign the attached Certificate and Delegation and Participation Agreement. The deadline for executing the documents is July 19, 2007, and the target issuance date is August 9, 2007. There is no direct cost to the City and the Metro Mayors Caucus asks only that the City share program information using existing public information resources such as the website, City Edition, Weekly Edition and cable TV channel 8.

**History of Program**

The Metro Mayors Caucus, with Denver acting as issuer, offered a Single Family Mortgage Program from 1998 to 2002. That program provided fixed-rate 30-year mortgages and down-payment assistance to income-qualified low- and moderate-income first-time homebuyers. The program was funded using tax-exempt PABs from participating communities and money obtained from the statewide balance of PABs



administered by the Department of Local Affairs. Because PABs are tax-exempt, the program was able to offer an interest rate below the market interest rate at the time of issuance/program kickoff. However, market interest rates can change rapidly and did during 2002. As a result, in 2002 the program had a hard time getting the money spent despite the grant of down-payment assistance and a decision was made to suspend the program.

In a time of rising interest rates, the ability to provide a 30-year fixed-rate mortgage with 4% down-payment assistance allows the Metro Mayors Caucus to provide homebuyers with a competitive mortgage product not readily available elsewhere. Since 2002, approximately \$20,000,000 from previous mortgage programs has been paid back through mortgage repayments and can be "recycled" into future programs. By using these recycled funds, member cities do not always have to allocate PABs to the program.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Certificate
- Resolution
- Delegation and Participation Agreement

**CERTIFICATE OF THE CITY OF WESTMINSTER, COLORADO**

Relating to:

City and County of Denver, Colorado  
(Metro Mayors Caucus)  
Single Family Home Mortgage Revenue Bonds 2007B

The undersigned Mayor and City Clerk of the City of Westminster, Colorado (the "City") hereby certify that:

1. **Resolution.** Attached hereto as Exhibit A is a true and correct copy of a Resolution of the City Council of the City (the "Council") that was adopted by the Council in accordance with applicable law on the date indicated therein (the "Resolution"). All meetings of the Council at which action relating to the Resolution was taken were properly noticed in the manner and at the times required by law, were open at all times to the general public and were attended by a quorum of the Council. The Resolution has been signed, attested, sealed and made a permanent part of the records of the Council in accordance with applicable law; is in full force and effect; and has not been amended, modified or repealed since its adoption.

2. **Delegation and Participation Agreement.** Attached hereto as Exhibit B is a true and correct copy of a Delegation and Participation Agreement, dated as of the date indicated therein (the "Delegation and Participation Agreement"), by and between the City and the City and County of Denver, Colorado (the "Issuer"). The Delegation and Participation Agreement has been duly authorized, executed and delivered by the City and, upon due authorization, execution and delivery by the Issuer, will constitute a valid and binding obligation of the parties, enforceable against the parties in accordance with its terms.

3. **Approval of Bonds and Project.** A public hearing on behalf of the Council, the City and the Issuer was held in the office of the Department of Revenue for the City and County of Denver, Colorado. At such public hearing, all interested persons were given an opportunity to express their views, both orally and in writing, on the proposed issuance of the Bonds and the location and nature of the Single Family Mortgage Loan Program. The Council and the Mayor have received a report of the hearing. The undersigned Mayor of the City, as the chief elected executive official of the City acting as such after such public hearing, hereby approves the Bonds and the Single Family Mortgage Loan Program, which approval is intended to comply with the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended.

IN WITNESS WHEREOF, we have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

By \_\_\_\_\_  
Mayor

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

**EXHIBIT A**

**RESOLUTION**

RESOLUTION NO. **22**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

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A RESOLUTION AUTHORIZING THE DELEGATION TO THE CITY AND COUNTY OF DENVER, COLORADO OF THE AUTHORITY OF THE CITY OF WESTMINSTER, COLORADO, WITH RESPECT TO THE ISSUANCE OF SINGLE FAMILY HOME MORTGAGE REVENUE BONDS (THE "BONDS") TO FINANCE RESIDENTIAL HOUSING FACILITIES FOR LOW- AND MIDDLE-INCOME PERSONS AND FAMILIES WITHIN THE CITY AND CERTAIN OTHER CITIES AND COUNTIES IN THE STATE OF COLORADO; APPROVING SUCH BONDS AND SUCH SINGLE FAMILY MORTGAGE LOAN PROGRAM; AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DELEGATION AND PARTICIPATION AGREEMENT AND OTHER DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Westminster, Colorado (the "City"), and the City and County of Denver, Colorado (the "Issuer"), are each authorized by the County and Municipality Development Revenue Bond Act, constituting article 3 of title 29, Colorado Revised Statutes, as amended (the "Act"), to finance projects as defined in the Act, including residential housing facilities for low- and middle-income persons and families; and

WHEREAS, Section 29-3-104(2) of the Act provides that a county or municipality may delegate by resolution or ordinance, as the case may be, to any other county or municipality the authority to act on its behalf in the financing of projects under the Act and that any such delegation may be general or limited in scope and time, and may be irrevocable for the term or terms of any financing agreement or bond issue, all as provided in such resolution or ordinance; and

WHEREAS, the Issuer proposes to issue single family home mortgage revenue bonds pursuant to the Act and its home rule charter (the "Bonds") to finance residential housing facilities for low- and middle-income persons and families within the City and other cities and counties in the State (the "Single Family Mortgage Loan Program"); and

WHEREAS, the City desires to delegate to the Issuer the authority of the City to finance and otherwise take action and exercise power under the Act on behalf of the City with respect to the Single Family Mortgage Loan Program within the City; and

WHEREAS, it is necessary to evidence such delegation by the execution and delivery by the City of a Delegation and Participation Agreement (the "Delegation and Participation Agreement"), by and between the City and the Issuer in substantially the form presented at this meeting;

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

**Section 1.** In order to facilitate the origination of single family mortgage loans within the boundaries of the City as part of the Single Family Mortgage Loan Program, the City hereby (a) delegates to the Issuer the authority of the City to finance and otherwise take action and exercise power under the Act on behalf of the City with respect to the Single Family Mortgage Loan Program within the City and (b) approves, authorizes and directs the Mayor of the City to sign and deliver and the City Clerk to attest and deliver, the Delegation and Participation Agreement in substantially the form presented at this meeting. A copy of the proposed Delegation and Participation Agreement is on file in the office of the City Clerk and is available for inspection by the public.

**Section 2.** The Council hereby approves the Bonds and the Single Family Mortgage Loan Program for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended.

**Section 3.** The Mayor of the City is hereby authorized and directed to execute and deliver and the City Clerk is hereby authorized and directed to attest and deliver such other agreements and certificates and to take such other actions as may be necessary or convenient to carry out and give effect to the Delegation and Participation Agreement and this Resolution, including any agreement or certificate approving the Bonds or the Single Family Mortgage Loan Program for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended.

**Section 4.** Nothing contained in this Resolution or the Delegation and Participation Agreement shall constitute a debt, indebtedness or multiple-fiscal year direct or indirect debt or other financial obligation of the City within the meaning of the Constitution or statutes of the State or the home rule charter of any political subdivision thereof, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

**Section 5.** The participation of the City in the Single Family Mortgage Loan Program is contingent upon the issuance of the Bonds for the Single Family Mortgage Loan Program. In the event the Bonds are not issued for the Single Family Mortgage Loan Program, this Resolution, the Delegation and Participation Agreement, and all duties, obligations and rights of the City under this Resolution and the Delegation and Participation Agreement shall terminate immediately.

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

**Section 7.** This Resolution shall be in full force and effect upon its passage and approval.

ADOPTED BY THE CITY COUNCIL THIS 25TH DAY OF JUNE, 2007.

---

Mayor

[SEAL]

Attest:

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City Clerk

## EXHIBIT B

### DELEGATION AND PARTICIPATION AGREEMENT

This DELEGATION AND PARTICIPATION AGREEMENT (this “Delegation and Participation Agreement”) is by and between the CITY OF WESTMINSTER, COLORADO, a municipal corporation and a political subdivision of the State of Colorado (the “City”), and the CITY AND COUNTY OF DENVER, COLORADO, a home rule city, a political subdivision and a municipal corporation of the State of Colorado (the “Issuer”).

#### R E C I T A L S:

WHEREAS, the City and the Issuer are each authorized by the County and Municipality Development Revenue Bond Act, constituting article 3 of title 29, Colorado Revised Statutes, as amended (the “Act”), to finance projects as defined in the Act, including residential housing facilities for low- and middle-income persons and families; and

WHEREAS, Section 29-3-104(2) of the Act provides that a county or municipality may delegate by resolution or ordinance, as the case may be, to any other county or municipality authority to act on its behalf in the financing of projects under the Act and that any such delegation may be general or limited in scope and time and may be irrevocable for the term or terms of any financing agreement or bond issue, all as provided in such resolution or ordinance; and

WHEREAS, the Issuer proposes to issue single family home mortgage revenue bonds pursuant to the Act and its home rule charter (the “Bonds”) to finance residential housing facilities for low- and middle-income persons and families within the City and other cities and counties in the State (the “Single Family Mortgage Loan Program”); and

WHEREAS, the City wishes to participate in the Single Family Mortgage Loan Program; and

WHEREAS, the City desires to delegate to the Issuer the authority of the City to finance and otherwise take action and exercise power under the Act on behalf of the City with respect to the Single Family Mortgage Loan Program within the City;

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, the City and the Issuer hereby agree as follows:

**Section 1.** The City hereby delegates to the Issuer the authority of the City to finance and otherwise take action and exercise power under the Act on behalf of the City with respect to the Single Family Mortgage Loan Program within the City.

**Section 2.** The Issuer hereby accepts the delegation of authority from the City pursuant to Section 1 hereof and agrees to abide by each of the terms and conditions of this Delegation and Participation Agreement in connection with the use of such delegation. The Issuer agrees to make available to the City a portion of the proceeds of the Bonds for the origination of home mortgages within the City’s boundaries.

**Section 3.** The participation of the City in the Single Family Mortgage Loan Program, and all undertakings, obligations, duties and rights of the City and the Issuer under this Delegation and Participation Agreement, are contingent upon the issuance of the Bonds for the Single Family Mortgage Loan Program.

**Section 4.** In the event that the Bonds are not issued for use in the Single Family Mortgage Loan Program, this Delegation and Participation Agreement, and all duties, obligations and rights of the Issuer

and the City hereunder, shall terminate. If the Bonds are not issued for use in the Single Family Mortgage Loan Program, the City agrees to hold the Issuer harmless for any costs or any other liabilities incurred by the City with respect to the adoption and approval of this Delegation and Participation Agreement, the Resolution of the City adopted with respect to the Single Family Mortgage Loan Program, or any other City actions related thereto.

IN WITNESS WHEREOF, the City and the Issuer have caused this Delegation and Participation Agreement to be executed to be effective as of June 25, 2007.

[SEAL]

CITY OF WESTMINSTER, COLORADO

By \_\_\_\_\_  
Mayor

Attest:

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

[SEAL]

CITY AND COUNTY OF DENVER,  
COLORADO, as Issuer

By \_\_\_\_\_  
Mayor

Attest:

By \_\_\_\_\_  
Clerk and Recorder

Approved as to form:

By \_\_\_\_\_  
Assistant City Attorney

Countersigned:

By \_\_\_\_\_  
Auditor



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**



City Council Meeting  
June 25, 2007

**SUBJECT:** Resolution No. 23 re Reimbursement Resolution for City Capital Expenses incurred prior to issuance of pending Parks, Open Space, and Trails Revenue Bonds

**Prepared by:** Tammy Hitchens, Finance Director  
Robert Smith, Treasury Manager  
Robert Byerhof, Senior Financial Analyst

**Recommended City Council Action:**

Adopt Resolution No. 23 permitting reimbursement to the City of soft and hard costs incurred for capital project and land purchases out of the bond proceeds from the Parks, Open Space, and Trails (POST) Revenue Bonds anticipated to be issued in December 2007.

**Summary Statement**

The City intends to issue up to \$20 million in Parks, Open Space, and Trails Revenue Bonds, as approved by voters on November 7, 2006, for the acquisition of open space land and capital projects of various park facilities shortly after December 1, 2007. Prior to issuing the bonds the City would like to begin work on various Parks or Open Space projects that are anticipated to be funded by bond proceeds.

Federal law permits a municipal government to approve a resolution that allows it to finance capital projects from existing financial resources and reimburse itself from the proceeds of bonds issued in the future. The resolution will permit reimbursement of all hard costs, such as actual materials, construction costs, and land purchases incurred by the City within 60 days prior to the approval of the reimbursement resolution and allocated thereto in writing. Additionally qualified preliminary expenditures (in amounts that do not exceed 20% of the issue price of the bond issue) with respect to a specific project can be reimbursed outside of the 60 day requirement. Qualified preliminary expenditures are defined as architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of the acquisition, construction, or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction. By adopting the attached reimbursement resolution, the following benefits will accrue to the City.

- Anticipated Open Space land purchases estimated in the amount of \$2.6 million could be purchased.
- Several park facility capital projects could begin or continue with the understanding that these costs will be reimbursed out of the bond proceeds. The costs that will occur prior to the issuance of the bonds are estimated to be \$1.675 million.
- Tax compliance laws will be met.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issues**

Should the City Council pass the reimbursement resolution to allow the City to reimburse itself for costs incurred prior to the debt proceeds being received?

**Alternative**

Do not pass the reimbursement resolution. This action is not recommended. Time sensitive projects and/or purchases would have to be delayed, or without the reimbursement resolution, the City would not be able to recover costs paid prior to the bonds being sold. Federal law requires that a reimbursement resolution be adopted in order for a municipality to pre-pay construction costs and subsequently reimburse itself from financing proceeds once the debt is issued.

**Background Information**

On November 7, 2006 voters approved the extension of the .25% POST sales tax until December 31, 2032 and issuance of POST bonds up to \$20 million for the following:

- Acquiring, developing, enhancing, and maintaining open space and parkland throughout the City
- Developing, enhancing, maintaining, and extending trails throughout the City
- Developing, enhancing, and maintaining recreational facilities in the City

Since the ballot issue was approved, Staff prioritized potential park facility capital projects and open space land purchase on which funds may be spent in 2007 prior to the anticipated POST bond issue in December 2007. The total estimated request of the reimbursement resolution is \$4,275,000 between Parks and Open Space.

Parks, Recreation and Library staff have identified the following capital projects which are anticipated to be funded by bond proceeds:

<b>Project Name</b>	<b>Project Cost Est.</b>	<b>Reimbursement Resolution Request</b>
City Park Aquatics Enhancements	3,500,000	350,000 for design
City Centre Park	1,800,000	125,000 for design
Big Dry Creek Park	700,000	700,000 for current year construction
Sports Center	500,000	500,000 for current year construction
<b>Total</b>	<b>6,500,000</b>	<b>1,675,000</b>

Additional Parks' projects anticipated to be funded with bond proceeds at a later date are improvements to golf course restrooms (\$500,000) and Swim and Fitness Center enhancements (\$1,000,000).

Open Space staff has identified four potential land acquisitions that the reimbursement resolution would allow to be purchased prior to the bond issuance. The four parcels are estimated to cost \$2.6 million.

Current law mandates the following provisions must be included by a municipality to properly pass a Reimbursement Resolution:

- An announcement and acknowledgement of the municipality's expectation to issue bonds. This was done last November with the ballot initiative.
- An announcement and acknowledgement that the municipality will reimburse itself from bond proceeds for costs pre-funded through other means, in this case by the City through the City's Capital Improvement Fund.



If the Reimbursement Resolution is not approved, the City will be limited to recovering only soft costs associated with these projects. If the Reimbursement Resolution is passed, design and construction for the Park projects and purchase of the Open Space can be pursued. Approving the resolution will allow the city to reimburse itself from future bond proceeds to recover capital costs incurred from these projects during a 3 year period that starts on the date 60 days prior to when the resolution was adopted. The adoption of the resolution does not impede or complicate the sale of the POST Bonds anticipated in December 2007. In fact, it facilitates the issuance of the 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 planning, construction, and purchases.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment: Resolution No. 23

## RESOLUTION NO. 23

### **A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF WESTMINSTER, COLORADO, TO ISSUE SPECIAL PURPOSE SALES AND USE TAX REVENUE BONDS (POST PROJECT) IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$20,000,000 TO FINANCE PARK AND OPEN SPACE IMPROVEMENTS AND OPEN SPACE LAND PURCHASES.**

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

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

**WHEREAS**, Pursuant to Section 10.2 of the Charter and Title IV of the City's Municipal Code, the City has heretofore imposed and is collecting a sales and use tax upon the sale or use of tangible personal property and certain services; and

**WHEREAS**, at an election held within the City on November 7, 2006 (the "Election"), the voters of the City approved a ballot issue authorizing the City to increase debt of the City by \$20,000,000 for the purpose of acquiring, developing, enhancing, and maintaining open space and parkland throughout the City, developing, enhancing, maintaining, and extending trails throughout the City, and developing, enhancing and maintaining recreational facilities within the City (the "Project"); and

**WHEREAS**, at the Election, the voters of the City also approved an extension of the City's  $\frac{1}{4}$  of 1 percent sales and use tax to December 31, 2032, for the purpose of repaying such debt and for the acquisition, development, enhancement and maintenance of open space and parkland and for the development, enhancement, and maintenance of parks, recreational facilities and trails (the "Park, Open Space and Trails Tax"); and

**WHEREAS**, it is the present intent of the City to issue bonds payable from the revenue received by the City from the collection of its Park, Open Space and Trails Tax (the "Bonds") to finance the Project; and

**WHEREAS**, the Council has determined that it is necessary to make capital expenditures to acquire and construct the Project prior to the time that the Bonds are issued to finance such Project; and

**WHEREAS**, it is the Council's reasonable expectation that when the Bonds are issued, the capital expenditures will be reimbursed with the proceeds of the Bonds; and

**WHEREAS**, in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), it is the Council's desire that this resolution shall constitute the "official intent" of the Council to reimburse such capital expenditures within the meaning of Treasury Regulation §1.150-2.

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

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

Section 2. The City intends to issue revenue Bonds in the approximate aggregate principal amount of \$20,000,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the City prior to the execution and delivery of the Bonds, upon terms acceptable to the City, as authorized in an

ordinance or resolution to be hereafter adopted and to take all further action that is necessary or desirable in connection therewith.

Section 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 the resolution.

Section 4. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provision of this resolution.

Section 5. The City shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h).

Section 6. This resolution is intended to be a declaration of "official intent" to reimburse expenditures within the meaning of Treasury Regulation §1.150-2

Section 6. If any section, paragraph, clause or provision of this resolution 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.

Section 7. All acts, orders and resolutions of the Council, 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.

Section 8. The resolution shall in full force and effect upon its passage and approval.

**INTRODUCED, APPROVED AND THIS 25<sup>th</sup> DAY OF JUNE, 2007, BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO.**

**CITY OF WESTMINSTER, COLORADO**

By: \_\_\_\_\_  
Mayor Pro Tem

ATTEST:

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office

STATE OF COLORADO )  
 )  
 COUNTIES OF ADAMS AND JEFFERSON )SS.  
 )  
 CITY OF WESTMINSTER )

I, Linda Yeager, City Clerk of the City of Westminster, Colorado (the “City”), do hereby certify:

1. The foregoing pages are a true and correct copy of a resolution (the “Resolution”) passed and adopted by the City Council (the “Council”) of the City at a regular meeting of the Council held on June 25, 2007.

2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of June 25, 2007, by an affirmative vote of a majority of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Nancy McNally	X			
Tim Kauffman	X			
Chris Dittman	X			
Mark Kaiser	X			
Mary Lindsey	X			
Scott Major	X			
JoAnn Price	X			

3. The members of the Council were present at such meeting and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Mayor Pro Tem, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the Council.

5. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Resolution.

6. Notice of the meeting of June 25, 2007 in the form attached hereto as Exhibit A was posted at City Hall, Westminster, Colorado, not less than 24 hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of said City affixed this \_\_\_\_ day of [\_\_\_\_], 2007.

(SEAL)

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

**EXHIBIT A**

**(Attach Form of Notice of Meeting)**

## Summary of Proceedings

Summary of proceedings of the regular meeting of the Westminster City Council held Monday, June 25, 2007. Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Dittman, Kaiser, Lindsey, Major, and Price were present at roll call.

The minutes of the June 11, 2007 regular meeting were approved. The minutes of the June 18, 2007 special meeting were approved.

The Mayor, on behalf of the City Council, presented the Government Finance Officer's Certificate of Achievement for Excellence in Financial Reporting to the Comprehensive Annual Financial Report project team.

Council approved the following: financial report for May 2007; 2006 comprehensive annual financial report; Armed Forces Tribute Garden Phase I construction award; 2007 trail repairs construction contract award; amendment to the purchase and sale agreement with Church Ranch Crossing, LLC; amendment to legal services agreement with Carlson, Hammond and Paddock, LLC; amendment to professional services contract re Reclaimed Water Open Storage Feasibility Study; final passage CB No. 26 re the Boulevard Plaza Comprehensive Land Use Plan amendment; final passage CB No. 27 re Sun Edison Economic Development Agreement; final passage CB No. 28 re TAB Boards International Inc. Economic Development Agreement; and final passage CB No. 29 re Big Dry Creek Park and Cheyenne Ridge Park supplemental appropriation.

Council adopted Res. No. 22 re authorization for the Metro Mayors Caucus 2007B Single Family Mortgage Bond Program and Res. No. 23 re reimbursement of City capital expenses incurred before issuance of pending Parks, Open Space, and Trails Revenue Bonds.

Council opened and then continued a public hearing to consider the Richter and Catt annexation, CLUP amendment, Church Ranch Crossing PDP and ODP, first amended ODP Church Ranch Crossing Mini Storage, second amended ODP Church Ranch Crossing Lot 6 – Car Wash.

Council passed the following Councillors' Bills on first reading:

**A BILL FOR AN ORDINANCE AMENDING TITLE XIV OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE POLICE AND GENERAL EMPLOYEE PENSION PLANS.** Purpose: amend the Westminster Municipal Code concerning the pension plans.

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL, UTILITY, STORM DRAINAGE, FLEET, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS OPEN SPACE, CONSERVATION TRUST, AND GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND.** Purpose: appropriation of FY2006 carryover funds into FY2007.

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND.** Purpose: supplemental appropriation to fund the Westminster Sports Center.

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND.** Purpose: appropriation of Community Development Block Grant funds.

**A BILL FOR AN ORDINANCE GRANTING AN EXCEPTION TO THE LEAVE ACCRUAL PROVISIONS BASED ON “CONTINUOUS MUNICIPAL SERVICE” AND PROVIDING FOR A CITY CONTRIBUTION TO THE DEFERRED COMPENSATION PLAN FOR THE PUBLIC WORKS AND UTILITIES DIRECTOR BEYOND THE RANGES IN THE CITY’S 2007, 2008 AND 2009 CITY PAY PLANS.** Purpose: compensation package for Public Works and Utilities Director.

The meeting adjourned at 7:30 p.m.

By Order of the Westminster City Council  
Carla Koeltzow, Deputy City Clerk  
Published in the Westminster Window on July 5, 2007

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described below incorporated herein by reference, requesting a change in the land use designations from "Industrial" to "Retail Commercial" for the Boulevard Plaza Planned Unit Development for a 2.833 acre parcel located at 9241 Wadsworth Boulevard.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on May 22, 2007 after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly by providing commercial areas necessary to serve the needs of surrounding neighborhoods.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described as follows: That part of the Northwest ¼ of Section 23, Township 2 South Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, described as follows:

Beginning at the southeast corner of the northwest ¼ of said Section 23;

Thence North 00° 09 Minutes 49 Seconds East along the east line of the said northwest ¼ a distance of 330.00 feet;

Thence south 89° 00 Minutes 14 Seconds West a distance of 30.00 feet to the true point of beginning;

Thence continuing south 89° 00 Minutes 14 Seconds West along the north line of a parcel ~ described in Book 720 at Page 362, Jefferson County Records, a distance of 549.69 feet;

Thence North 00° 09 Minutes 49 Seconds East and parallel to said East line of the Northwest 1/4, a distance of 230.62 feet to a point on the southerly line of that parcel described in Book 2170 at Page 429, Jefferson County Records;

Thence South 89° 43 Minutes 45 Seconds East along said South line a distance of 549.58 feet to a point on the West right-of-way line of Wadsworth Boulevard;

Thence South 00° 09 Minutes 49 Seconds West along said West right-of-way line a distance of 218.47 feet to the true point of beginning, County of Jefferson, State of Colorado. Containing 123,404 square feet or 2.833 acres more or less to

"Retail Commercial," as depicted on the map attached as Exhibit A.

Section 3. Severability: 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 deemed unenforceable shall not affect any of the remaining provisions.

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

Section 5. 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 11th day of June, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of June, 2007.

**Exhibit A is available for public inspection in the City Clerk's Office, 4800 W 92<sup>nd</sup> Ave, Westminster 80031**



ORDINANCE NO. 3357  
SERIES OF 2007

COUNCILLOR'S BILL NO. 27  
INTRODUCED BY COUNCILLORS  
Major - Dittman

**A BILL FOR AN ORDINANCE AUTHORIZING A ECONOMIC DEVELOPMENT AGREEMENT WITH SUN EDISON TO AID IN THEIR LOCATION IN LAKE ARBOR BUSINESS CENTER**

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

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

WHEREAS Sun Edison plans to lease 12,000 s.f. feet in Lake Arbor Business Center in Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and Sun Edison is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

**THE CITY OF WESTMINSTER ORDAINS:**

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with Sun Edison in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of June, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

**Exhibit A is available for public inspection in the City Clerk's Office, 4800 W 92<sup>nd</sup> Ave, Westminster 80031**

ORDINANCE NO. 3358  
SERIES OF 2007

COUNCILLOR'S BILL NO. 28  
INTRODUCED BY COUNCILLORS  
**Price - Dittman**

**A BILL FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH TAB BOARDS INTERNATIONAL, INC. FOR THE LOCATION OF THE CORPORATE OFFICES IN WESTMINSTER, COLORADO**

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

WHEREAS, TAB Boards International, Inc. (TAB) plans to redevelop and fill vacant space at 11031 North Sheridan Boulevard; and

WHEREAS, a proposed Economic Development Agreement between the City and TAB is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with TAB in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING AND TITLE AND PURPOSE ORDERED this 11th day of June 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.

**Exhibit A is available for public inspection in the City Clerk's Office, 4800 W 92<sup>nd</sup> Ave, Westminster 80031**

ORDINANCE NO. 3359  
SERIES OF 2007

COUNCILLOR'S BILL NO. 29  
INTRODUCED BY COUNCILLORS  
**Kauffman - Kaiser**

**A BILL FOR AN ORDINANCE INCREASING THE 2007 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THIS FUND**  
THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3316 is hereby increased by \$1,080,000. This appropriation is due to two grants and an IGA contribution.

Section 2. The \$1,080,000 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10G, dated June 11, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement	<u>\$1,080,000</u>
Total	<u>\$1,080,000</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 11<sup>th</sup> day of June, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2007.