

July 14, 1997
7:00 PM

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

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meeting**
4. **Presentations**
 - A. Meritorious Citizen Service Award to Tasheba West
 - B. Recognition from Alternatives to Family Violence
 - C. Employees Service Recognition
5. **Citizen Communication (5 minutes or Less in Length)**
6. **Report of City Officials**
 - A. City Manager's Report
7. **City Council Comments**

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

8. **Consent Agenda**
 - A. Bids re 1997 Chipseal Program
 - B. Bids re Northridge Pump Station
 - C. CB No. 37 re Dynamic Data Assistance (Allen-Dixion)
 - D. CB No. 38 re Countryside Little League (Scott-Dixion)
 - E. CB No. 39 re Carryover/Incentive Funds (Allen-Harris)
 - F. CB No. 40 re Public Nuisance Enforcement (Harris-Allen)
 - G. CB No. 41 re Liquor Licensing Fees (Allen-Dixion)
 - H. CB No. 43 re Westy Plaza Loan Program (Merkel-Allen)
9. **Appointments and Resignations**

None
10. **Public Hearings and Other New Business**
 - A. Westminster Promenade Consulting Services
 - B. Westminster Promenade East Consulting Services
 - C. Councillor's Bill No. 44 re Legacy Ridge Park Development Fees
 - D. Water Pilot Program
 - E. Councillor's Bill No. 45 re Big Dry Creek Sanitary Sewer Vacation
 - F. Resolution No. 37 re Payment of FPPA Disability Premiums
 - G. Councillor's Bill No. 46 re Water Reclamation Facility Bond Proceeds
 - H. Legal Services for Westcliff Park & Open Space Condemnation
 - I. Set Date for Special Council Meeting
11. **Old Business and Passage of Ordinances on Second Reading**

None
12. **Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business**
 - A. City Council
 - B. Request for Executive Session

13. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JULY 14, 1997 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Dixon and Councillors Allen, Harris, Merkel, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent none.

CONSIDERATION OF MINUTES:

A motion was made by Allen and seconded by Scott to accept the minutes of the meeting of June 23, 1997 with no additions or corrections. Councillor Merkel requested to abstain as she was not present at the meeting. The motion carried with 6 aye votes and Councillor Merkel abstaining.

A motion was made by Allen and seconded by Scott to accept the minutes of the meeting of June 30, 1997 with no additions or corrections. Councillor Smith requested to abstain as he was not present at the meeting. The motion carried with 6 aye votes and Councillor Smith abstaining.

PRESENTATIONS:

Mayor Heil, Battalion Chief Ken Watkins and Fire Lieutenant Neil Rosenberger presented the Meritorious Citizen Service Award to Tasheba West.

Cindy Black and Judy Day, representing Alternatives to Family Violence, presented a plaque to the Mayor and Council in appreciation for the City's commitment to addressing domestic violence issues in the community.

The Mayor and Councillors presented service pins and certificates of appreciation to employees celebrating 10, 15, 20 and 25 years of service with the City.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Bids for 1997 Chipseal Project - Award bid for the 1997 Chip and Sealcoat Project to the low bidder, Western Mobile/Boulder, in the amount of \$90,000, including a \$1,668 contingency account, and charge expense to the appropriate 1997 Department of Public Works and Utilities Street Division budget account; Northridge Pump Station Replacement, Piping and Standpipe - Award the bid to the low bidder, BT Construction; authorize the City Manager to execute a contract between the City and BT Construction; and, authorize a construction budget of \$1,897,000 and a project contingency budget of \$284,550 for the Northridge Pump Station Replacement, Piping and Reclaimed Water Standpipe and charge project expenses to the appropriate project account in the Utility Fund; Councillor's Bill No. 37 re Dynamic Data Assistance; Councillor's Bill No. 38 re Countryside Little League; Councillor's Bill No. 39 re Carryover/Incentive Funds; Councillor's Bill No. 40 re Public Nuisance Enforcement; Councillor's Bill No. 41 re Liquor Licensing Fees; and Councillor's Bill No. 43 re Westminster Plaza Loan Program.

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

A motion was made by Harris and seconded by Merkel to adopt the Consent Agenda items as presented. The motion carried unanimously.

WESTMINSTER PROMENADE CONSULTING SERVICES:

A motion was made by Scott and seconded by Dixon to authorize the City Manager to enter into a contract with Carl A. Worthington Partnership to provide for planning consulting services for the Westminster Promenade East for a fee of \$35,000 and charge the expense to the Promenade Project account in the General Capital Improvement Fund. Carl Worthington was present to address Council. The motion carried unanimously.

WESTMINSTER PROMENADE EAST CONSULTING SERVICES:

A motion was made by Merkel and seconded by Allen to authorize the City Manager to enter into a contract with Communication Arts, Inc. to provide design services for the Westminster Promenade for a fee of \$174,500 and charge the expense to the Promenade Project account in the General Capital Improvement Fund. The motion carried unanimously.

COUNCILLOR'S BILL NO. 44 - LEGACY RIDGE PARK DEVELOPMENT FEES:

A motion was made by Scott and seconded by Smith to pass Councillor's Bill No. 44 on first reading which reduces the Park Development Fee for Legacy Ridge Filing 8 by 50 percent or \$100,920, based on previous public land, trail and private clubhouse and swimming pool improvements being provided by the master developer. Pursuant to City Charter requirements on campaign contributions, Mayor Heil and Councillors Allen and Harris requested to abstain. Upon roll call vote, the motion carried with 4 aye votes and Mayor Heil and Councillors Allen and Harris abstaining.

WATER PILOT PROGRAM FOR LEGACY RIDGE APARTMENT PROJECT:

A motion was made by Scott and seconded by Dixon to approve a pilot program of installing individual water meters in the "Links" proposed apartment development to monitor water consumption and to reduce the water tap fees for Legacy Ridge Filing 8 by 10 percent or \$101,500. Pursuant to City Charter requirements on campaign contributions, Mayor Heil and Councillors Allen and Harris requested to abstain. The motion carried with 4 aye votes and Mayor Heil and Councillors Allen and Harris abstaining.

COUNCILLOR'S BILL NO. 45 - BIG DRY CREEK SANITARY SEWER VACATION:

A motion was made by Dixon and seconded by Allen to pass Councillor's Bill No. 45 on first reading vacating the existing sanitary sewer easement located in Fairway Office Park. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 37 - PAYMENT OF FPPA DISABILITY PREMIUMS:

A motion was made by Allen and seconded by Smith to adopt Resolution No. 37 authorizing the City Manager to direct that the disability premiums paid to the Fire and Police Pension Association be split between the City and FPPA eligible Fire Department employees hired after January 1, 1997; and that the employer portion of these premiums shall be equal to the same percent of payroll as is paid on behalf of all other employees for long term disability and survivor income coverages. Upon roll call vote, the motion carried with 6 aye votes and a dissenting vote by Mayor Pro Tem Dixon.

COUNCILLOR'S BILL NO. 46 - WATER RECLAMATION FACILITY BOND PROCEEDS:

A motion was made by Harris and seconded by Allen to pass Councillor's Bill No. 46 on first reading appropriating \$13,089,726 which is Westminster's portion of the bond proceeds from the May 1, 1997 Colorado Water Resources and Power Development Authority Clean Water Revenue Bonds; and authorizing \$62,322 in contingency transfers to cover the 1997 debt service on the issue. Upon roll call vote, the motion carried unanimously.

LEGAL SERVICES FOR WESTCLIFF PARK AND OPEN SPACE CONDEMNATION:

A motion was made by Allen and seconded by Dixon to authorize the City Manager to execute a contract with the law firm of Gorsuch Kirgis L.L.C. up to a limit of \$50,000 to provide eminent domain litigation services in connection with the condemnation of the Westcliff park and open space parcels. The motion carried unanimously.

SET DATE FOR SPECIAL CITY COUNCIL MEETING:

A motion was made by Scott and seconded by Allen to set the date of July 21, 1997 at 7:00 P.M. for a Special City Council meeting for the purpose of conducting the first of two public hearings regarding the 1998 budget to receive public input. The motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 7:50 P.M.

ATTEST:

Mayor

City Clerk

Date: July 14, 1997
Subject: Meritorious Citizen Service Award to Tasheba West
Prepared by: Neil Rosenberger, Fire Lieutenant

Introduction

The Mayor, on behalf of City Council and with the assistance of members of the Westminster Fire Department, is requested to present the Meritorious Citizen Service Award to Tasheba West.

Summary

On May 26, 1997, Ms. West saw a neighbor being attacked by two Dalmation dogs near 88th Avenue and Dover Street. She rushed over to find 45 year old Ms. Linda Zimser bleeding profusely from the wounds she received. Ms. West immediately came to Ms. Zimser's aid by applying direct pressure to the wounds, which stopped the bleeding. Ms. Zimser suffered only minor injuries and was released from the hospital later that day. Without the assistance of her neighbor, Ms. Zimser would have suffered severe hemorrhaging and possibly would have lost her life.

The Fire Department credits Ms. West for quick thinking and calm presence in the face of an emergency which resulted in saving Ms. Zimser's life.

Staff Recommendation

The Mayor is requested to present the Meritorious Citizen Service Award to Ms. West for her act of heroism in saving the life of Ms. Zimser.

Background Information

The Meritorious Citizen Service Award recognizes action by a citizen which result in the saving of a life, or the attempted saving of a life, in which extraordinary efforts were used and personal risk to the citizen was involved.

Westminster resident Linda Zimser was walking her two pet Dalmations on Memorial Day morning when the dogs began to fight. She attempted to physically break the dogs apart when they attacked her and knocked her to the ground. The dogs were the cause of numerous wounds to Ms. Zimser. One of the wounds was a puncture of a vein in her right arm which caused profuse bleeding which could only be controlled by direct pressure. Ms. West, who witnessed the attack, came to Ms. Zimser's rescue and applied direct pressure to the wound, bandaged the wound with a wash cloth, and comforted Ms. Zimser until Fire/Rescue and Police personnel arrived.

One fire engine, one ambulance, one police officer and two animal control officers were dispatched to the scene to treat and transport the patient to the hospital and to safely remove the dogs.

Respectfully submitted,

William M. Christopher
City Manager

Date: July 14, 1997
Subject: Recognition From Alternatives to Family Violence
Prepared by: Jacqueline June, Victim Services Coordinator

Introduction

City Council is asked to accept a plaque from the Alternatives to Family Violence organization. This plaque is being given in appreciation for the City's commitment to addressing domestic violence issues in our community.

Summary

Alternatives to Family Violence wishes to acknowledge the City with a plaque of appreciation for the City's commitment to addressing domestic violence issues in our community. The City's Fast Track Domestic Violence Program, the consistent funding through the Human Services Board review process and the Employee Charity Drive, and the support of the agency's annual fundraiser all serve as examples of the City's commitment to this difficult issue. The level at which the City funds Alternatives to Family Violence is appreciated by the agency.

Staff Recommendation

City Council accept a plaque of appreciation from Alternatives to Family Violence Executive Director Cindi Black and Development Coordinator Judy Day.

Background Information

Alternatives to Family Violence is a private nonprofit program in Adams County which provides safe shelter and counseling for battered women and their children and counseling services for perpetrators of domestic violence. In 1996, they housed 267 battered women, 216 children, and handled 8,123 service calls. They turned away 281 people for safe shelter because they were filled to capacity. Most battered women's shelters in the metro area are largely funded by the county which they serve. This is not the case for Alternatives. Therefore, the level at which the City funds them, which is significantly higher than other municipalities in Adams County, is of great importance to the agency. The City directly funds the agency through the Human Services Board review process, and the Employee Charity Drive, as well as by supporting their annual fundraiser. Alternatives to Family Violence also wishes to acknowledge the City for its progressive stance on the issue of domestic violence, as demonstrated by the Fast Track program in Westminster Municipal Court.

Respectfully submitted,

William M. Christopher
City Manager

Date: July 14, 1997
Subject: Presentation of Employee Service Awards
Prepared by: Michele Kelley, City Clerk

Introduction

City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 10th, 15th, 20th and 25th anniversary of employment with the City.

Summary

In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.

Staff Recommendation

City Council present service pins and certificates of appreciation to employees celebrating 10, 15, 20 and 25 years of service with the City.

Background Information

The following employees will receive their ten year service pin and certificate:

Rita Allen	Parks Rec & Library	Recreation Specialist
Monty Brown	Fire Department	Fire Engineer
Pat Brownson	Parks Rec & Library	Custodian II
Jeff Collison	Public Works & Util	Equipment Operator I
Dave Maikranz	Fire Department	Paramedic
Tye Mangnall	Parks Rec & Library	Equipment Operator I
Joann Pardo	General Services	Deputy Court Clerk
Pat Raymond	Parks Rec & Library	Clerk Receptionist II
Terry Sullivan	Finance Department	Cashier Clerk
Karen Walker	Parks Rec & Library	Recreation Supervisor I
Jim Wollack	Police Department	Senior Police Officer

The following employees will receive a fifteen year service pin and certificate:

Pam Cox	Parks Rec & Library	Clerk Receptionist II
Paula Hull	Police Department	Senior Police Officer
Greg McSwain	Parks Rec & Library	Recreation Supervisor II
Ruthie Rogers	Parks Rec & Library	Recreation Supervisor III
Bob Wade	Parks Rec & Library	Custodian

The following 20 year employees will be presented with a certificate and service pin:

Dennis Armstrong	Public Works & Util	Equipment Operator II
Mike Cressman	Police Department	Police Lieutenant
Frances Hannig	Community Developmnt	Secretary
Mike Kampf	Police Department	Sergeant
Bill Morgan	Public Works & Util	Equipment Operator I
Mike Normandin	Community Developmnt	Transportation Engineer
Mike Spellman	Police Department	Senior Police Officer

The following 25 year employees will be presented with a certificate and service pin:

Dave Cantu	Public Works & Util	Streets Foreman
Alex Iacovetta	Public Works & Util	Utilities Operations Mgr

On July 16th, the City Manager will be hosting an employee awards luncheon at which time 11 City employees will receive their five year service pins, while recognition will also be given to those who are celebrating their 10th, 15th, 20th and 25th anniversary. This will be the second of three luncheons for 1997 to recognize and honor City employees for their service to the public.

The aggregate City service represented among the group of employees is 375 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

Respectfully submitted,

William M. Christopher
City Manager

10 year

Vicky Bunsen	City Attorney's Off	Ass't City Attorney II
? Ed Mac Donald	Public Works & Util	Equipment Mechanic
Kevin Mc Eachern	Public Works & Util	Equip Operator II/Street
Mark VanDenAbbee	Fire Department	Paramedic

15 year

Mike Barr	Police Department	Sr Police Officer
Joe Hastings	Police Department	Sr Police Officer
Ken Watkins	Fire Department	Batallion Chief
Rich Welz	Fire Department	Fire Lieutenant
? Tim Woodard	Public Works & Util	Plant Operator IV
Mark Yamashita	Police Department	Sr Police Officer

20 year

Terry Caruthers	Public Works & Util	Electromechanic Spec
David Marquez	Public Works & Util	Plant Operator IV

25 year

Harry Britton	Public Works & Util	Plant Supervisor
---------------	---------------------	------------------

Date: July 14, 1997
Subject: Bids for the 1997 Chipseal Project
Prepared by: Ray Porter, Street Projects Coordinator

Introduction

City Council action is requested to award the bid for the 1997 Chip and Sealcoat Project. Funds are available in the 1997 Department of Public Works and Utilities Street Operations Budget for this expense.

Summary

Formal bids were solicited in accordance with City Charter bidding requirements for the 1997 Chipseal Project. Bid documents were sent to the four contractors who do this type of sealcoating with two responding as follows:

Western Mobile Boulder	\$88,332
A-1 Chipseal	\$98,242

Staff estimate for this work was: \$105,210

The low bidder, Western Mobile/Boulder, meets all of the City's bid requirements and has successfully completed Westminster's Chipseal Projects in 1990, 1991, 1992, 1994, 1995, and 1996.

The chipseal application price of \$0.85 per square yard decreased 25% over the 1996 price, due to more competitive bidding between two contractors. Western Mobile/Boulder has done all the chipseal work in the Denver metropolitan area in 1994, 1995, and 1996, without any competitors bidding and was awarded 1996 projects without any competitive bids in Lakewood, Parker, Douglas County, Denver, and Westminster. Western Mobile/Boulder has completed contracts this year for Lakewood and Douglas County.

Alternatives to this project are:

1. Resurface these streets with a thin overlay of hot-mix asphalt (HMA)

With this first alternative, the cost would increase by 148%.

The strength of the pavement structure would increase by less than 5%. The pavement's flexibility would not increase as it does with the polymerized asphalt used with a sealcoat, thus within 2-3 years the pavement surface would need a sealcoat.

2. Apply a Slurry seal surfacing to these streets, instead of chipseal

The initial cost with this alternative would decrease by 5%. The disadvantages to this alternative are that pavement flexibility would decrease due to: the hardness and brittleness of a slurry seal; there would be no loose aggregate; surface treatment stripping would be more prevalent after one winter, as opposed to a chipseal not stripping for at least 3 years; and cracksealing would be necessary after one winter.

Staff Recommendation

Award the bid for the 1997 Chip and Sealcoat Project to the low bidder, Western Mobile/Boulder, in the amount of \$90,000, including a \$1,668 contingency amount, and charge the expense to the appropriate 1997 Department of Public Works and Utilities Street Division budget account.

Background Information

The 1997 Chipseal Project represents a total of 13 lane-miles of pavement surface improvements at 15 locations throughout the City of Westminster. This sealcoating project is recommended by Staff after each street segment was carefully analyzed through the computerized pavement management process. It was determined that this preventative maintenance strategy would be the most cost-effective. Staff believes this is the best sealcoat process presently available, but will continue to experiment with alternatives as they are developed.

Formal bids were solicited in accordance with City Charter bidding requirements for the 1997 Chipseal Project. Bid documents were sent to the four contractors who do this type of sealcoating. The low bidder, Western Mobile/Boulder meets all of the City's bid requirements and has successfully completed the City's Chipseal Projects in 1990, 1991, 1992, 1994, 1995, and 1996.

The chipseal application price of \$0.85 per square yard decreased 25% over the 1996 price, due to more competitive bidding between two contractors. Western Mobile/Boulder has done all the chipseal work in the Denver metropolitan area in 1994, 1995, and 1996, without any competitors bidding and was awarded 1996 projects without any competitive bids in Lakewood, Parker, Douglas County, Denver, and Westminster. Western Mobile/Boulder has completed contracts this year for Lakewood and Douglas County.

In an effort to respond to citizen concerns, Staff will again be sending a letter to affected residents explaining the process of the chipseal application and what to expect during the curing period. Special attention will be given to consistent and timely inspection during the construction process and sweeping will be scheduled the day after the chipseal is applied. The new process utilizing the fogseal after sweeping was performed successfully in 1992, 1994, 1995, and 1996.

Attached is a list of the streets earmarked to receive the chipseal application in 1997.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: July 14, 1997

Subject: Bid Award for Northridge Pump Station Replacement, Piping, and Reclaimed Water Standpipe

Prepared by: Tom Pageler, Utility Systems Specialist

Introduction

City Council action is requested to award a bid to BT Construction for the construction of the Northridge Pump Station Replacement, 30-inch Supply Pipeline, and Reclaimed Water Standpipe, and authorize a construction budget of \$1,897,000 and a project contingency account in the amount of \$284,550. Funds are available for this project in the Utility Fund, Capital Improvement Project Budget.

Summary

The Northridge Pump Station is a critical element in supplying adequate water pressure in the City's northern system. The replacement of this station will increase the current pumping capacity of 6.5 million gallons per day (MGD) to an ultimate capacity of 15.5 MGD. This upgrade is required for future north area water demands as shown by the new Treated Water Master Plan.

In order to supply adequate water to meet this new capacity, a new 30-inch water supply line needs to replace the existing 16-inch line, which is 30 years old. This new supply line will be approximately 1300 feet long.

Also, to facilitate a future element of the Reclaimed Water System and to minimize duplication of construction work on this same site, a 200,000 gallon standpipe for reclaimed water will be built at this time. The standpipe is needed to limit pressure swings and provide pump control for the Reclaimed Water System now being designed.

Formal bids were solicited through the Daily Journal, an area publication which advertises construction projects. Plans and specifications were picked up by seven general contractors, with five bids being received at the public bid opening on June 26. The bids were submitted as follows:

BT Construction	\$1,897,000
Jennison Construction	\$2,081,030
Lillard & Clark	\$2,013,000
Paramount Construction	\$2,300,889
SEMA Construction	\$1,999,906

The engineer's estimate for this project was: \$2,258,000

The low bid was submitted by BT Construction. A thorough check of references was conducted by Staff and Consultant Burns & McDonnell. An evaluation of the bidder's experience in this type of construction indicates this firm is qualified, skilled, and capable of performing the City's specified Scope of Work; and the City has experienced quality work from this contractor in past years.

The City's project consultant, Burns & McDonnell, has reviewed the bids and recommends BT Construction be awarded the bid.

Staff Recommendation

Award the bid to the low bidder, BT Construction; authorize the City Manager to execute a contract between the City and BT Construction; and, authorize a construction budget of \$1,897,000 and a project contingency budget of \$284,550 for the Northridge Pump Station Replacement, Piping and Reclaimed Water Standpipe and charge project expenses to the appropriate project account in the Utility Fund.

Background Information

The purpose of the Northridge Pump Station is to receive and store potable water from Semper Water Treatment Facility and provide volume and pressure to the North Area Pressure Zone 3 (from Sheridan Boulevard to Federal Boulevard and 92nd Avenue to approximately 107th Avenue), which serves approximately a 13 square-mile area north of 92nd Avenue, including City Center. As building development and water demands have increased in the north area of the City, the existing pumping capacity requirements have been exceeded. The Treated Water Master Plan plus water system modeling performed by Burns & McDonnell have given the parameters for this pump station upgrade and the necessity of increased capacity.

In anticipation of this project, the City completed a 30 inch discharge pipeline from Northridge Pump Station to Lowell Boulevard and 92nd Avenue in 1995, to deliver this water to Zone 3. The supply side of the Northridge Pump Station now needs to be upgraded. Consequently, the new 30-inch supply pipeline is being proposed in conjunction with the pump station replacement.

The Reclaimed Water System standpipe will be located at the Northridge Tanks and Pump Station site. To avoid another construction project later on the same site, this standpipe will be built at the same time the pipeline is installed. This will also avoid the anticipated higher cost for the standpipe if built at a later date. The standpipe will be in service in 1999, which is the target date for implementation of the first phase of the Reclaimed Water System.

The three project elements: pump station, supply pipeline, and standpipe are combined into a single project to eliminate a duplication of staff and consultant effort. This approach is estimated to save approximately \$75,000 in design, bidding, inspection, and construction costs. In addition, the City will avoid disputes between different contractors working at the same site.

Not proceeding with this project at this time would present water supply and distribution problems for the City. If the Northridge Pump Station Replacement, 30 inch Supply Pipeline, and Reclaimed Water Standpipe project are not approved, the repair and maintenance costs of the existing pumps and piping will continue to rise beyond cost effective operation, due to age and condition. In addition, High Pressure Zone 3 will not be able to reliably support water supply and fire flow for the desired economic development and building growth.

Respectfully submitted,

William M. Christopher,
City Manager

Date: July 14, 1997
Subject: Westminster Promenade Consulting Services
Prepared by: Max Ruppeck, Planner III

Introduction

City Council action is requested to authorize the City Manager to enter into an agreement with Carl A. Worthington and Associates to provide planning and schematic design services for the Westminster Promenade East.

Summary

The City requires planning and design consulting services for Westminster Promenade East. Carl A. Worthington and Associates has been working with the City on design guidelines and overall site planning. The Consultant has proposed a fee of \$35,000 to accomplish the following scope of work:

- A. Overall Conceptual site plan
- B. Overall parking lot layout
- C. Westin Hotel orientation and footprint
- D. Height, scale, building massing and sight line studies
- E. Presentation materials for neighborhood meetings
- F. Plaza/Promenade conceptual design

Staff Recommendation

Authorize the City Manager to enter into a contract with Carl A. Worthington Partnership to provide for planning consulting services for the Westminster Promenade East for a fee of \$35,000 and charge the expense to the Promenade Project account in the General Capital Improvement Fund.

Background Information

Westminster Promenade East will be constructed east of the AMC, across Westminster Boulevard (currently under construction). The preliminary concept plan for Promenade East consists of a two or three-sheet ice arena, a 365-room Westin Hotel, a 50,000 square foot convention center, approximately 130,000 square feet of office space and retail and restaurant uses. All of these uses will be oriented toward a pedestrian Promenade which fronts upon a two-acre lake (see attached plan).

Carl A. Worthington has been instrumental in developing these conceptual plans to date and Staff recommends using his services to take the plans to the next level of detail.

Carl A. Worthington and Associates will be a key member of a design team including Communication Arts, Inc., who will be responsible for the Promenade plaza design and amenity features; DHM Design Corporation who will be responsible for overall landscaping design and construction documentation for the entire Promenade area; and City Staff.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: July 14, 1997
Subject: Westminster Promenade East Consulting Services
Prepared by: Max Ruppeck, Planner III

Introduction

City Council is requested to authorize the City Manager to enter into an agreement with Communication Arts, Inc., to provide design services for Westminster Promenade East.

Summary

Communication Arts, Inc. was retained to perform design services for Promenade West (the AMC Theatre area) including the design of paving materials and patterns, site features and amenities (such as lighting, seating and other furnishings, graphics and specialty structures). Similar design services are required for Promenade East (from the ice arena to the Westin Hotel - see attached map). The amount of the design fee is \$174,500 and the scope of work is as follows:

- A. Plaza Design from the bridge to the proposed hotel.
- B. Features and Amenity design including all features and structures in the pedestrian zone.
- C. Environmental Graphics including thematic, project identify and directional signage.
- D. Public Participation and Approvals including meetings with civic groups and City Staff.

The design process will include schematic design, design development, review of construction drawings and on-site construction observation.

Staff Recommendation

Authorize the City Manager to enter into a contract with Communication Arts, Inc. to provide design services for the Westminster Promenade for a fee of \$174,500 and charge the expense to the Promenade Project account in the General Capital Improvement Fund.

Background Information

Westminster Promenade East will be constructed east of the AMC, across Westminster Boulevard (currently under construction). The preliminary concept plan for Promenade East consists of a two or three-sheet ice arena, a 365-room Westin Hotel, a 50,000 square foot convention center, approximately 130,000 square feet of office space, and retail and restaurant uses. All of these uses will be oriented toward a pedestrian Promenade which fronts upon a two-acre lake (see attached plan).

Communication Arts, Inc., will be a member of a design team including Carl A. Worthington and Associates, who will be responsible for overall site planning, urban design and architectural design guidelines; DHM Design Corporation, who will be responsible for the over all site landscape design and construction drawings for plaza improvements; and City Staff.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

Date: July 14, 1997

Subject: Councillor's Bill No. re Water Pilot Program re Legacy Ridge Apartment Project

Prepared by: Max Ruppeck, Planner III

Introduction

City Council is requested to pass the attached Councillor's Bill on first reading which authorizes a pilot program for individual unit water metering at the proposed Legacy Ridge Apartments and authorizes a 10 percent reduction in the water tap fees. The reduction in fees is an incentive to have the developer install individual water meters. Also, action is requested to authorize a 50 percent credit in the project's park development fees based on facilities, trails and public land dedications above and beyond those necessitated to serve this residential development.

Summary

At the June 30th Study Session, Staff presented a request from Corum Group, developers of the proposed "Links", a 232-unit apartment project, to reduce Park Development Fees (PDF) and water tap fees for reasons indicated in the June 30th Staff Report to City Council. The reduction of the water tap fees is based on an anticipated 25 percent saving in water useage which would be realized by a "demonstration project" wherein each apartment unit would be individually metered, thus making each occupant responsible for their household water consumption. The entire project would also be "master metered" at the street. Under City Code, the City Manager has authority to adjust the tap fee rate for meters over 2 inches which would include the master meter.

The Corum Group has also requested a reduction in the Park Development Fees for this development. Legacy Ridge has built a recreation facility west of Federal Boulevard which would be available to all Legacy Ridge residents, and has dedicated extensive trails and golf course property. Staff believes a 50 percent reduction of the regular park development fee is justified. The fee would be reduced from \$201,840 to \$100,920. City Council action on this request is required to implement any Park Development Fee reduction. This reduction is authorized by Section 13-4-3 of the City Code.

Staff Recommendation

1. Pass Councillor's Bill No. on first reading which reduces the Park Development Fee for Legacy Ridge Filing 8 by 50 percent or \$100,920, based on previous public land trail and private clubhouse and swimming pool improvements being provided by the master developer.
2. Approve a pilot program of installing individual water meters in the "Links" proposed apartment development to monitor water consumption and to reduce the water tap fees for Legacy Ridge Filing 8 by 10 percent or \$101,500.

Background Information

The original Preliminary Development Plan (PDP) for Legacy Ridge allowed a density of 20 dwelling units per acre (du/a) on the subject site. The proposed development indicates a density of approximately 17 du/a (a 15 percent reduction in density). This was accomplished by reducing the overall height of most of the buildings from three stories to two stories, and by providing a much higher percentage of open, landscaped area (54 percent) relative to other typical apartment projects (40-45 percent).

Additionally, the individual water meter for the apartment units will provide the City with valuable "research" information which will help determine whether such a metering system is justified for application to other multiple family projects in the future.

The proposed 10 percent reduction in the project's water tap fee would reduce the fee from \$1,015,000 to \$913,500 or \$101,500.

Overall, Staff believes the project is very well designed and will be a model both from an aesthetic, as well as from a water conservation point of view.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1997

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING THE ADJUSTMENT OF THE WATER TAP FEE AND PARK DEVELOPMENT FEE FOR LEGACY RIDGE FILING NO. 8

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, the City desires to implement a pilot program to quantify the potential savings in water consumption through the installation and use of individual unit meters in apartment projects; and

WHEREAS, the developer of this project is willing to install such material in exchange for a reduction in the developer's normal water tap fee; and

WHEREAS, the developer has provided extensive on-site and off-site recreational facilities which exceed those necessary to serve this project; and

WHEREAS, Legacy Ridge has contributed land to the City for public recreational purposes, including open space, trails and public golf;

WHEREAS, W.M.C. Section 13-4-3 expressly authorizes City Council to reduce the City's park development fee in such circumstances.

Section 1. In consideration of the developer's installation of individual meters for Legacy Ridge Filing No. 8, the water tap fee is hereby reduced 10 percent from \$1,015,000 to \$913,500.

Section 2. Pursuant to W.M.C. 13-4-3, the park development fee for Legacy Ridge Filing No. 8 is hereby reduced 50 percent, from \$201,480 to \$100,920.

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 14th day of July, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 1997.

ATTEST:

Mayor

City Clerk

Date: July 14, 1997
Subject: Councillor's Bill No. re Big Dry Creek Sanitary Sewer Easement Vacation
Prepared by: Richard Borchardt, Civil Engineer

Introduction

City Council action is requested to pass the attached Councillor's Bill on first reading which will vacate an existing sanitary sewer easement located in Fairway Office Park.

Summary

An existing utility easement crosses the north part of the Fairway Office Park property just north of 120th Avenue and east of Zuni Street (see attached vicinity map). A new 100-foot wide easement, which contains the new parallel sewer line, the existing utilities and a trail, was acquired from the owner of Fairway Office Park. The acquisition of this new easement made the previous easement unnecessary. The owner has therefore requested that the old easement be vacated.

City Staff is in agreement with the owner's request that the existing easement be vacated. The City Charter mandates that Council must approve vacations by ordinance. The attached ordinance vacates the existing easement.

Staff Recommendation

Pass Councillor's Bill No. on first reading vacating the existing sanitary sewer easement located in Fairway Office Park.

Background Information

The existing utility easement was dedicated to the City with the installation of the original Big Dry Creek sanitary sewer. The increased demand on this section of sanitary sewer necessitated the installation of a new line parallel to the existing system. A new 100-foot wide easement for the parallel sewer line, the existing utilities and a trail was obtained from the owner of Fairway Office Park. During the negotiations for the new 100-foot easement, the owner requested that the old easement, which is no longer needed by the City, be vacated so that it will not continue to be an encumbrance upon the property.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1997

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE VACATING A UTILITY EASEMENT WITHIN FAIRWAY OFFICE PARK PROPERTY

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, a certain utility easement located within Fairway Office Park property was previously dedicated to the public; and

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the easement parcel described in Section 2 hereof.

Section 2. A utility easement located in the southeast quarter of Section 32, Township 2 South, Range 68 West of the Sixth Principal Meridian, County of Adams, State of Colorado, more particularly described as follows:

Commencing at the east quarter corner of said Section 32; Thence S00°04'00"W, along the east line of the southeast quarter of said Section 32, 295.13 feet; Thence N89°56'00"W, 82.97 feet to the Point of Beginning; Thence S47°19'00"W, 35.55 feet; Thence S84°56'00"W, 1094.12 feet; Thence S02°43'00"W, 501.29 feet; Thence S49°26'00"W, 132.85 feet to a point on the west line of the east half of the southeast quarter of said Section 32; Thence N00°02'58"E, along said west line, 22.57 feet; Thence N49°36'01"E, 127.45 feet; Thence N02°28'13"E, 499.91 feet; Thence N84°50'19"E, 382.57 feet; Thence N84°41'38"E, 744.21 feet to the Point of Beginning.

Containing 26,732 square feet or 0.514 acres, more or less.

Section 3. This ordinance shall take effect upon its passage after second reading, and upon dedication of the new 100-foot easement to the public for the new parallel sewer line, the existing utilities and a trail.

Section 4. 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 14th day of July, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of July, 1997.

ATTEST:

Mayor

City Clerk

Date: July 14, 1997

Subject: Resolution No. Payment of FPPA Disability Premiums

Prepared by: Pierrette Ray, Risk Manager
Matt Lutkus, Deputy City Manager for Administration

Introduction

City Council action is requested to adopt the attached Resolution authorizing the shared payment of disability premiums to the Fire and Police Pension Association (FPPA). Funds to cover the City's portion of these premiums are available in the General Fund Central Charges Accounts.

Summary

In June, 1996 Governor Romer signed House Bill 1370 which eliminated further State funding of the Fire and Police Pension Association (FPPA) Death and Disability Program. Effective with every Westminster Fire employee hired after January 1, 1997, the State will no longer pay FPPA 2.4 percent of each employee's salary in premiums for this benefit. After reviewing this new requirement, Staff is recommending that the cost of these premiums be split between the City and the newly hired employees.

This recommendation is consistent with the City's past practice of providing City paid benefits on an equitable basis to all employees.

Staff Recommendation

Adopt Resolution No. _____ authorizing the City Manager to direct that the disability premiums paid to the Fire and Police Pension Association be split between the City and FPPA eligible Fire Department employees hired after January 1, 1997; and that the employer portion of these premiums shall be equal to the same percent of payroll as is paid on behalf of all other employees for long term disability and survivor income coverages.

Background Information

The FPPA Death and Disability Program provides long term disability and survivor income benefits to participating Fire and Police personnel. The State of Colorado has been funding the FPPA Death and Disability Program for the past sixteen years. Effective January 1, 1997, the State made one final payment of \$39 million and will make no further contribution after this date. The premiums for all Fire personnel hired after January 1, 1997 will be equal to 2.4 percent of the employees salaries.

As a result of a majority vote of employees within the Department, 71 of the 73 eligible Fire employees joined FPPA in May of 1991. Prior to joining FPPA all Fire personnel were covered by the City's long term disability (LTD) policy with Standard Insurance Company. When the Fire Department employees joined FPPA the size of the employee group being insured by Standard was reduced.

This caused the LTD premium rate to increase from .66 percent in 1991 to .76 percent of insured payroll in 1992. The result was that the City's annual premium payments increased from \$114,480.00 in 1991 to \$121,550 in 1992 even though the number of employees covered by the plan was reduced. Standard uses the age, sex, occupation and geographical location of the City of Westminster to determine what rate to charge for LTD. If the Fire personnel had remained in the City's group, there would have been no increase in the rate. The rate for the survivor income benefit coverage was not impacted by this change and remained at .59%. Police Department employees also had the option of participating in the FPPA long term disability and survivor income benefit, but voted by a large majority not to do so.

At the same time that joining FPPA was being considered, it was noted that the State law on FPPA did have language that could transfer funding to "local revenue sources" if the State ever decided to stop its annual contribution to FPPA. The understanding within the City was that if this were ever to happen, the City would reserve the option of passing along all or some of the cost to the employees participating in FPPA. It was also the opinion of FPPA staff that the City would not be prohibited from passing any additional cost for this program along to the employee.

After careful consideration and discussion with other cities on how they are handling this issue, Staff is recommending that the 2.4 percent of payroll be split between the City and the participating employees. The City currently pays .76 percent of payroll for long term disability coverage and .59 percent of payroll for survivor income benefits (SIB). For a newly hired eligible Fire employee, 2.4 percent of salary would be \$698.17, based on a starting salary of \$29,090.54 per year. Of this \$698.17, the City would pay \$392.72 (1.28 percent), and the eligible Fire employee would pay \$296.45 (1.12 percent) per year.

Staff believes that this is a reasonable formula for sharing this expense because it is consistent with the City's benefit policy of treating all employees equally and not contributing more for one group of employees over another. This issue was reviewed with the Fire Department Issues Task Force earlier this year. At that time there was general consensus that the policy being recommended by City Staff was reasonable.

City Council has requested that this recommendation be reviewed again next year. Staff will be bringing updated information at that time for Council to review.

Given the fact that splitting the cost of LTD and SIB premiums marks a departure from this being a fully employer or fully State paid benefit, Staff is requesting that Council take formal action on this proposal. This issue was reviewed and discussed at the study session held on June 30 and is being brought to Council for formal action per the attached Resolution.

Respectfully submitted,

William M. Christopher
City Manager

Attachment: Resolution

RESOLUTION

RESOLUTION NO.

INTRODUCED BY COUNCILLORS

SERIES OF 1997

WHEREAS, the City of Westminster has determined that it is important that all employees including Fire Department personnel be provided with long term disability and survivor income coverage; and

WHEREAS, the State of Colorado has ceased to fund premium payments to the Fire and Police Pension Association (FPPA) for these coverages effective with employees hired on or after January 1, 1997; and

WHEREAS, the Fire and Police Pension Association has notified the City of Westminster that future premium payments will now be the responsibility of the local revenue sources; and

WHEREAS, The City of Westminster has sought to provide a benefit package that is fair to all employees and does not favor one group over another, and sharing the cost of the FPPA premiums by the City with future eligible Fire employees is consistent with this policy:

NOW, THEREFORE, the Westminster City Council resolves that:

1. The City Manager is hereby authorized to direct that these premiums shall be split between the City of Westminster and FPPA eligible Fire employees hired after January 1, 1997, and

2. The employer portion of these premiums shall be equal to the same percentage of payroll as is paid on behalf of all other employees for their long term disability and survivor income coverages.

Passed and adopted this 14th day of July, 1997

ATTEST:

Mayor

City Clerk

Date: July 14, 1997

Subject: Councillor's Bill No. re Appropriation of Water Reclamation Facility Bond Proceeds and Contingency Transfer for 1997 Interest and Administrative Fee Payment

Prepared by: Nancy Alberts, Accounting Manager

Introduction

Council is requested to pass the attached Councillor's Bill appropriating \$13,089,726 in bond proceeds for the construction of the first phase of the water reclamation system. Council is also requested to approve a contingency transfer of \$62,322 to cover the debt service and administrative fee on the issue.

Summary

On May 1, 1997, the Colorado Water Power Authority issued \$31,605,000 in Colorado Water Resources and Power Development Authority Clean Water Revenue Bonds. The bond proceeds include the design and construction of Westminster's reclaimed water system including pipeline, storage and advanced treatment facilities. Westminster's share of the bond proceeds is \$13,089,726, which now needs to be appropriated. In addition, because of the uniqueness and timing of this issue, the debt service payments were not appropriated as part of the 1997 budget process. Therefore, a contingency transfer is being requested for \$62,322 to cover these expenses.

Staff Recommendation

Pass Councillor's Bill No. on first reading appropriating \$13,089,726 which is Westminster's portion of the bond proceeds from the May 1, 1997 Colorado Water Resources and Power Development Authority Clean Water Revenue Bonds; and authorizing \$62,322 in contingency transfers to cover the 1997 debt service on the issue.

Background Information

On May 1, 1997, the Colorado Water Power Authority issued \$31,605,000 Colorado Water Resources and Power Development Authority Clean Water Revenue Bonds for various wastewater projects. This is a unique issue for the City because there are five other governmental entities that are sharing the bond proceeds. By "pooling" the bond proceeds among several other issuers, the City was able to obtain a lower interest rate of 4.54% versus a rate of 5.56% that it could obtain through a more conventional type of bond issue. In addition, the bond issuance costs were absorbed among the six issuers, resulting in less being charged than if the City were a single issuer. The City is only responsible for its portion of the debt service on the issue. The City of Westminster's share of the bond issue is \$13,089,726 after bond issuance costs.

Appropriation of Water Reclamation Facility Bond Proceeds

Page 2

Council is also requested to approve the use of a contingency transfer in the amount of \$62,322 for the 1997 debt service on this issue, as no debt service was budgeted in mid 1986, at the time the budget was drafted.

The bond proceeds are to be used on Phase I improvements to design and install the reclaimed water system. This system will provide treated effluent from the Big Dry Creek Water Reclamation Facility to irrigate turf at such locations as Legacy Ridge Golf Course, Hyland Hills Golf Course, City Park and the soon to be constructed Countydale Golf Course.

Respectfully submitted,

William M. Christopher
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 1997

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 1997 BUDGET OF THE UTILITY FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 1997 ESTIMATED REVENUES IN THE FUND

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1997 appropriation for the Utility Fund, initially appropriated by Ordinance No. 2473 in the amount of \$33,534,034 is hereby increased by \$13,089,726 which, when added to the fund balance as of the City Council action on July 14, 1997, will equal \$47,423,760. The actual amount in the Utility Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of bond proceeds for the Water Reclamation Facility construction.

Section 2. The \$13,089,726 increase in the Utility Fund shall be allocated to City Revenue and Expense accounts which shall be amended as follows:

<u>Description</u> <u>Final Budget</u>	<u>Current Budget</u>	<u>\$ Increase</u>	
<u>REVENUES</u>			
Bond Proceeds 20-1477-400 \$13,089,726	\$-0-	<u>\$13,089,726</u>	
<u>EXPENSES</u>			
Contingency 20-35-99-999-000	464,195	(62,322)	401,873
Interest Expense 20-35-90-602-000	1,262,878	10,992	1,273,870
Administrative Fee 20-35-90-603-169	-0-	51,330	51,330
Project #169 20-35-88-555-169	\$-0-	\$12,995,000	\$12,955,000
Bond Issuance Costs 20-35-88-581-169	-0-	<u>94,726</u>	94,726
Total change to Expenses		<u>\$13,089,726</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 14th day of July, 1997.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of July, 1997.

ATTEST:

Mayor

City Clerk

Date: July 14, 1997

Subject: Legal Services for Westcliff Park and Open Space Condemnation

Prepared by: Vicky Bunsen, Assistant City Attorney

Introduction

City Council action is requested to authorize a contract with Gorsuch Kirgis L.L.C. to provide legal services in connection with the condemnation of park and open space parcels from Westcliff Seven Ltd. and U.S. Homes. Funds are available in the appropriate project account in the General Capital Improvement Fund and in the Open Space Fund for this expense.

Summary

On April 28, 1997, City Council authorized the acquisition, by condemnation if necessary, of two parcels of land totalling 42 acres in the Westcliff subdivision adjacent to U.S. 36 for park and open space purposes. An offer was made to the owner, Westcliff Seven Ltd., and the option holder, U.S. Homes. The offer was rejected. A petition in condemnation was filed by the City Attorney's Office and it is recommended that the case be handled by outside legal counsel. Staff is recommending that Malcolm Murray, Esq., of Gorsuch Kirgis L.L.C. be retained to provide these services.

Staff Recommendation

Authorize the City Manager to execute a contract with the law firm of Gorsuch Kirgis L.L.C. up to a limit of \$50,000 to provide eminent domain litigation services in connection with the condemnation of the Westcliff park and open space parcels.

Background Information

On April 28, 1997, City Council authorized the acquisition, by condemnation if necessary, of two parcels of land totalling 42 acres in the Westcliff subdivision adjacent to U.S. 36 for park and open space purposes. Negotiations had been ongoing for the previous two years with the option holder, U.S. Homes.

The City Manager was close to finalizing a purchase agreement when the president of U.S. Homes changed. The new president decided against the proposed deal and soon thereafter insisted that the City file a condemnation suit. A final offer was made to the owner, Westcliff Seven Ltd., and U.S. Homes. The offer was rejected. A petition in condemnation was filed by the City Attorney's Office.

The City Attorney's Office handles most condemnation matters, which have included a number of right-of-way cases in the past few years. Recently, two condemnation matters have involved a complexity and volume of work that justify the hiring of outside legal counsel. The condemnation of the Westminster Plaza is one such project and the Westcliff case is the other.

In the recent past, proposals have been solicited from three top experts in eminent domain law for other cases, including Malcolm Murray of Gorsuch Kirgis L.L.C., Marlin Opperman of Opperman & Associates, and Patricia Tisdale of Holme Roberts & Owen. This information was reviewed in connection with the Plaza redevelopment project and defense of the Anderson civil suit that was filed against various staff members in connection with the pawn shop condemnation. Because fee information and qualifications were solicited within the past few months, Staff felt that it was not necessary to ask the same firms to go to the trouble of making another submittal.

City Staff has experience working with the condemnation experts at each firm and all are highly qualified. The hourly rates of Gorsuch Kirgis are lower than the other two firms:

	<u>Gorsuch</u>	<u>Opperman &</u>	<u>Holme, Roberts &</u>
	<u>Kirgis</u>	<u>Associates</u>	<u>Owen</u>
Lead Attorney	\$144	\$185	\$172
Assisting Attorney	\$112	\$150	\$(20% discount
Assisting Attorney	\$ 88	\$105, 95	\$ from regular
Law Clerks, Paralegals \$ 65	\$ 85		\$ rates.)
Office Staff	\$ 0	\$ 30	\$

The landowner and option holder in the Westcliff case have indicated that they intend to make the City's growth management policy and comprehensive land use plan an issue in the valuation of the property. Malcolm Murray successfully defended the legal attacks on the Boulder County comprehensive land use plan in Jafay v. Boulder County, 848 P.2d 892 (Colo. 1993). Due to his prior extensive experience with these land use issues, Staff believes that he is best qualified to address the valuation issues in a competent and efficient manner. Because of his lower fees and prior experience, it appears that Mr. Murray would be the best choice for this particular case.

It should be noted that Mr. Murray has also been retained by WEDA to handle the condemnation case with the Colorado and Santa Fe Land Company. His work thus far with the appraisers and negotiating with the landowner in the Plaza case has been very useful.

A cap of \$50,000 is suggested at this time, which should be adequate for pretrial discovery and possibly for the trial. If litigation becomes protracted, the contract will be brought back to City Council for further review and authority to incur further fees.

Respectfully submitted,

William Christopher
City Manager

Attachment: Contract for Legal Services

CONTRACT FOR LEGAL SERVICES

THIS AGREEMENT is made this 14th day of July, 1997, by and between GORSUCH KIRGIS L.L.C. (the "Firm") and the City of Westminster (the "City").

RECITALS

1. The City is desirous of contracting with the Firm for legal services.
2. The Firm and its attorneys are authorized to practice law in the State of Colorado.

AGREEMENT

1. The Firm shall represent the City and furnish special legal services in connection with the condemnation of the Westcliff park and open space parcels.
2. Malcolm M. Murray of the Firm shall be principally responsible for the Services.
3. The Firm is acting as an independent contractor; therefore, the City will not be responsible for FICA taxes, health or life insurance, vacation, or other employment benefits.
4. The City shall pay for the Services at the hourly rate not to exceed \$144 per hour and such other hourly rates listed in the Firm's proposal dated _____, 1997.
5. This Contract may be terminated by the City with or without cause.
6. The City Council of the City of Westminster authorized this contract on July 14, 1997.
7. Payments pursuant to this Contract shall not exceed \$50,000.00 without further written authorization by the City.

GORSUCH KIRGIS L.L.C.

By _____
Malcolm M. Murray, Esq.

CITY OF WESTMINSTER

By _____
William Christopher, City Manager

Date: July 14, 1997
Subject: Set Date For Special Council Meeting
Prepared By: Michele Kelley, City Clerk

Introduction

City Council action is requested to set a date for a Special City Council meeting to hold the first public hearing regarding the 1998 City budget.

Summary

The calendar for the 1998 Budget reflects two public hearings to be scheduled for City Council to receive input from the public regarding expenditures they support.

The first public hearing is scheduled for July 21st, which would be a Special City Council meeting date. The date of July 21st has already been published in the Westminster Window. A Study Session is scheduled as well for the subject date.

Staff Recommendation

Set the date of July 21, 1997 at 7:00 P.M. for a Special City Council meeting for the purpose of conducting the first of two public hearings regarding the 1998 budget to receive public input.

Respectfully submitted,

William M. Christopher
City Manager