



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 (item 8) and Citizen Presentations (item 13) are reserved for comments on items not contained on the printed agenda.**

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Swearing in New Councillor David Davia**
5. **Report of City Officials**
 - A. City Manager's Report
6. **City Council Comments**
7. **Presentations**
8. **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 citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

9. **Consent Agenda**
 - A. June 2004 Financial Report
 - B. Swim & Fitness Center Renovations
 - C. Westminster Grange Hall Exterior Restoration Project - Construction Contract Award
 - D. Design of Reclaimed Waterline Extensions
 - E. CB 48 re Supplemental Appropriation for Open Space Land Purchases (Kauffman - Price)
 - F. CB 47 re Telecommunication Towers, Facilities and Antennas (Dixon - Price)
10. **Appointments and Resignations**
 - A. Resolution No. 41 Resignation and Appointment to Election Commission
11. **Public Hearings and Other New Business**
 - A. Public Hearing re Chamberlain East Property
 - B. Resolution No. 42 re findings re Chamberlain East Property
 - C. Councillor's Bill No. 49 re Annexation of Chamberlain East Property
 - D. Councillor's Bill No. 50 re CLUP Amendment for Chamberlain East Property
 - E. Councillor's Bill No. 51 re rezoning of Chamberlain East Property
 - F. Public Hearing re Zuni Street Right-of-Way Annexation
 - G. Resolution No. 43 re findings re Zuni Street Right-of-Way Annexation
 - H. Councillor's Bill No. 52 re Zuni Street Right-of-Way Annexation
 - I. Public Hearing re Bradburn/LaPlace Street Right-of-Way Annexation
 - J. Resolution No. 44 re findings re Bradburn/LaPlace Street Right-of-Way Annexation
 - K. Councillor's Bill No. 53 re Bradburn/LaPlace Street Right-of-Way Annexation
 - L. Councillor's Bill No. 54 re Code Amendments re Fire Pension Plan
 - M. Resolution No. 45 re Fire Pension Plan
 - N. Councillor's Bill No. 55 Use of Private Agencies for Collection of Delinquent Payments to Municipal Court
 - O. Resolution No. 46 re Sponsoring Hyland Hills for an Adams County Open Space Grant Application
 - P. Resolution No. 47 re in Support of Project Y-Vote
 - Q. Resolution No. 48 re Joint Resolution on FasTracks
12. **Old Business and Passage of Ordinances on Second Reading**
13. **Citizen Presentations (longer than 5 minutes) and Miscellaneous Business**
 - A. City Council
 - B. Executive Session
14. **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, JULY 26, 2004 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro-Tem Kauffman and Councillors Dittman, Dixon, Hicks, and Price were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Michele Kelley, City Clerk, were also present. Absent none.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Price to approve the minutes of the meeting of July 12, 2004 with no corrections or additions. The motion carried unanimously.

SWEARING IN OF NEW COUNCILLOR

Municipal Court Judge John Stipech administered the Oath of Office to newly selected Councillor David Davia.

At 7:04 P.M. the Mayor called a recess and Council reconvened at 7:10 P.M.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented on the severe weather on July 23 and the damage to city facilities, streets, parks, and trails.

CITY COUNCIL COMMENTS

Councillor Dittman reminded everyone of August 3 being National Nite Out, and commented on the grand opening of 136th Avenue & I-25 the interchange.

Councillor Dixon commented on the Santa Fe Rocky Flats meeting, which included peer exchange, and discussion of the long term stewardship of Rocky Flats.

Mayor McNally commented on the Laos Hmong event she attended last week, and the award of Purple Heart given to Vietnam veterans at this event. She also reminded the public about the upcoming All Ears event on August 5 at the Irving Street Library.

CITIZEN COMMUNICATION

John Brodhacker, 10392 Tennyson Ct, addressed Council on the drainage problem in the area of his home and the home of Terry Yochum, 10386 Tennyson Court. The problem began in 1984 and has not been corrected. Pictures were submitted for Council to review.

CONSENT AGENDA

The following items were considered as part of the consent agenda: June 2004 Financial Report; Swim & Fitness Center Renovations for \$125,000; Westminster Grange Hall Exterior Restoration Project with Randcorp, Inc., for \$102,848; Design of Reclaimed Waterline Extensions with Martin/Martin Consulting Engineers for \$89,900; CB No. 48 re Supplemental Appropriation for Open Space Land Purchase; and CB No. 47 re Telecommunication Towers, Facilities and Antennas.

Mayor McNally 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. Mayor Pro-Tem Kauffman asked to remove the Swim & Fitness Center Renovations.

Mayor Pro-Tem Kauffman moved, seconded by Hicks to adopt the remaining consent agenda items as presented. The motion carried unanimously.

SWIM & FITNESS CENTER RENOVATION

Mayor Pro-Tem Kauffman moved, seconded by Dixon to TABLE this item. The motion carried unanimously.

RESOLUTION NO. 41 RE RESIGNATION AND APPOINTMENT TO ELECTION COMMISSION

Councillor Dittman moved, seconded by Dixon to adopt Resolution No. 41 accepting the resignation of Maryann Maher and appointing Delbert Lennie to the Election Commission, with his term of office to expire December 31, 2005. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE CHAMBERLAIN EAST PROPERTY

At 7:33 p.m. the public hearing was opened on the Annexation, CLUP Amendment, and Zoning on the Chamberlain East property. David Falconieri, Planner III, entered a copy of the Agenda Memorandum and other related items into the record. Chick Horne, 4395 W 92nd Place, spoke in favor of this application. No one spoke in opposition. The public hearing was declared closed at 7:35 p.m.

RESOLUTION NO. 42 RE FINDINGS ON CHAMBERLAIN EAST ANNEXATION

Councillor Dixon moved, seconded by Price to adopt Resolution No. 42 making certain findings as required under Section 31-12-110 C.R.S. concerning the proposed Chamberlain East annexation. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 49 RE ANNEXATION OF CHAMBERLAIN EAST PROPERTY

Councillor Dixon moved, seconded by Price to pass Councillor's Bill No. 49 on first reading annexing the Chamberlain East property. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 50 RE CLUP AMENDMENT FOR CHAMBERLAIN EAST PROPERTY

Councillor Dixon moved, seconded by Davia to pass Councillor's Bill No. 50 on first reading amending the Comprehensive Land Use Plan (CLUP) for the Chamberlain East property changing the designation from Northeast Comprehensive Development Plan to Retail Commercial. This recommendation is based on the findings that the proposed amendment is consistent with the overall goals and purpose of the Plan, is compatible with proposed and existing adjacent land uses, and would not result in detrimental impacts to the City's infrastructure systems. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 51 RE ZONING OF CHAMBERLAIN EAST PROPERTY

Councillor Dixon moved, seconded by Hicks to pass Councillor's Bill No. 51 on first reading rezoning of the Chamberlain East property from A-2 in Jefferson County to Planned Unit Development (PUD). This recommendation is based on the findings set forth in Section 11-5-3 of the Westminster Municipal Code. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE ZUNI STREET RIGHT-OF-WAY ANNEXATION

At 7:40 p.m. the public hearing was opened on the Zuni Street Right-of-Way Annexation. David Falconieri, Planner III, entered a copy of the Agenda Memorandum and other related items into the record. No one spoke in favor or in opposition to the application. The public hearing was declared closed at 7:42 p.m.

RESOLUTION NO. 43 RE FINDINGS ON ZUNI STREET RIGHT-OF-WAY ANNEXATION

Councillor Dittman moved, seconded by Price to adopt Resolution No. 43 making certain findings of fact as required under Section 31-12-110 C.R.S. regarding the proposed Zuni Street annexation. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 52 RE ANNEXATION OF ZUNI STREET RIGHT-OF-WAY

Councillor Dittman moved, seconded by Price to pass Councillor's Bill No. 52 on first reading annexing the northbound lanes of Zuni Street between 136th Avenue and the south boundary line of the Amherst subdivision. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE BRADBURN/LAPLACE STREET RIGHT-OF-WAY ANNEXATION

At 7:43 p.m. the public hearing was opened on the Zuni Street Right-of-Way Annexation. David Falconieri, Planner III, entered a copy of the Agenda Memorandum and other related items into the record. No one spoke in favor or in opposition to the application. The public hearing was declared closed at 7:45 p.m.

RESOLUTION NO. 44 RE FINDINGS ON BRADBURN/LAPLACE STREET ROW ANNEXATION

Councillor Price moved, seconded by Hicks to adopt Resolution No. 44 making certain findings of fact as required under Section 31-12-110 C.R.S. regarding the proposed Bradburn/LaPlace annexation. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 53 RE ANNEXATION OF ZUNI STREET RIGHT-OF-WAY

Councillor Price moved, seconded by Hicks to pass Councillor's Bill No. 53 on first reading annexing portions of the Bradburn Boulevard and LaPlace Court rights-of-way. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 54 RE FIRE PENSION PLAN TRUST FUND

Councillor Dixon moved, seconded by Hicks to pass Councillor's Bill No. 54 as an emergency ordinance adding a section to the Code related to the transfer of Fire Pension Plan Trust Fund assets and repealing of Chapter 3 of Title 14 concerning the Fire Pension Plan. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 45 RE FIRE PENSION PLAN

Councillor Dixon moved, seconded by Hicks to adopt Resolution No. 45 transferring the Fire Pension Plan 401(h) balances to the City's General Pension Plan 401(h) account, authorizing irrevocable coverage under the Fire and Police Pension Association Defined Benefit System and terminating the City's Fire Pension Plan. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 55 RE USE OF COLLECTION AGENCIES FOR MUNICIPAL COURT

Councillor Davia moved, seconded by Dittman to pass Councillor's Bill No. 55 on first reading amending the Municipal Code to allow the Westminster Municipal Court to utilize a private collection agency for the collection of delinquent fines and other payments due to the Court and to assess the costs of collection to defendants. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 46 RE SPONSORING HYLAND HILLS FOR ADCO OPEN SPACE GRANT

Councillor Hicks moved, seconded by Dixon to adopt Resolution No. 46 sponsoring Hyland Hills Park and Recreation District for an Adams County Open Space grant application. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 47 RE SUPPORTING PROJECT Y-VOTE

Councillor Dittman moved, seconded by Dixon to adopt Resolution No. 47 in support of Y-Vote's mission to enhance voter participation among young people in Jefferson County. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 48 RE JOINT RESOLUTION ON FASTRACKS

Mayor Pro-Tem Kauffman moved, seconded by Dixon to adopt Resolution No. 48 supporting the joint resolution by Adams County cities in support of the Regional Transportation District's FasTracks Transit Plan. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

Mayor McNally stated there would be an executive session to discuss two economic development matters.

ADJOURNMENT:

The meeting was adjourned at 7:56 P.M.

ATTEST:

City Clerk

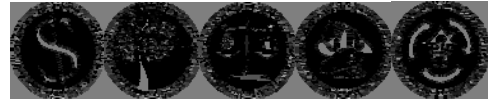
Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



Subject: Swearing in of New Councillor, David Davia

Prepared By: Michele Kelley, City Clerk

Recommended City Council Action:

Have Municipal Court Judge John Stipech swear into office David Davia, the newly selected Councillor.

Summary Statement:

- On June 28, 2004, City Council accepted the resignation of Mayor Ed Moss effective July 6, 2004.
- City Council set a deadline of July 2nd for applications from citizens interested in filling this vacancy, with a total of 11 applications being submitted and interviewed by City Council.
- At the July 12, 2004 City Council meeting, David Davia was selected to fill this vacancy.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Swearing in of New Councillor, David Davia

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Policy Issue

There is no policy issue identified.

Alternative:

There are no alternatives identified.

Background Information:

Since there is currently a vacancy in the position of Councillor, this action is required to officially swear into office the new Councillor.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Financial Report for June 2004

Prepared By: Barb Dolan, Sales Tax Manager
Tammy Hitchens, Accounting Manager

Recommended City Council Action

Accept the Financial Report for June 2004 as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement and monthly revenue report. The Shopping Center Report is also attached to this monthly financial report.

- Across all shopping centers, total sales & use tax receipts are up by 12% over the one-month period of June 2003. In May this figure was down 1%. This is due primarily to a timing difference in the reporting cycle of a large taxpayer. Adjusting for this timing difference, total sales and use tax receipts are up by .7%.
- The Westminster Mall is down 9% for June, compared to June of last year. Last month this figure was positive 2%. Year-to-date the Mall is down 5%; last month this figure was down 4%.
- Public Safety Tax receipts for the month of June were \$853,032; last month this figure was \$772,247. Key features of the monthly financial report for June are as follows:
- At the end of June, six months of the year have passed, or 50% of the calendar year.
- The Sales and Use Tax Fund revenues are currently \$1,446,385 over pro-rated budget for the year. The June figures reflect the sales in May, tax receipts received in June. This is due, in part, to receipt of PST taxes, but is also due to excess revenues as Business Assistance Packages are retired, as well as a general upturn in the economy.
- Without the new PST, Sales Tax Returns (returns only, adjusted for early and late returns) are up for June 2004 compared to June 2003 by 3.8%, an increase of \$114,846 over June 2003. Retired business assistance packages accounted for \$62,830 of this increase.
- Again, looking at year-to-date figures without the PST, analysis shows the following:
 - For the six months ending in June, Sales Tax Returns (only) are 5.4% ahead of 2003 year-to-date, or an increase of \$1,047,034. These figures are adjusted for early and late returns. For the six months ending in June, the fund is 3.2% ahead of 2003 year-to-date. Last month this figure was 3.4%.
- For the month of June, the entire fund is 2.0% ahead of June 2003. Last month this figure was 0.6%. The reasons for this difference are as follows:
 - Sales Tax Returns (only) are up \$114,846 for June compared to May's increase of \$92,679.
 - Use taxes are up \$34,311 over June 2003. Last month use taxes showed a decline of \$80,801 over May 2003. Use tax flows are volatile and reflect purchases of large-ticket items. It is primarily because of the volatility of this factor that the total Sales and Use Tax Fund is showing an increase of 2.0% for the month compared to June of last year.
- The General Fund revenue is currently 101% of pro-rated budget for six months.

Policy Issues

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.

Alternatives

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

Background Information

This section is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%. If a fund is on schedule for the year regarding revenues and/or expenditures, the percentage will be 100% of pro-rated budget figures.

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 such as City Manager, City Attorney, Finance, and General Services.

At the end of June, the General Fund is in the following position regarding both revenues and expenditures:

- Revenues are over pro-rated budget by \$398,445, (101% of pro-rated budget). This is due to excess revenues on a pro-rated basis in Licenses and Permits, Fines, Other Services, and Miscellaneous.
- Expenditures are under budget by \$6.0 million (87% of pro-rated budget), due to under-spending in several departments. Spending does not occur evenly throughout the year in many departments, particularly with regard to insurances in Central Charges and spending on contract services in several other departments. Public Safety Tax expenditures to date are largely reflected in the Police and Fire Department operating budgets, which are 87% and 82% of pro-rated budgets, respectively. Orders have been placed for the seventh engine and fourth ambulance in the Fire Department. It is anticipated that all of the Public Safety hiring's and major equipment purchases will be complete by mid-2005.

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 was approved by the voters in the November 2003 election, and is a 0.6% sales and use tax to be used to fund public safety-related expenses. At the end of June, the position of these funds is as follows:

- Sales & Use Tax Fund revenues are over pro-rated budget by \$1,446,385 (105.3% of pro-rated budget). These numbers include \$853,032 of PST receipts and \$62,830 in income due to retired business assistance packages.
- Sales & Use Tax Fund expenditures are even with pro-rated budget because of the transfers to the General Fund, Debt Service Fund and General Capital Improvement Fund.

- Open Space Sales & Use Tax Fund revenues are over pro-rated budget by \$2,870,493 (232% of pro-rated budget). The increase is the result of the sale of land to the Academy of Charter School, which was not anticipated in the original budget.
- Open Space Sales & Use Tax Fund expenditures are over pro-rated budget by \$335,657 (114% of pro-rated budget) due to land purchases of \$877,103 finalized in March. These variances will occur throughout the year, as land purchases are unevenly distributed throughout the year.

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. At the end of June, the enterprise is in a positive position.

- Combined Water & Wastewater revenues are under pro-rated budget by \$365,152 (98% of budget):
 - Water revenues over pro-rated budget by \$203,841 (102% of pro-rated budget). Water revenues are over pro-rated budget due primarily to the tap fee income. Water revenues from rates and charges are under pro-rated budget by 720,800 or 91% of budget.
 - Wastewater revenues under pro-rated budget by \$568,992 (90% of pro-rated budget), due in part to revenues for monthly rates and charges being lower during this quarter than historical averages and due in part to the reversal of the unrealized gain in interest income.
 - Storm water Drainage revenues slightly over pro-rated budget by \$3,882 (101% of pro-rated budget).
- Combined Water & Wastewater expenses are under budget by \$3,395,344 (77% of budget):
 - Water expenses under pro-rated budget by \$2,527,141 (77% of budget) due to lower contracted service costs early in the year.
 - Wastewater expenses under pro-rated budget by \$868,202 (78% of budget) for the same reason – lower contracted service costs.
 - Storm Drainage expenses under pro-rated budget by \$51,902 (57% of budget).

Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City's two municipal golf courses. The enterprise as a whole is in net negative position on a pro-rated basis, with net income currently \$230,685 under pro-rated budget for the year. Seasonal fluctuations will impact this enterprise due to the nature of the golf business. In addition, City Council will be considering measures in the 2005 budget to allow the golf courses to work out of the current negative position over the coming years.

- Legacy – Revenues are under pro-rated budget by \$199,291 (77% of pro-rated budget).
- Legacy – Expenses are under pro-rated budget by \$81,649 (88% of pro-rated budget).
- Heritage – Revenues are under pro-rated budget by \$194,583 (76% of pro-rated budget).
- Heritage – Expenses are under pro-rated budget by \$81,540 (89% of pro-rated budget).

Staff will attend the July 26th City Council Meeting to address any questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Swim & Fitness Center Renovation

Prepared By: Peggy Boccard, Recreation Facilities and Programs Manager

Recommended City Council Action

Authorize Staff to reallocate \$125,000 of the existing funds from the Capital Improvement Project (CIP) account designated for the City Park Fitness Expansion Design into the Recreation Facilities Improvements CIP account.

Summary Statement

- The annual maintenance shut down of the Swim & Fitness Center is scheduled from September 7, 2004, to October 17, 2004. Council approved the Department of Parks, Recreation and Libraries to contract with American Mechanical Services to replace the building boiler at the Swim & Fitness Center during this shutdown.
- This six-week shutdown presents an opportunity to address several other projects that will better meet safety and customer needs at the Swim and Fitness Center. These projects would include painting the pool and lobby area ceilings; placing an 8-foot tile band around the pool walls; re-plastering the pool (which has stains and was last done 10 years ago); and fixing shower stalls and partitions in the locker rooms.
- Although still an important project for PRL, the funding for the City Park Fitness Center Expansion has become a secondary priority in 2004 to allow for the more pressing needs of the Swim and Fitness Center to be met. We have been able to meet current demand at the Fitness Center and do not anticipate any community opposition to the delay in the expansion. The 2004 City Park Fitness Expansion fund would still receive \$75,000, to allow for preliminary concept design work.
- Transfers of budgeted project funds within the Capital Improvement Fund in excess of \$50,000 are brought to City Council for action. This policy was established at City Council's direction.

Expenditure Required: \$125,000

Source of Funds: Transfer from City Park Fitness Center Expansion Design CIP to Recreation Facilities Improvements CIP

Policy Issue

Should the City approve reallocation of funds to the Swim & Fitness Center renovation?

Alternative

City Council could choose to not authorize any transfer of funds. Staff does not recommend this option, as the existing needs of the Swim and Fitness Center and its patrons are not being met. Staff believes that the needs of the City Park Fitness Center patrons are being met and will continue to be met for several years to come.

Background Information

The Swim & Fitness Center is a 29,850-square-foot multipurpose recreation facility that serves City residents and non-residents of all ages. The Swim & Fitness Center was the first recreation center built by the City in 1975. The center amenities include an 8-lane 25-yard pool, diving well, teaching/play pool, sauna, steam room, hot tub, racquetball and handball-wallyball courts, a cardiovascular and strength training room, an aerobic studio and locker rooms. The center also has a community room that is used for programming as well as being available to the public for rental for private parties, events and meetings.

An extended shut down of the Swim and Fitness Center is scheduled from September 7, 2004 to October 17, 2004. During the closure, the replacement of the boiler, as was approved by Council on June 28, 2004, will be completed to address customer service concerns. The length of time needed to close the facility for the boiler project affords Staff the opportunity to address several other much-needed projects. Additional projects Staff would like to have completed during this closure include painting the pool and lobby area ceilings; placing an 8-foot tile band around the pool walls; replastering the pool (which has stains and was last done 10 years ago); and fixing shower stalls and partitions. A thorough cleaning will also take place during the closure, as well as conducting staff trainings on safety and customer service.

Parks Recreation and Libraries has been allocating funds into the City Park Fitness Center Expansion Design CIP account for the past several years. The original expansion design included the addition of a gymnasium onto the building. Community needs and trends have shifted and adding a gymnasium is no longer a priority. The modified focus for the expansion is to add additional aerobic and fitness space, as well as to complete the track on the upper level. The need for additional space is still valid. However, the overall needs of the patrons are currently being met at the City Park Fitness Center, while the Swim and Fitness Center has more immediate needs to operate a clean and safe facility for its patrons.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Westminster Grange Hall Exterior Restoration Project - Construction Contract Award

Prepared By: Vicky Bunsen, Assistant City Attorney
Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Award a contract for the construction of the exterior restoration of the Westminster Grange Hall to the low bidder, Randcorp Inc., in the amount of \$89,433, authorize a contingency for construction of \$13,415 (15%) and charge the total to the appropriate Community Development Block Grant (CDBG) project account.

Summary Statement

Working in cooperation with the Westminster Grange Association No. 184, staff obtained grant funding for a historic structure assessment of the Grange Hall and developed a budget for restoration of the exterior of the 1912 local landmark. Grant funding was then sought for the exterior restoration project and the State Historical Fund awarded a total of \$101,361 for the project. The grant funding requires matching funds to be available and the City offered to provide \$44,257 in CDBG funding to complete the project.

The structure assessment estimated a budget of \$145,618 for the project. Bids were solicited from general contractors who had successfully completed at least three projects within the past five years that were funded or supervised by the State Historical Fund, the National Trust for Historic Preservation, a certified local government or some similar preservation-oriented entity. Two bids were received from qualifying contractors:

Randcorp Inc.	\$ 89,433.00
Krische Construction	121,500.00

Randcorp is the low bidder, comes well-recommended and has offered to complete the project within 60 days after authorization to proceed. Randcorp has successfully completed preservation-related construction projects including several renovation projects at the Governor's Mansion, the Ron Judish Art Gallery, and the Asbury Church in the Highlands neighborhood. Staff is recommending that Randcorp be awarded the contract for the Westminster Grange Hall exterior restoration project based on their low bid.

Expenditure Required: \$102,848

Source of Funds: State of Colorado Historical Fund Grant and CDBG Funds

Policy Issues

Should the City award a grant-funded construction contract for the exterior restoration of the Westminster Grange Hall?

Alternative

City Council could award the contract to other than the lowest bidder. Normally, this option is exercised when there is doubt that the low bidder is qualified or does not have the resources to fulfill the terms of the contract. Those circumstances are not evident in this case.

Background Information

The City has been working in cooperation with the Westminster Grange Association No. 184 to assess and rehabilitate the Westminster Grange Hall at 3935 West 73rd Avenue. The Grange Hall was designated by City Council a local landmark in March 2003. The Grange Hall was built in 1910-12 and was the center of community activity for a half century.

The City is acting as the representative of the owner with respect to obtaining grant funding, soliciting bids and completing the restoration work. Several contractors with prior experience with historic building restoration projects were contacted and invited to bid. Two contractors submitted bids:

Randcorp Inc.	\$ 89,433.00
Krische Construction	121,500.00

The architect's estimate was \$145,000.

Randcorp Inc. is a Denver area firm with experience in rehabilitation and restoration of existing structures, with special expertise in such projects that require compliance with the U.S. Secretary of Interior Standards for restoration and rehabilitation of historically significant buildings.

Randcorp's proposal was determined to be in conformance with the bid documents and they are expected to be able to meet bonding and insurance requirements as well. Staff is recommending that Randcorp be awarded the contract for the Westminster Grange Hall exterior restoration project based on their low bid.

In addition to the restoration work to be carried out by a general contractor, it is necessary to remove and dispose of the transite asbestos siding on the building before the wood lap siding can be restored. The transite siding was put on the building sometime after 1954, based on historic photos. The cost of asbestos abatement will be \$5,551. The abatement work will be coordinated with the restoration work to minimize the time during which the Grange Hall will be under construction.

Funding for the project comes from \$101,361 from the State Historical Fund and \$44,257 from Community Development Block Grant funding. Since the bids for asbestos abatement and restoration, and fees for ancillary services such as architectural services, asbestos consulting and other costs will be lower than the estimated budget, it is anticipated that the State Historical Fund will require the grant funding and the CDBG matching funds to be pro-rated based on the lower bids.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



Subject: Design of Reclaimed Waterline Extensions

Prepared by: Diane M. Phillips, Reclaimed Water System Coordinator
Richard A. Clark, Utilities Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with Martin/Martin Consulting Engineers in the amount of \$78,174 for the design and construction inspection services of reclaimed waterline hookups and extensions, authorize a contingency of \$11,726 (15%) and charge the total to the Utility Fund Capital Improvement Budget.

Summary Statement

- In order to fully utilize the reclaimed water system, reclaimed waterlines need to be extended to applicable reclaimed customer locations.
- Two extensions will be designed in this project including: 112th Avenue and Alcott Street along with 112th Avenue and Irving Drive. Five homeowners associations (HOAs) will be connected and served including Home Farm, Heritage Town Homes, Hilltop, Ranch Townes Homes, and Torrey Peaks (maps attached).
- Proposals on this project were received on July 2 from three engineering firms.
- The lowest responsible proposal was received from Martin/Martin Consulting Engineers; who has completed several successful waterline projects for the City.
- Adequate funds for this project are available in the Utility Fund Capital Improvement Budget.

Expenditure Required: \$89,900

Source of Funds: Utility Fund Capital Improvement Budget

Policy Issue

Should the City move forward with the design of these particular reclaimed water lines?

Alternative

The City could choose not to design and extend reclaimed water lines to these areas at this time; however, it will be difficult to fully utilize the reclaimed water system without these extensions.

Background Information

In order to fully utilize the reclaimed water system and conserve potable water, reclaimed waterlines need to be extended to potential customers.

Extensions will be installed at 112th Avenue and Alcott Street along with 112th Avenue and Irving Drive. Five HOAs will be connected and served including Hilltop, Torrey Peaks, Ranch Town Homes, Home Farm and Heritage Town Homes. These projects were selected as the homeowners associations requested the conversion to reclaimed water or the extensions are being added ahead of roadway construction (112th Avenue).

These projects were selected for design based on 1) the irrigated property currently available that could cost effectively be served and, 2) to be proactive in installing extensions before development. The approximate total acreage of these projects is 48 acres and the estimated yearly reclaimed demand for these projects will be 108 acre-feet per year.

The Reclaimed Water Master Plan, which was completed in 2003, identified future reclaimed waterline extensions to fully utilize the reclaimed water system. These projects were all identified in the Reclaimed Water Master Plan.

The engineering firms that proposed on this project included:

Firm	Bid Amount
Martin and Martin	\$78,174
S.A. Miro	\$84,907
Stanec	\$87,464

Martin and Martin Consulting Engineers provided the lowest responsible bid and has completed several successful waterline projects for the City.

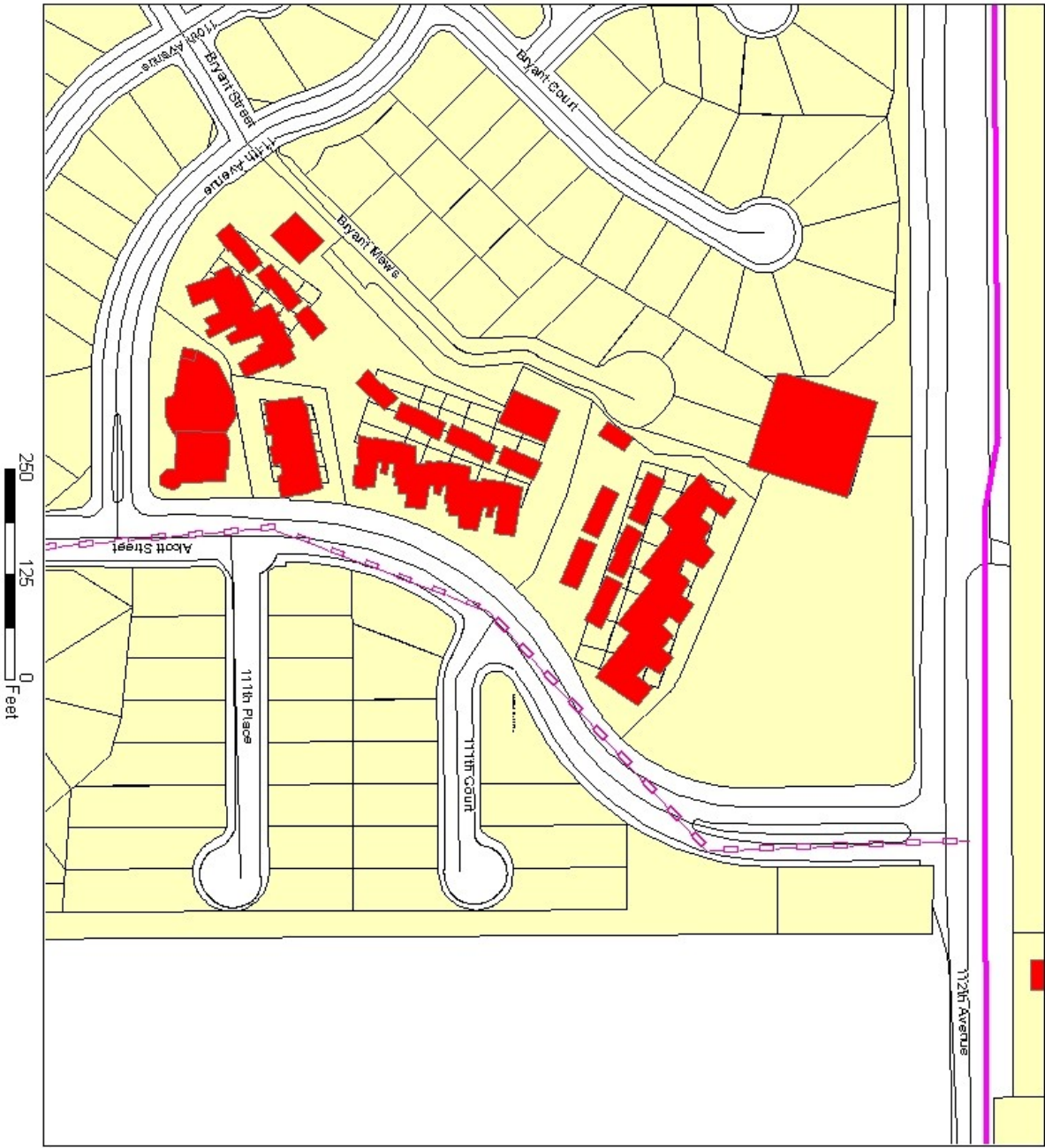
The design of these water lines is anticipated to commence in July and be completed by September. Staff anticipates bringing the recommendation for a contractor to construct the waterlines to City Council in the fall.

Respectfully submitted,

J. Brent McFall
City Manager








Attachments

112th & Alcott Extension



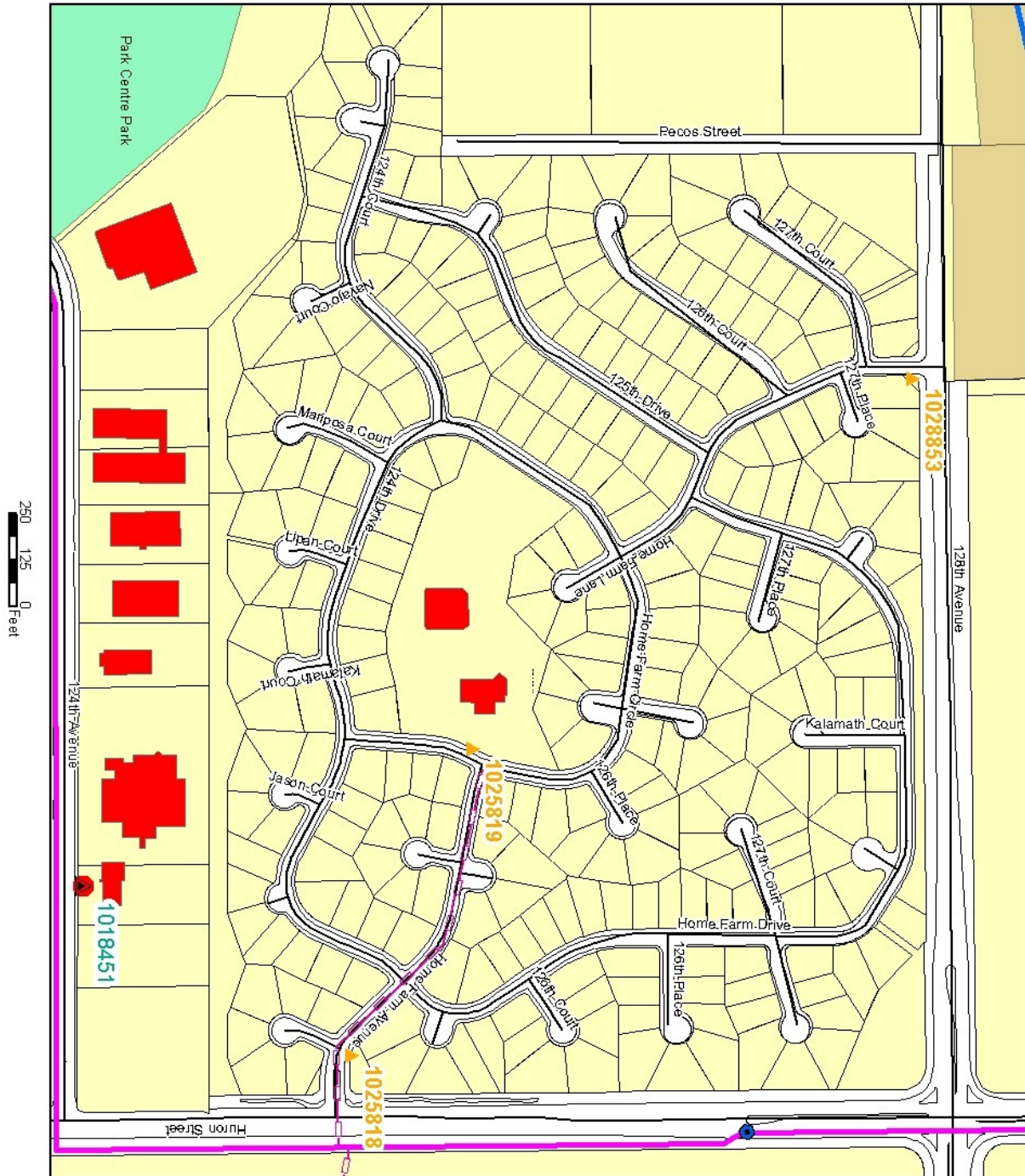
112th & Alcott
AL2.pdf

Legend

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-  48000.shp
-  Metersi.shp
-  meters
-  Openspace
-  Parks

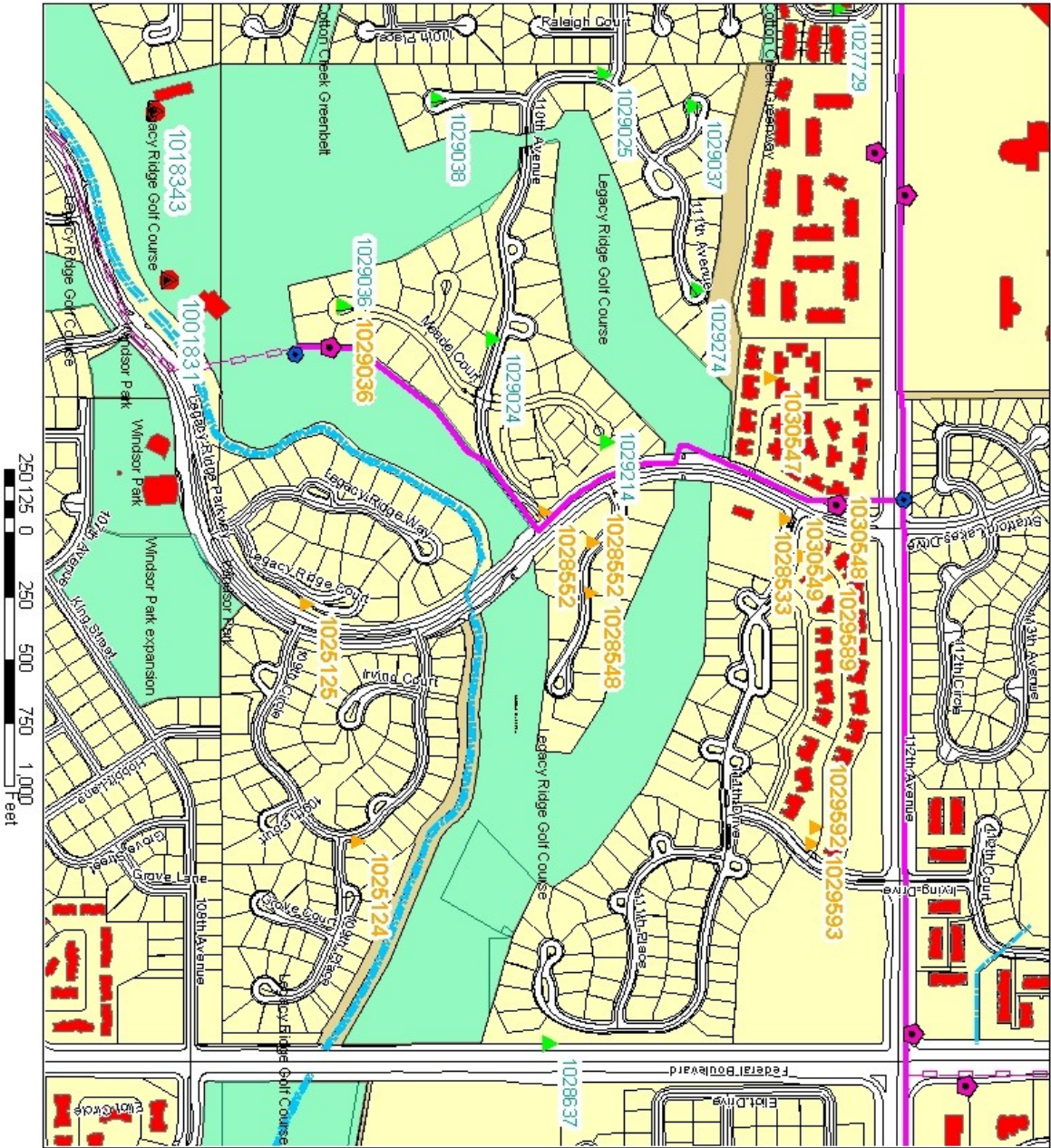


Home Farm Extension



- Home Farm
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- Legend**
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 - Meters
 - Openspace
 - Parks

Heritage Town Homes Hilltop HOA 112th & Irving Extensions



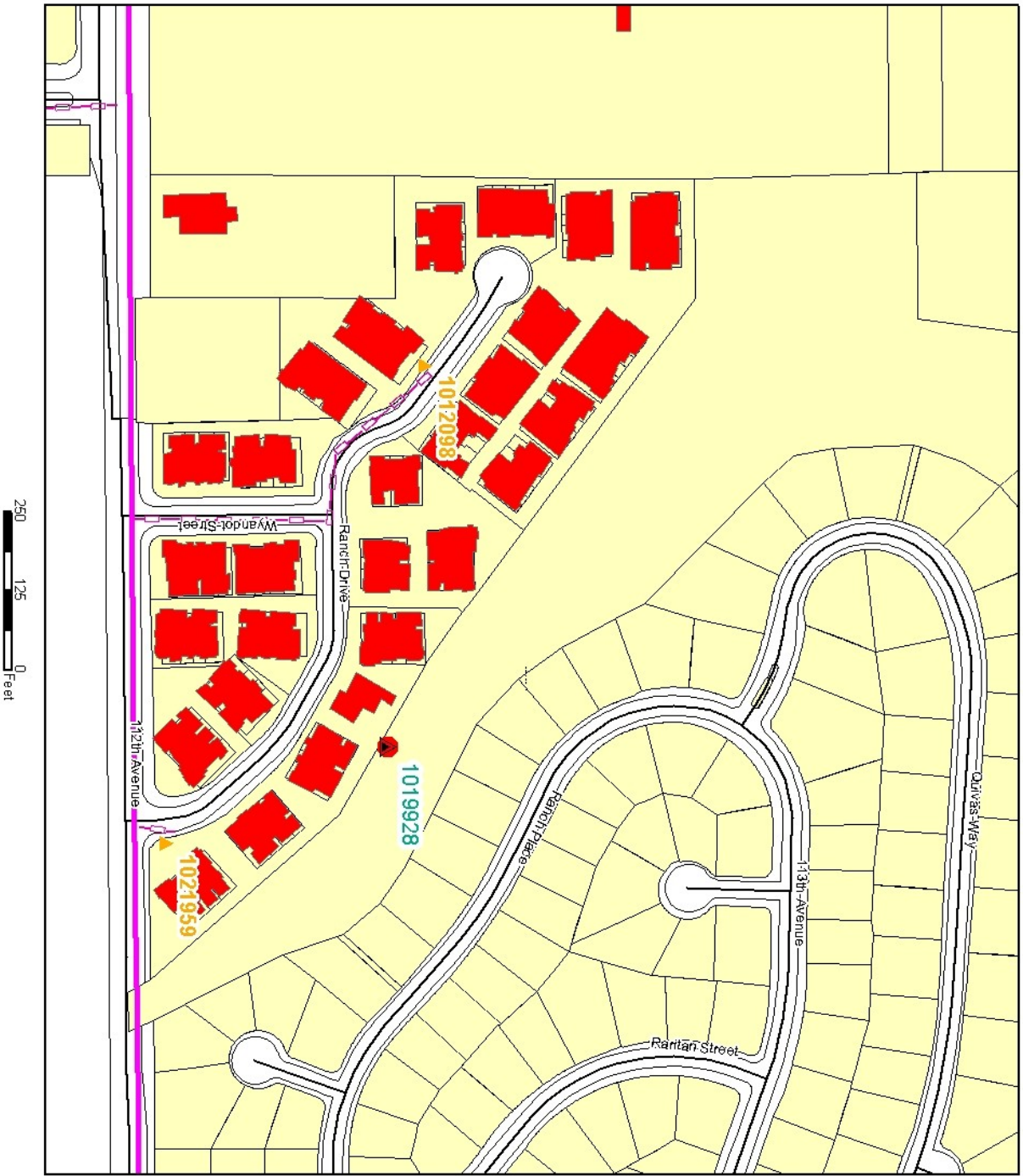
Legacy Ridge
LR2.pdf

Legend

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- 480trio.shp
- Metersi.shp
- meters
- Openspace
- Parks



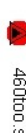

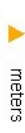




Ranch Townes Extensions

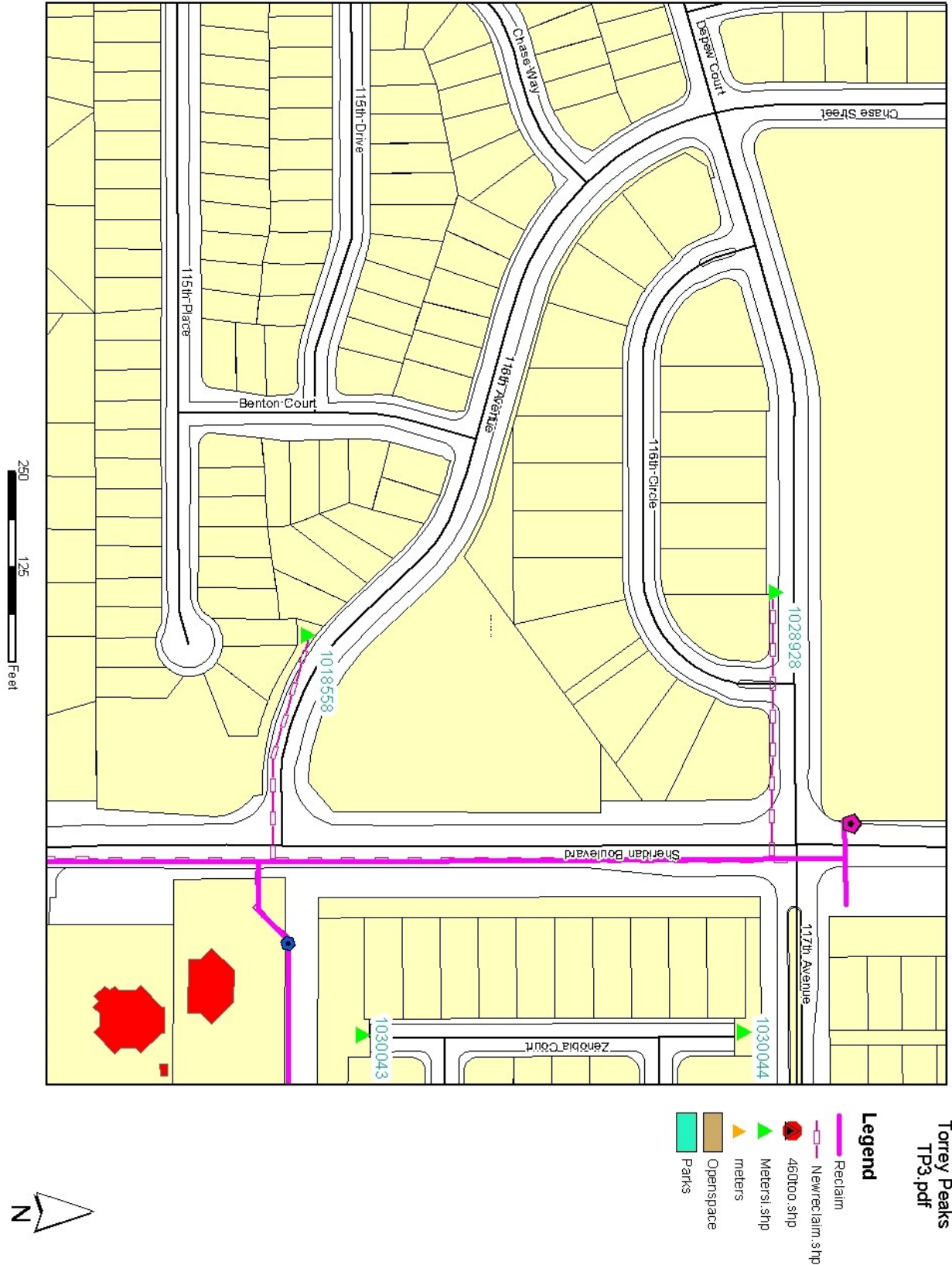


Ranch Townes
RT3.pdf

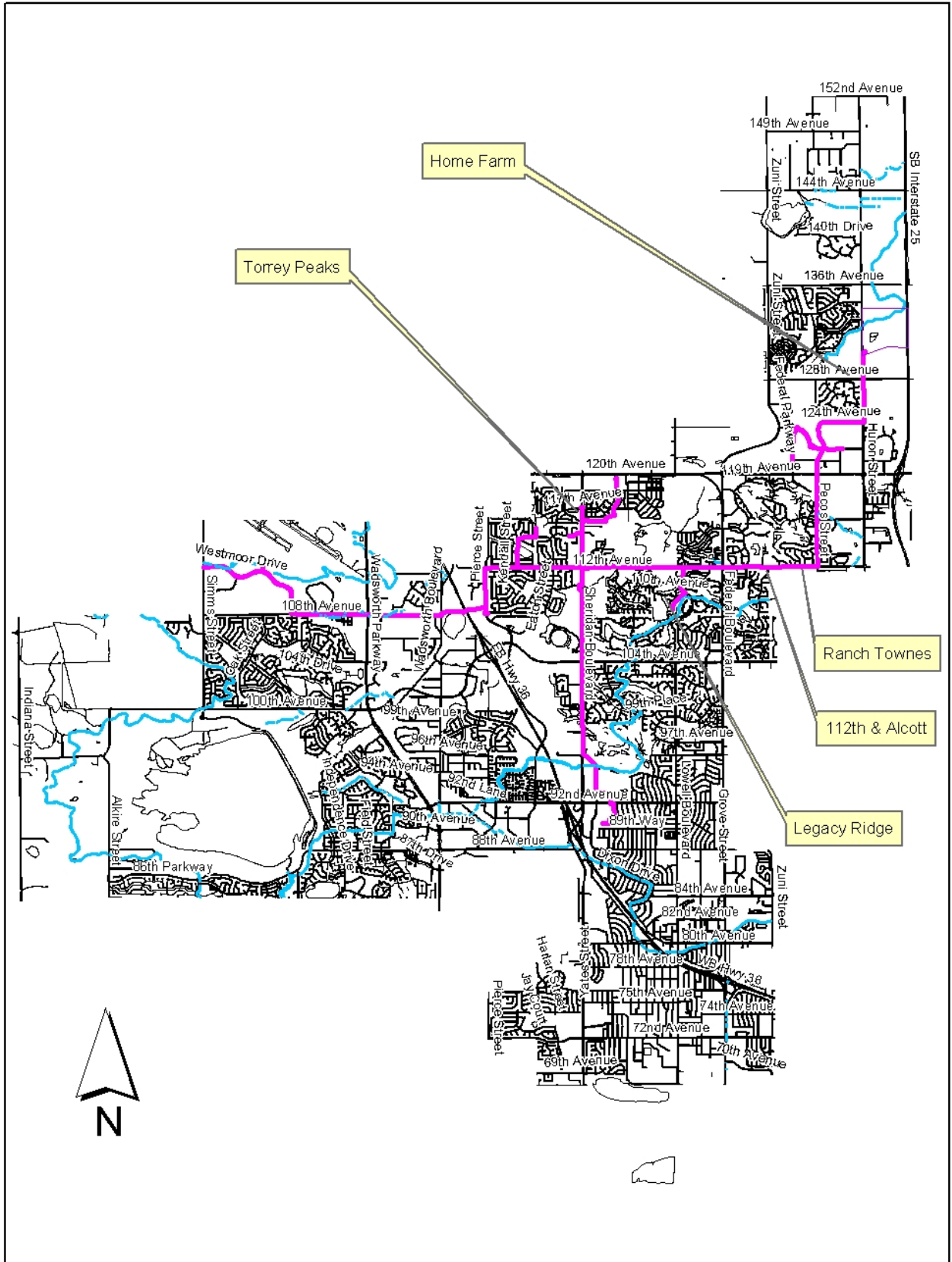
Legend

-  Reclaim
-  Newreclaim.shp
-  46000.shp
-  Meters1.shp
-  meters
-  Openspace
-  Parks

Torrey Peaks Extensions



General Location Map





Agenda Item 9 E

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Second Reading of Councilor's Bill No. 48 re Supplemental Appropriation for Open Space Land Purchases

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action:

Adopt Councilor's Bill No. 48 on second reading appropriating \$2,852,453 into the Open Space Land Purchases Account as a result of the sale of the City property purchased with Open Space Funds to the Academy of Charter Schools.

Summary Statement:

- City Council action is requested to pass the attached Councilors Bill on second reading.
- This Councilor's Bill was passed on first reading on July 12th, 2004.
- The City closed on the sale of 23.812 acres located at W. 120th Avenue and Lowell Boulevard to the Academy of Charter Schools for a total purchase price of \$2,852,453.
- The property was originally purchased using City Open Space Funds. In order for the proceeds from the sale to be used for open space acquisitions, a supplemental appropriation is required.

Expenditure Required: \$2,852,453

Source of Funds: Proceeds from the Sale to the Academy of Charter Schools

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **48**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the Open Space Fund initially appropriated by Ordinance No. 2977 in the amount of \$4,663,797 is hereby increased by \$2,852,453 which, when added to the fund balance as of the City Council action on July 12, 2004 will equal \$7,530,281. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation proceeds from the sale of open space land to Academy of Charter Schools.

Section 2. The \$2,852,453 increase in the Open Space Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Sale of Assets 5400.43040.0000	\$0	<u>\$2,852,453</u>	\$2,852,453
Total Change to Revenues		<u>\$2,852,453</u>	
EXPENSES			
Land Purchases 54010900.76600.0000	\$998,484	<u>\$2,852,453</u>	\$3,850,937
Total Change to Expenditures		<u>\$2,852,453</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 AND PUBLISHED this 12th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of July, 2004.

ATTEST:

Mayor

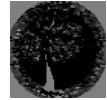
City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Second Reading of Councillor's Bill No. 47 re Telecommunication Towers, Facilities, and Antennas

Prepared By: Sharon Widener, Assistant City Attorney and Dan Osborn, Planner II

Recommended City Council Action:

Adopt Councillor's Bill No. 47 on second reading to provide formal standards for the regulation of telecommunication facilities in the City.

Summary Statement:

- Councillor's Bill No. 47 was approved on first reading by City Council on July 12, 2004.
- The Planning Commission recommended approval of this Ordinance on June 22, 2004, by a unanimous vote (7-0).
- This item was brought before City Council at Study Session on June 7, 2004.
- The ordinance will provide formal standards for the placement of telecommunication facilities in the City. Telecommunication facilities have generally been approved using the standards for Official Development Plan approvals. This ordinance includes specialized definitions and additional requirements applicable to telecommunication facilities.
- The proposed approval process incorporates site development requirements and additional requirements such as assurance of structural stability for towers, assurance of compliance with federal regulations, and financial assurances for potential maintenance, safety standards, and the possible abandonment of equipment.
- The proposed ordinance encourages:
 - Co-location of antennas instead of the proliferation of towers.
 - "Stealth" locations for antennas such as towers, steeples, and existing structures.
 - The use of alternate sites rather than public rights-of-way.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

BY AUTHORITY

ORDINANCE NO. **3135**

COUNCILLOR'S BILL NO. **47**

SERIES OF 2004

INTRODUCED BY COUNCILLORS
Dixon - Price

A BILL
FOR AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES, TOWERS, AND
ANTENNAS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-4-11, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

11-4-11: ANTENNAS AND TOWERS:

~~(A) Cellular telephone exchanges, communications poles, antennas and towers, windmills, wind generators and similar structures shall be permitted only as a special use in all districts, except Planned Unit Development (PUD) districts, unless otherwise prohibited by this Code or by contract. No such structure shall be permitted in a PUD district unless such use is specifically stated in the Official Development Plan (ODP) or unless an amendment to the ODP to allow such structure has been approved as specified in this section. All such structures shall be subject to the following conditions:~~

~~— 1. A building permit shall be required and shall not be issued until the applicant has obtained a special use permit or unless the structure is authorized in the applicable ODP. Any design that lacks manufacturer's specifications shall not be permitted unless an engineering study indicates that the design will meet or exceed all applicable building code standards.~~

~~— 2. All parts of the structure, including supports, fences and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment shall be obtained specifying the setbacks for the structure.~~

~~— 3. At the request of the applicant, an application for a special use permit or ODP amendment may be reviewed administratively and a decision thereon rendered by the City Manager pursuant to the criteria set forth below if the structure does not exceed the height limitations for a principal structure of the applicable district or ODP. If the applicable ODP does not include a height limitation for principal structures, an ODP amendment to specify the permitted height for the structure shall be required. Any decision by the City Manager, and any refusal by the City Manager to administratively approve a structure pursuant to this section, may be appealed to the Planning Commission who shall hear the case pursuant to the procedures set forth in section 11-5-13 of this Code. An appeal of any Planning Commission decision on a special use permit or ODP amendment to allow a structure pursuant to this section may be filed pursuant to section 3(B) of this Code.~~

~~— 4. In determining whether to grant or deny a special use permit or ODP amendment pursuant to this section, the decision maker shall consider, if applicable:~~

- ~~(a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors;~~
- ~~(b) Quality and effectiveness of any landscaping and screening of the base of the structure;~~
- ~~(c) Real estate value impacts;~~
- ~~(d) Whether co use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures;~~
- ~~(e) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards; and~~
- ~~(f) Other specific public health and welfare concerns.~~

~~— 5. The applicant shall demonstrate that all guy wires, cables and other accessory structures or equipment are located on property owned or leased by the applicant or that the owner of the property otherwise consents to the location of such structures and equipment.~~

~~— 6. All structures and equipment shall be protected by a fence or wall not less than six feet in height from ground level, unless the decision maker waives this requirement as unnecessary to protect public safety concerns. Such fence or wall shall be constructed of wood or masonry and shall obscure the base of the structure.~~

~~— 7. Ground mounted structures shall be screened by a landscaped planting strip of no less than 20 feet in width along all perimeter lines defining the boundaries of the proposed structure or, if landscaping is impractical, screening may be provided by a fence or wall which is architecturally compatible with the neighborhood, upon approval of the City Manager. Landscaping may include drought resistant vegetation, earth berms, planter boxes, and hedges and, for every twenty five linear feet of perimeter or part thereof, at least one shade, ornamental or canopy tree shall be planted. Existing trees directly adjacent to the perimeter may be counted. Additional landscaping may be required if deemed necessary by the decisionmaker to screen the base area of the structure. All vegetation shall be maintained in a healthy and growing condition. Automatic irrigation shall be provided, unless contractual arrangements are made with the City to ensure the proper maintenance of the landscaping.~~

~~— 8. A cellular telephone exchange may be co located with other uses, subject to all requirements of this section.~~

~~(B) Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC licensed amateur radio operators shall be permitted in any district, subject to the requirements of this section, except subsections (A)(3) and (A)(7). The Board of Adjustment and Appeals shall establish permissible structure heights if an ODP fails to specify height limitations and shall hear applications for variances from height and setback requirements. The Board shall follow the same criteria as the decision maker considering a non amateur radio structure and shall also balance amateur radio communications interests with other local interests.~~

~~(C) Television or radio antennas less than five feet above the highest point of the structure used for receiving regularly scheduled programming shall not be subject to subsection (A) above.~~

~~(D) The limitations of this section may be waived by the City Council in the case of a structure owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this section.~~

~~(E) **DEFINITIONS.**~~

~~— 1. "Cellular Telephone Exchange" shall mean an unmanned facility which consists of equipment for the reception, switching, and transmission of cellular telephone communications. Such facility may have elevated (either building mounted or ground mounted) transmitting and receiving antennas, cellular base station equipment, and interconnection equipment.~~

~~— 2. "Decision maker" shall mean the City Manager, the Planning Commission, the City Council, or the Board of Adjustment and Appeals as the context may require.~~

11-4-11: ANTENNAS AND TOWERS AND TELECOMMUNICATION FACILITIES:

(A) INTENT AND PURPOSE: IN ORDER TO ACCOMMODATE THE COMMUNICATION NEEDS OF RESIDENTS AND BUSINESSES WHILE PROTECTING THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY, THE CITY COUNCIL FINDS THAT THESE REGULATIONS ARE NECESSARY TO:

1. ESTABLISH A LOCAL POLICY CONCERNING TELECOMMUNICATIONS PROVIDERS AND SERVICES;

2. PROMOTE COMPETITION IN THE PROVISION OF TELECOMMUNICATIONS SERVICES;

3. FACILITATE THE PROVISION OF WIRELESS TELECOMMUNICATIONS SERVICES TO THE RESIDENTS AND BUSINESSES OF THE CITY;

4. MINIMIZE ADVERSE VISUAL EFFECTS OF TOWERS THROUGH CAREFUL DESIGN AND SITING STANDARDS;

5. ENCOURAGE AND MAXIMIZE THE USE OF EXISTING AND APPROVED TOWERS, BUILDINGS, AND OTHER STRUCTURES TO ACCOMMODATE NEW WIRELESS TELECOMMUNICATIONS ANTENNAS IN ORDER TO REDUCE THE NUMBER OF TOWERS NEEDED TO SERVE THE COMMUNITY; AND

6. SECURE FAIR AND REASONABLE COMPENSATION TO THE CITY AND ITS RESIDENTS FOR THE USE OF ANY APPROPRIATE PUBLIC PROPERTY FOR USE AS A SITE FOR WIRELESS TELECOMMUNICATIONS FACILITIES.

(B) APPLICABILITY:

1. THE PROVISIONS OF THIS CHAPTER SHALL APPLY THROUGHOUT THE CITY OF WESTMINSTER, AND IT SHALL BE UNLAWFUL FOR A TOWER, ANTENNA, OR TELECOMMUNICATIONS FACILITY TO BE PLACED EXCEPT IN COMPLIANCE WITH THESE PROVISIONS.

2. ANTENNAS OR TOWERS UP TO THE MAXIMUM HEIGHT SPECIFIED FOR PRINCIPAL STRUCTURES IN THE APPLICABLE ZONING DISTRICT OR ODP WHICH ARE USED BY FCC-LICENSED AMATEUR RADIO OPERATORS SHALL BE PERMITTED IN ANY DISTRICT, SUBJECT TO THE REQUIREMENTS OF THIS SECTION. THE APPLICANT MUST APPLY FOR AN OFFICIAL DEVELOPMENT PLAN (ODP), ODP AMENDMENT, OR ODP WAIVER TO ESTABLISH PERMISSIBLE STRUCTURE HEIGHTS IF AN ODP FAILS TO SPECIFY HEIGHT LIMITATIONS.

3. TELEVISION OR RADIO ANTENNAS LESS THAN FIVE FEET ABOVE THE HIGHEST POINT OF THE EXISTING PRINCIPAL STRUCTURE SHALL NOT BE SUBJECT TO SUBSECTIONS (D) THROUGH (H) BELOW.

4. THE LIMITATIONS OF THIS SECTION MAY BE WAIVED BY THE CITY MANAGER IN THE CASE OF A STRUCTURE OWNED OR OPERATED BY A GOVERNMENTAL ENTITY OR PUBLIC UTILITY IF IT IS DEMONSTRATED THAT THE PUBLIC GOOD CANNOT BE ADEQUATELY SERVED WITHIN THE LIMITATIONS OF THIS SECTION.

(C) DEFINITIONS:

1. **ALTERNATIVE TOWER STRUCTURE** MEANS MAN-MADE TREES, CLOCK TOWERS, BELL STEEPLES, LIGHT POLES, BUILDINGS, AND SIMILAR ALTERNATIVE DESIGN MOUNTING STRUCTURES THAT ARE COMPATIBLE WITH THE NATURAL SETTING AND SURROUNDING STRUCTURES, AND CAMOUFLAGES OR CONCEALS THE PRESENCE OF ANTENNAS OR TOWERS. THIS TERM ALSO INCLUDES ANY ANTENNA OR ANTENNA ARRAY ATTACHED TO THE ALTERNATIVE TOWER STRUCTURE.

2. **ANTENNA** MEANS ANY EXTERIOR TRANSMITTING OR RECEIVING DEVICE MOUNTED ON A TOWER, BUILDING, OR STRUCTURE AND USED IN COMMUNICATIONS THAT RADIATE OR CAPTURE ELECTROMAGNETIC WAVES, DIGITAL SIGNALS, ANALOG SIGNALS, RADIO FREQUENCIES (EXCLUDING RADAR SIGNALS), WIRELESS TELECOMMUNICATION SIGNALS OR OTHER COMMUNICATION SIGNALS.

3. **CO-LOCATION** MEANS THE PLACEMENT OF ANTENNAS OR OTHER TELECOMMUNICATIONS FACILITIES BY TWO OR MORE TELECOMMUNICATIONS PROVIDERS IN THE SAME LOCATION OR ON THE SAME TOWER OR ALTERNATIVE TOWER STRUCTURE.

4. **TELECOMMUNICATIONS FACILITIES** MEANS THE PLANT, EQUIPMENT, AND PROPERTY, INCLUDING BUT NOT LIMITED TO, CABLES, WIRES, CONDUITS, DUCTS, PEDESTALS, ANTENNA, TOWERS, ALTERNATIVE TOWER STRUCTURES, ELECTRONICS AND OTHER APPURTENANCES USED TO TRANSMIT, RECEIVE, DISTRIBUTE, PROVIDE, OR OFFER TELECOMMUNICATION SERVICES.

-4-

5. **TELECOMMUNICATIONS SUPPORT FACILITIES** MEANS SUPPORT BUILDING STRUCTURES, AND EQUIPMENT CABINETS CONTAINING ELECTRICAL AND MECHANICAL EQUIPMENT AND DEVICES USED FOR THE RECEPTION OF OR TRANSMISSION OF VOICE, DATA, IMAGE, GRAPHIC AND VIDEO PROGRAMMING INFORMATION BETWEEN OR AMONG POINTS BY WIRE, CABLE, FIBER OPTICS, LASER, MICROWAVE, RADIO, SATELLITE, OR SIMILAR FACILITIES.

6. **TOWER** SHALL MEAN ANY STRUCTURE DESIGNED AND CONSTRUCTED PRIMARILY FOR THE PURPOSE OF SUPPORTING ONE OR MORE ANTENNAS, INCLUDING SELF-SUPPORTING LATTICE TOWERS, GUY TOWERS, AND MONOPOLE TOWERS. THE TERM INCLUDES RADIO AND TELEVISION TRANSMISSION TOWERS, MICROWAVE TOWERS, COMMON CARRIER TOWERS, CELLULAR TELEPHONE TOWERS, AND OTHER SIMILAR STRUCTURES. THIS TERM ALSO INCLUDES ANY ANTENNA OR ANTENNA ARRAY ATTACHED TO THE TOWER STRUCTURE.

(D) REVIEW AND APPROVAL PROCESS:

1. A USE OF LAND FOR A TELECOMMUNICATION FACILITY MUST BE APPROVED IN AN OFFICIAL DEVELOPMENT PLAN (ODP), AMENDED ODP, OR ODP WAIVER, INCLUDING FACILITIES LOCATED ON PUBLIC PROPERTY, OR RIGHTS OF WAY. IF THE APPLICABLE ODP DOES NOT INCLUDE A HEIGHT LIMITATION FOR THE PRINCIPAL STRUCTURE, AN ODP AMENDMENT OR WAIVER TO SPECIFY THE PERMITTED HEIGHT FOR THE FACILITY SHALL BE REQUIRED.

2. A TELECOMMUNICATION FACILITY MUST RECEIVE A BUILDING PERMIT, AND BE IN COMPLIANCE WITH THE BUILDING CODE ADOPTED BY THE CITY.

3. AN APPLICATION SHALL BE REVIEWED BY THE CITY MANAGER OR HIS DESIGNEE(S), WITH THE EXCEPTION OF TELECOMMUNICATION FACILITIES PROPOSED TO BE LOCATED ABOVE-GROUND ON PUBLIC RIGHTS-OF-WAY WHICH MUST BE APPROVED AT A PUBLIC HEARING BEFORE THE CITY PLANNING COMMISSION PURSUANT TO THE PROCEDURES SET FORTH IN TITLE 11, CHAPTER 5.

(E) PREREQUISITES FOR APPROVAL: NO ODP, ODP AMENDMENT, OR ODP WAIVER RELATING TO A TELECOMMUNICATIONS FACILITY SHALL BE APPROVED UNLESS THE FOLLOWING FINDINGS HAVE BEEN MET:

-4-

1. SUCH FACILITY IS NECESSARY TO PROVIDE ADEQUATE SERVICES TO LOCATIONS THAT THE APPLICANT IS NOT ABLE TO SERVE WITH EXISTING APPROVED FACILITIES;

2. THE APPLICANT CERTIFIES THAT THE FACILITY CONFORMS TO ALL APPLICABLE REGULATIONS PROMULGATED BY THE FEDERAL COMMUNICATIONS COMMISSION, THE FEDERAL AVIATION ADMINISTRATION, AND ANY OTHER FEDERAL AGENCY WITH JURISDICTION;

3. THE FACILITY WILL BE DESIGNED AND CONSTRUCTED IN A MANNER WHICH MINIMIZES VISUAL IMPACT AND PRESERVES VIEW CORRIDORS;

4. THE LOCATION OF THE FACILITY IS THE MOST APPROPRIATE SITE AMONG THOSE AVAILABLE WITHIN THE TECHNICALLY FEASIBLE AREA FOR THE LOCATION OF A TELECOMMUNICATION FACILITY;

5. THE APPLICANT HAS CONSIDERED WHETHER CO-USE IS POSSIBLE OR PERMISSIBLE, BASED ON LEGAL, FINANCIAL, AND TECHNICAL CONSIDERATION IN ORDER TO AVOID THE NEED FOR ADDITIONAL STRUCTURES; AND

6. THE APPLICANT HAS SATISFACTORILY ADDRESSED THE DESIGN STANDARDS HEREIN.

(F) APPLICATION: AN APPLICATION FOR A TELECOMMUNICATION FACILITY SHALL FOLLOW THE PROCEDURES AND REQUIREMENTS AS SET FORTH IN TITLE 11, CHAPTER 5 OF THE WESTMINSTER MUNICIPAL CODE. IN ADDITION, THE APPLICATION SHALL CONTAIN THE FOLLOWING:

1. (A) CERTIFICATION THAT THE TELECOMMUNICATION FACILITY IS OR WILL BE IN COMPLIANCE WITH THE CURRENT STANDARDS AND REGULATIONS OF THE FAA, THE FCC, AND ANY OTHER AGENCY OF THE FEDERAL GOVERNMENT WITH AUTHORITY TO REGULATE TELECOMMUNICATIONS FACILITIES; AND

(B) A WRITTEN AGREEMENT FROM THE OWNER THAT, IF SUCH STANDARDS AND REGULATIONS ARE CHANGED, THE OWNERS OF THE TELECOMMUNICATION FACILITIES SHALL BRING SUCH FACILITIES INTO COMPLIANCE AND THAT THE FACILITIES WILL BE BROUGHT INTO COMPLIANCE WITHIN THE TIME FRAME MANDATED BY THE CONTROLLING FEDERAL AGENCY. THE OWNER ALSO WILL AGREE IN WRITING, THAT IF THE FACILITY CAUSES INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS, THE OWNER WILL CORRECT THIS INTERFERENCE AT THE OWNER'S EXPENSE. THE OWNER WILL FURTHER AGREE IN WRITING THAT FAILURE TO DO SO SHALL AUTHORIZE THE CITY TO SHUT DOWN THE FACILITY UNTIL COMPLIANCE IS DEMONSTRATED.

2. A WRITTEN AGREEMENT BY THE OWNER THAT THE OWNER OF A TOWER SHALL ENSURE THAT IT IS MAINTAINED IN COMPLIANCE WITH STANDARDS CONTAINED IN APPLICABLE LOCAL BUILDING CODES, AS AMENDED FROM TIME TO TIME. EVIDENCE MAY CONSIST OF A STRUCTURAL REPORT BY A COLORADO LICENSED PROFESSIONAL ENGINEER DEMONSTRATING THAT THE FACILITY WILL COMPLY WITH APPLICABLE STRUCTURAL STANDARDS.

3. AN ACKNOWLEDGMENT BINDING THE APPLICANT, THE PROPERTY OWNER (IF OTHER THAN THE APPLICANT) AND THE APPLICANT'S AND OWNER'S SUCCESSORS IN INTEREST TO PROPERLY MAINTAIN THE EXTERIOR APPEARANCE OF AND TO ULTIMATELY REMOVE THE TOWER, ANTENNA AND OTHER TELECOMMUNICATIONS FACILITIES IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND THE APPLICABLE ODP.

4. AN ACKNOWLEDGMENT BY THE OWNER OF THE PROPERTY THAT THE CITY MAY ENTER ON THE PROPERTY AND UNDERTAKE ANY MAINTENANCE OR REMOVAL ACTIVITIES IF:

(A) THE CITY HAS PROVIDED THE APPLICANT WRITTEN NOTICE REQUESTING THE WORK NEEDED TO COMPLY WITH THIS CHAPTER AND PROVIDING THE APPLICANT AT LEAST FORTY-FIVE DAYS TO COMPLETE IT. SUCH NOTICE SHALL BE SENT TO THE ADDRESS ON THE ODP; AND

(B) THE CITY SHALL NOT BE REQUIRED TO PROVIDE ADVANCE NOTICE IF THERE IS A SIGNIFICANT RISK TO THE PUBLIC HEALTH AND SAFETY REQUIRING IMMEDIATE REMEDIAL MEASURES.

5. AN AGREEMENT TO POST A PERFORMANCE BOND, LETTER OF CREDIT OR OTHER FINANCIAL GUARANTEE AS LISTED IN 11-6-4(A)(2), AT THE TIME A PERMIT IS ISSUED, IN AN AMOUNT TO BE SET BY THE CITY, REASONABLY RELATED TO THE COSTS THAT THE CITY MAY INCUR SHOULD THE APPLICANT FAIL TO COMPLY WITH ANY OF ITS OBLIGATIONS PURSUANT TO SUBSECTION (H) (CONCERNING REMOVAL OF ABANDONED FACILITIES). THE BOND, LETTER OF CREDIT, OR OTHER FINANCIAL GUARANTEE SHALL REMAIN IN EFFECT FOR A PERIOD OF TEN YEARS FROM THE DATE OF PERMIT ISSUANCE. OR IN THE CASE OF FACILITIES LOCATED IN A PUBLIC RIGHT OF WAY, UNTIL SUCH FACILITIES ARE REMOVED.

6. IF THE APPLICANT SEEKS A PERMIT TO LOCATE ON LEASED PROPERTY, APPLICANT SHALL OBTAIN AND SUBMIT A WRITTEN STATEMENT OF THE LANDLORD INDICATING THAT THE LANDLORD IS PERMITTED TO ENTER INTO LEASES OF THE SAME PROPERTY WITH OTHER TELECOMMUNICATIONS PROVIDERS.

7. THE IDENTITY AND LEGAL STATUS OF THE APPLICANT WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PROPERTY OWNER AND OFFICER, AGENT, OR EMPLOYEE RESPONSIBLE FOR THE APPLICATION AND WITH WHOM COMMUNICATIONS MAY BE EXCHANGED.

8. INFORMATION SUFFICIENT TO DETERMINE THAT THE APPLICANT HAS RECEIVED OR HAS APPLIED FOR ANY OPERATING LICENSE OR OTHER APPROVALS REQUIRED BY THE FCC TO PROVIDE TELECOMMUNICATIONS SERVICES OR FACILITIES WITHIN THE CITY.

9. A SITE PLAN, TO SCALE, THAT SHOWS THE RELATIVE SHAPE, SIZE, AND LOCATION OF THE PROPOSED TELECOMMUNICATIONS FACILITIES, WHICH SHALL INCLUDE:

(A) A DESIGN DESCRIPTION, INCLUDING HEIGHT ABOVE GRADE, MATERIALS, AND COLOR FOR THE PROPOSED ANTENNA ON A TOWER OR ALTERNATIVE TOWER STRUCTURE;

(B) A LANDSCAPING AND VISUAL MITIGATION PLAN, DETAILING HOW SCREENING FROM THE PUBLIC VIEW WILL BE ACCOMPLISHED, AND HOW DESIGN CHARACTERISTICS WILL HAVE THE EFFECT OF REDUCING OR ELIMINATING VISUAL OBTRUSIVENESS, HOW THE LANDSCAPING WILL BE MAINTAINED, AND WHO IS RESPONSIBLE FOR THE MAINTENANCE;

(C) PROPOSED INGRESS AND EGRESS;

(D) PROXIMITY OF THE TOWER OR OTHER TELECOMMUNICATIONS FACILITY TO RESIDENTIAL STRUCTURES AND RESIDENTIAL DISTRICT BOUNDARIES;

(E) NATURE OF USES ON ADJACENT AND NEARBY PROPERTIES WITHIN TWO HUNDRED (200) FEET OF CELLULAR FACILITY;

(F) SURROUNDING TOPOGRAPHY; AND

(g) TREE COVERAGE WITHIN TWO HUNDRED (200) FEET OF CELLULAR FACILITY.

(G) DESIGN STANDARDS: AN APPLICATION SHALL BE REVIEWED TO DETERMINE THAT ALL REQUIRED INFORMATION HAS BEEN SUBMITTED AND THAT THE FOLLOWING STANDARDS HAVE BEEN MET. THE APPLICANT HAS THE BURDEN OF PERSUASION ON EACH ISSUE.

1. AT LEAST TEN FEET OF HORIZONTAL CLEARANCE MUST EXIST BETWEEN ANY ANTENNA AND ANY POWER LINES; MORE CLEARANCE MAY BE REQUIRED TO MEET COLORADO PUBLIC UTILITIES COMMISSION STANDARDS.

2. NO GUY WIRES EMPLOYED MAY BE ANCHORED WITHIN THE AREA IN FRONT OF ANY PRIMARY STRUCTURE ON A PARCEL.

3. ALL TELECOMMUNICATION FACILITIES AND TELECOMMUNICATIONS SUPPORT FACILITIES MUST BE DESIGNED OR SITED SO THAT THEY ARE SET BACK A MINIMUM OF TWO HUNDRED (200) FEET FROM THE NEAREST RESIDENTIAL PROPERTY LINE AND DO NOT POSE A POTENTIAL HAZARD TO NEARBY RESIDENCES OR SURROUNDING PROPERTIES OR IMPROVEMENTS. TELECOMMUNICATION FACILITIES ADJACENT TO NON-RESIDENTIAL USES SHALL BE SET BACK A DISTANCE EQUAL TO AT LEAST THE HEIGHT OF THE TOWER FROM ANY ADJOINING LOT LINE.

IF THE APPLICABLE ZONING DISTRICT SETBACK REQUIREMENTS ARE GREATER THAN THE HEIGHT OF THE TOWER, THE MORE RESTRICTIVE SETBACK MUST BE MET. GUYS AND ACCESSORY BUILDINGS MUST SATISFY THE MINIMUM ZONING SETBACK REQUIREMENTS.

4. TOWERS, TELECOMMUNICATIONS FACILITIES, TELECOMMUNICATIONS SUPPORT FACILITIES, ALTERNATIVE TOWER STRUCTURES, LANDSCAPING, FENCING, ETC. SHALL BE MAINTAINED IN ACCORD WITH THE ODP.

5. ALL STRUCTURES AND EQUIPMENT SHALL BE SCREENED AND PROTECTED BY A FENCE OR WALL NOT LESS THAN SIX (6) FEET IN HEIGHT FROM GROUND LEVEL, UNLESS OTHER SCREENING METHODS ARE APPROVED OR WAIVED THROUGH THE ODP PROCESS. SUCH FENCE OR WALL SHALL BE CONSTRUCTED FROM MASONRY OR VINYL FENCING MAY BE USED WITH BRICK, STONE, STUCCO, OR MASONRY COLUMNS. THE FENCE OR WALL MUST EFFECTIVELY SCREEN THE TELECOMMUNICATION STRUCTURE AND EQUIPMENT.

6. AT A TOWER SITE, THE DESIGN OF THE BUILDINGS AND RELATED TELECOMMUNICATIONS FACILITIES SHALL USE MATERIALS, COLORS, TEXTURES, SCREENING, AND LANDSCAPING THAT WILL BLEND THE FACILITIES TO THE NATURAL SETTING AND TO THE BUILT ENVIRONMENT.

7. IF AN ANTENNA IS INSTALLED ON A STRUCTURE OTHER THAN A TOWER, THE ANTENNA AND SUPPORTING TELECOMMUNICATIONS FACILITIES MUST BE OF A NEUTRAL COLOR THAT IS IDENTICAL TO OR CLOSELY COMPATIBLE WITH THE COLOR OF THE SUPPORTING STRUCTURE SO AS TO MAKE THE ANTENNA AND RELATED FACILITIES AS VISUALLY UNOBTRUSIVE AS POSSIBLE.

8. TELECOMMUNICATION FACILITIES, INCLUDING ALTERNATIVE TOWER STRUCTURES, TO BE LOCATED ABOVE-GROUND AND LOCATED ADJACENT TO THE TRAVELED PORTIONS OF STREETS OR SIDEWALKS: THE SETBACK MUST BE A MINIMUM EQUAL TO THE HEIGHT OF THE PROPOSED FACILITY, AND SHALL NOT EXCEED THE HEIGHT STANDARD UTILITY POLES IN THE VICINITY.

9. ALL PARTS OF THE STRUCTURE, INCLUDING SUPPORTS, FENCES, AND GUY WIRES, SHALL BE SET BACK FROM THE PROPERTY LINE THE SAME DISTANCE AS IS REQUIRED FOR A PRINCIPAL STRUCTURE UNDER THIS CODE OR THE APPLICABLE ODP AND SHALL NOT BE CLOSER TO THE FRONT PROPERTY LINE THAN THE FRONT OF THE EXISTING PRINCIPAL STRUCTURE ON THE PROPERTY, IF ANY. IF THE APPLICABLE ODP DOES NOT SPECIFY SETBACKS, AN ODP AMENDMENT OR WAIVER SHALL BE OBTAINED SPECIFYING THE SETBACKS FOR THE STRUCTURE.

10. ADDITIONAL SETBACK MAY BE REQUIRED TO CONTAIN ON-SITE ALL ICE FALL OR DEBRIS FROM TOWER FAILURE AND/OR TO PRESERVE PRIVACY OF ADJOINING RESIDENTIAL AND PUBLIC PROPERTY. ADDITIONALLY, TELECOMMUNICATION FACILITIES SHALL BE CONSTRUCTED SO AS TO MINIMIZE THE POTENTIAL SAFETY HAZARDS AND LOCATED IN SUCH A MANNER THAT IF THE FACILITY SHOULD FALL, IT WILL REMAIN WITHIN THE PROPERTY BOUNDARIES AND AVOID HABITABLE STRUCTURE, PUBLIC RIGHTS-OF-WAY, UTILITY LINES AND OTHER TELECOMMUNICATION FACILITIES.

11. LANDSCAPING SHALL BE ACCOMPLISHED WITH A BUFFER OF PLANT MATERIALS THAT EFFECTIVELY SCREENS THE VIEW OF THE TELECOMMUNICATIONS SUPPORT FACILITY FROM ADJACENT PROPERTY AND IN ACCORDANCE WITH CITY LANDSCAPING STANDARDS. ALL VEGETATION SHALL BE MAINTAINED IN A LIVING CONDITION. AUTOMATIC IRRIGATION SHALL BE PROVIDED TO ENSURE THE ON-GOING MAINTENANCE OF THE LANDSCAPING.

12. THE USE OF ANY PORTION OF A TELECOMMUNICATIONS FACILITY FOR SIGNS FOR PROMOTIONAL OR ADVERTISING PURPOSES, INCLUDING BUT NOT LIMITED TO COMPANY NAME, PHONE NUMBERS, BANNERS, STREAMERS, AND BALLOONS IS PROHIBITED. THE CITY MAY REQUIRE THE INSTALLATION OF SIGNAGE WITH SAFETY AND CONTACT INFORMATION.

13 TOWERS SHALL NOT BE ARTIFICIALLY LIGHTED, UNLESS REQUIRED BY THE FAA OR OTHER APPLICABLE AUTHORITY.

14. NO PORTION OF ANY ANTENNA ARRAY MAY EXTEND BEYOND THE PROPERTY LINE.

15. SUFFICIENT ANTI-CLIMBING MEASURES MUST BE INCORPORATED INTO EACH FACILITY TO REDUCE POTENTIAL FOR TRESPASS AND INJURY. BY WAY OF EXAMPLE, AND NOT OF LIMITATION, SECURITY FENCING TOGETHER WITH A LACK OF PEGS OF THE BOTTOM PORTION OF THE TOWER, SHALL BE CONSIDERED SUFFICIENT ANTI-CLIMBING MEASURES. THERE SHALL BE NO PERMANENT CLIMBING PEGS WITHIN FIFTEEN FEET OF THE GROUND. MOTION-ACTIVATED OR STAFF-ACTIVATED SECURITY LIGHTING AROUND THE BASE OF A TOWER OR ACCESSORY STRUCTURE ENTRANCE MAY BE PROVIDED IF SUCH LIGHTING DOES NOT PROJECT OFF-SITE.

16. THE DECISION MAKER SHALL CONSIDER, IF APPLICABLE, THE FOLLOWING CRITERIA IN DETERMINING WHETHER TO APPROVE AN ODP OR ODP AMENDMENT PURSUANT TO THIS SECTION:

(a) AESTHETIC IMPACTS, INCLUDING DESIGN AND APPEARANCE OF THE STRUCTURE AND OBSTRUCTION OF VIEW CORRIDORS;

(b) QUALITY AND EFFECTIVENESS OF ANY LANDSCAPING AND SCREENING OF THE BASE OF THE STRUCTURE;

(c) WHETHER CO-USE OF THE STRUCTURE BY GOVERNMENTAL AGENCIES AND OTHER PERSONS IS POSSIBLE OR PERMISSIBLE, BASED ON LEGAL, FINANCIAL AND TECHNICAL CONSIDERATIONS, IN ORDER TO AVOID THE NEED FOR ADDITIONAL STRUCTURES; AND

(d) WHETHER ALTERNATIVE SITES ARE REASONABLY AVAILABLE, TAKING INTO CONSIDERATION LEASE TERMS AND CONDITIONS BASED UPON INDUSTRY AND MARKET STANDARDS.

(H) CO-LOCATION: THE SHARED USE OF EXISTING TOWERS OR OTHER ALTERNATIVE TOWER STRUCTURES SHALL BE PREFERRED TO THE CONSTRUCTION OF NEW FACILITIES. THE APPLICATION FOR ANY ODP OR ODP AMENDMENT SHALL INCLUDE EVIDENCE THAT REASONABLE EFFORTS HAVE BEEN MADE TO CO-LOCATE WITHIN AN EXISTING TELECOMMUNICATION FACILITY OR UPON AN EXISTING ALTERNATIVE TOWER STRUCTURE WITHIN A REASONABLE DISTANCE, REGARDLESS OF MUNICIPAL BOUNDARIES, OF THE SITE. THE APPLICANT MUST DEMONSTRATE THAT THE PROPOSED TELECOMMUNICATION FACILITY CANNOT BE ACCOMMODATED ON EXISTING TELECOMMUNICATIONS FACILITIES DUE TO ONE OR MORE OF THE FOLLOWING REASONS:

1. THE PLANNED EQUIPMENT WOULD EXCEED THE STRUCTURAL CAPACITY OF EXISTING AND APPROVED TELECOMMUNICATIONS FACILITIES OR OTHER ALTERNATIVE TOWER STRUCTURES, CONSIDERING EXISTING AND PLANNED USE FOR THOSE FACILITIES;

2. THE PLANNED EQUIPMENT, IF CO-LOCATED, WOULD CAUSE RADIO FREQUENCY INTERFERENCE WITH OTHER EXISTING OR PLANNED EQUIPMENT, OR EXCEED RADIO FREQUENCY EMISSION STANDARDS WHICH CANNOT BE REASONABLY PREVENTED;

3. EXISTING OR APPROVED TELECOMMUNICATIONS FACILITIES OR OTHER ALTERNATIVE TOWER STRUCTURES DO NOT HAVE SPACE ON WHICH PROPOSED EQUIPMENT CAN BE PLACED SO IT CAN FUNCTION EFFECTIVELY AND REASONABLY;

4. OTHER TECHNICAL REASONS MAKE IT IMPRACTICABLE TO PLACE THE EQUIPMENT PROPOSED BY THE APPLICANT ON EXISTING FACILITIES OR STRUCTURES;

5. THE LAND OWNER OR OWNER OF THE EXISTING TELECOMMUNICATION FACILITY OR OTHER ALTERNATIVE TOWER STRUCTURE REFUSES TO ALLOW SUCH CO-LOCATION OR REQUESTS AN UNREASONABLY HIGH FEE FOR SUCH CO-LOCATION COMPARED TO CURRENT INDUSTRY RATES;

6. NO EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES ARE LOCATED WITHIN THE GEOGRAPHIC AREA REQUIRED TO MEET THE APPLICANT'S ENGINEERING REQUIREMENTS;

7. EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES ARE NOT OF SUFFICIENT HEIGHT TO MEET THE APPLICANT'S ENGINEERING REQUIREMENTS;

8. EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES DO NOT HAVE SUFFICIENT STRUCTURAL STRENGTH TO SUPPORT APPLICANT'S PROPOSED ANTENNAS AND RELATED EQUIPMENT; AND

9. ANY OTHER REASON, IN THE REASONABLE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE.

(I) ABANDONMENT; REPAIR; REMOVAL:

1. AT THE TIME OF SUBMISSION OF THE APPLICATION FOR A TELECOMMUNICATION FACILITY, THE APPLICANT SHALL EXECUTE AN AGREEMENT IN A FORM ACCEPTABLE TO THE CITY, TO REMOVE ALL ANTENNAS, DRIVEWAYS, STRUCTURES, BUILDINGS, EQUIPMENT SHEDS, LIGHTING, UTILITIES, FENCING, GATES, ACCESSORY EQUIPMENT OR STRUCTURES, AS WELL AS ANY TOWER OR STRUCTURE USED AS A TELECOMMUNICATIONS FACILITY IF SUCH FACILITY BECOMES TECHNOLOGICALLY OBSOLETE OR CEASES TO PERFORM ITS ORIGINALLY INTENDED FUNCTION FOR MORE THAN ONE HUNDRED AND EIGHTY (180) DAYS. UPON REMOVAL, THE LAND SHALL BE RESTORED AND RE-LANDSCAPED, AT THE OPERATOR'S EXPENSE, TO THE LEVEL OF FINISH OF THE ADJACENT LANDSCAPED AREA.

2. IF UPON INSPECTION, THE CITY CONCLUDES THAT A TELECOMMUNICATIONS FACILITY FAILS TO COMPLY WITH THE APPROVED ODP OR CONSTITUTES A DANGER TO PERSONS OR PROPERTY, THEN UPON NOTICE BEING PROVIDED TO THE REPRESENTATIVE AS LISTED ON THE ODP OF A TELECOMMUNICATIONS FACILITY, THE OWNER, SHALL HAVE THIRTY DAYS TO BRING SUCH TELECOMMUNICATIONS FACILITY INTO COMPLIANCE WITH THE ODP. IF THE OWNER FAILS TO BRING SUCH FACILITY INTO COMPLIANCE WITHIN SAID THIRTY (30) DAYS, THE CITY MAY REMOVE THE FACILITY AT THE OWNER'S EXPENSE.

1. ANY TELECOMMUNICATION FACILITY THAT IS NOT OPERATED FOR A CONTINUOUS PERIOD OF 180 DAYS SHALL BE CONSIDERED ABANDONED. THE CITY, IN ITS SOLE DISCRETION, MAY REQUIRE AN ABANDONED TOWER, ANTENNA, OR ANY OTHER ANCILLARY TELECOMMUNICATIONS EQUIPMENT TO BE REMOVED WITHIN NINETY DAYS OF RECEIPT OF NOTICE FROM THE CITY NOTIFYING THE OWNER OF SUCH ABANDONMENT. UPON REMOVAL, THE SITE SHALL BE RESTORED OR RE-VEGETATED TO BLEND WITH THE SURROUNDING ENVIRONMENT.

IF SUCH REMOVAL IS NOT COMPLETED WITHIN SAID NINETY DAYS, THE CITY MAY REMOVE AND DISPOSE OF THE SAME AT THE OWNER'S EXPENSE. IF THERE ARE TWO OR MORE USERS OF A SINGLE TOWER OR ALTERNATIVE TOWER STRUCTURE, THEN THIS PROVISION SHALL NOT BECOME EFFECTIVE UNTIL ALL USERS CEASE USING THE TOWER.

4. ANY TELECOMMUNICATION FACILITY PLACED IN A PUBLIC RIGHT OF WAY SHALL BE REMOVED WITHIN 120 DAYS AFTER NOTIFICATION BY THE CITY THAT THE RIGHT OF WAY IS NEEDED BY THE CITY FOR THE EXPANSION, CONSTRUCTION, OR RECONSTRUCTION OF A STREET OR HIGHWAY OR OTHER USE BY THE CITY FOR ANY CITY PROJECT. SUCH REMOVAL SHALL BE AT THE SOLE EXPENSE OF THE OWNER AND IF OWNER FAILS TO REMOVE THE FACILITY WITHIN THE SAID 120 DAYS, THE CITY MAY REMOVE AND DESTROY THE FACILITY AND CHARGE THE COSTS TO THE OWNER.

(J) LOCATIONS ON CITY PROPERTY: WHEN IT IS IN THE INTEREST OF THE CITY, THE CITY MANAGER OR HIS DESIGNEE MAY, BUT IS NOT REQUIRED TO, NEGOTIATE AND ENTER INTO AN AGREEMENT WITH A TELECOMMUNICATIONS SERVICES PROVIDER FOR THE USE OF CITY-OWNED PROPERTY (EXCEPT PUBLIC RIGHTS-OF-WAY) FOR THE LOCATION OF TOWERS, ALTERNATIVE TOWER STRUCTURES, ANTENNAS, AND TELECOMMUNICATIONS FACILITIES. WHEN SO LOCATED, THE AGREEMENT MAY BE REVIEWED ADMINISTRATIVELY.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of July, 2004.

ATTEST

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



Subject: Resolution No. 41 re Resignation and Appointment to Election Commission

Prepared by: Michele Kelley, City Clerk

Recommended City Council Action:

Adopt Resolution No. 41 accepting the resignation of Maryann Maher and making a new appointment to the Election Commission.

Summary Statement:

- Maryann Maher has served on the Election Commission since December, 2001.
- Maryann's husband has changed jobs and the family has recently moved to Silver Springs, Maryland.
- City Council currently has a list of 15 individuals interested in serving on City Boards and Commissions.
- The City Council interview team has recently met to select an individual to fill this vacancy.

Expenditure Required: \$0

Source of Funds: n/a

Subject: Resolution re Resignation and Appointment to Election Commission

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Policy Issue:

Does City Council want to fill the vacancy on the Election Commission at this time?

Alternative:

No alternatives identified.

Background Information:

The term of office of Maryann Maher on the Election Commission will expire on December 31, 2005.

City Council has selected Delbert Lennie as the new appointee to the Election Commission, who will fill out this term.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **41**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

CITY OF WESTMINSTER RESIGNATION AND NEW APPOINTMENT TO
ELECTION COMMISSION

WHEREAS, The City has received the resignation of Maryann Maher from the Election Commission; and

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

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby accept the resignation of Maryann Maher from the Election Commission and appoint the following individual to the City of Westminster Election Commission to fill this vacancy.

BOARD/COMMISSION	NAME	TERM EXPIRATION
Election Commission	Delbert Lennie	December 31, 2005

Passed and adopted this 26th day of July, 2004

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

City Council Meeting
July 26, 2004



SUBJECT: Public Hearing and Action on the Annexation, Comprehensive Land Use Plan Amendment and Zoning for the Chamberlain East Property

Prepared By: David Falconieri, Planner III

Recommended Planning Commission Action:

1. Hold a public hearing.
2. Adopt Resolution No. 42 making certain findings as required under Section 31-12-110 C.R.S. concerning the proposed Chamberlain East annexation.
3. Pass Councillor's Bill No. 49 on first reading annexing the Chamberlain East property to the City of Westminster.
4. Pass Councillor's Bill No. 50 on first reading amending the Comprehensive Land Use Plan (CLUP) for the Chamberlain East property changing the designation from Northeast Comprehensive Development Plan to Retail Commercial. This recommendation is based on the findings that the proposed amendment is consistent with the overall goals and purpose of the Plan, is compatible with proposed and existing adjacent land uses, and would not result in detrimental impacts to the City's infrastructure systems.
5. Pass Councillor's Bill No. 51 on first reading rezoning of the Chamberlain East property from A-2 in Jefferson County to Planned Unit Development (PUD). This recommendation is based on the findings set forth in Section 11-5-3 of the Westminster Municipal Code.

Summary Statement:

- The Chamberlain property is located on the south side of Reed Street, across from the Church Ranch Park-n-Ride. The western portion of the property was recently annexed as the relocation site for the Church Ranch Amoco service station. The Chamberlain Trust is now requesting that the balance of the property be annexed.
- An annexation agreement was approved by City Council with the annexation of the western portion of the property and stipulates the purchase price of the Amoco relocation property will increase by \$100,000 if the eastern portion is not annexed with a Retail Commercial designation in the Comprehensive Land Use Plan.
- When the Park-n-Ride to the north is relocated to the Shops at Walnut Creek, it may be possible to combine that site with this one to form a larger redevelopment parcel.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Recommendation

The Planning Commission reviewed this proposal on July 13, 2004, and voted unanimously (7-0) to recommend the City Council approve the annexation, Comprehensive Land Use Plan amendment to Retail Commercial and rezoning of the Chamberlain East property from Jefferson County A-2 to Planned Unit Development (PUD). This recommendation is based on the findings set forth in Section 11-5-3 of the Westminster Municipal Code.

Mr. Chas Horne, a representative of the Robert F. Chamberlain Trust, spoke in favor of the proposal.

Policy Issue

Should the Chamberlain East property be annexed at this time and classified as Retail Commercial in the CLUP?

Alternative

Make a finding that there is no community of interest with the Chamberlain East property and take no further action. If this course is taken, the City will be required to pay an additional \$100,000 for the Amoco relocation site.

Background Information

In April of this year, the City purchased and annexed the western portion of the Chamberlain site as a relocation site for the Church Ranch Amoco service station. On June 14, the Preliminary and Official Development Plan (PDP/ODP) for that station was approved by Council. As a condition of the sale, the Chamberlain Trust requested that the balance of the property also be annexed and classified as Retail Commercial in the CLUP. An annexation agreement was approved by Council stipulating that if those conditions were not met, an additional \$100,000 would be added to the cost of the Amoco relocation site.

At this time, no specific development is proposed for the Chamberlain East property. Therefore, staff is recommending that the site be zoned PUD. When a development proposal is submitted, a PDP and ODP will have to be approved prior to development. Since current plans call for the relocation of the RTD Park-n-Ride just to the north of this property to the Shops at Walnut Creek, it may be possible to combine that property with the Chamberlain East property to create a larger and more versatile redevelopment parcel.

Applicant/Property Owner

The Chamberlain Trust

Surrounding Land Use and Comprehensive Land Use Plan Designations

The RTD Park-n-Ride to the north is designated as Public/Quasi Public; to the south, Business Park; to the west, Retail Commercial; and to the east, Public Open Space.

Site Plan Information

No development is proposed at this time. The site plan information will be evaluated at the time of PDP and ODP review.

Traffic and Transportation

No development is proposed at this time. The site is currently accessed by Reed Street that will be reconfigured as part of the Shops at Walnut Creek project.

SUBJECT: Public Hearing and Action on the Annexation, CLUP Amendment and Zoning for the Chamberlain East Property

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Service Commitment Category

No service commitments are requested at this time.

Referral Agency Responses

Jefferson County responded in support of the annexation and proposed future land use designation. No other comments were received.

Public Comments

A mailing was sent to adjacent property owners regarding this proposed annexation. No responses were received.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO **42**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk a petition (the "Petition") for the annexation of the property described in said Petition; and

WHEREAS, City Council has previously adopted Resolution No. 38 finding the Petition to be in substantial compliance with the provisions of section 31-12-107(1), C.R.S., and;

WHEREAS, City Council has held a hearing concerning the proposed annexation as required by sections 31-12-108 and -109, C.R.S.; and

WHEREAS, having completed the required hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

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

1. The City Council finds:
 - a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
 - b. A community of interest exists between the area proposed to be annexed and the City;
 - c. The area is urban or will be urbanized in the near future; and
 - d. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
 - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
 - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

- a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;
- b. That the annexation will not result in the attachment of area from a school district;
- c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;
- d. That the City of Westminster has in place a plan for the area proposed to be annexed; and
- e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-111, C.R.S.

PASSED AND ADOPTED this 26th day of July, 2004.

ATTEST:

Mayor

City Clerk

Chamberlain East Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **49**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the petition and accompanying maps are in substantial compliance with Section 31-12-101, et.seq., Colorado Revised Statutes, as amended; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado, to wit:

A parcel of land being a portion of Tract 55, Mandalay Gardens, in the County of Jefferson, State of Colorado, per plat recorded in the office of the Clerk and Recorder of said County, lying within the county and state, more particularly described as follows:

Commencing at the northeast corner of said Section 14, whence the north quarter corner of said Section 14 bears 88°52'45" West, and all bearings are made as a reference hereon, said northeast corner being a point on the westerly boundary of the former Hawn Property annexation to the City of Westminster per annexation map recorded at Reception No. F1444643 in said office of the Clerk and Recorder; thence along the easterly line of said northeast quarter and the westerly line of said former Hawn Property annexation, South 00°42'14" West 78.99 feet to the southerly right-of-way of Reed Street, as described in the warranty deed to the City of Westminster recorded October 25, 1996 at Reception No. F0321025 in the office of the Clerk and Recorder of said county, also being the southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster per annexation map recorded at Reception No. F1027164 in said office of the Clerk and Recorder and the point of beginning; thence departing said southerly right-of-way and continuing along said easterly line and said westerly boundary, South 00°42'14" West 284.01 feet to the southerly boundary of said Tract 55 and the northerly boundary of the Church Ranch Homeplace annexation to the City of Westminster per annexation map

recorded at Reception no. 88080480 in said office of the Clerk and Recorder; thence along said southerly boundary and said northerly boundary, South 88°52'14" West 441.63 feet to the easterly boundary of the Church Ranch Amoco annexation to the City of Westminster per annexation map recorded at Reception No. F2020175 in said office of the Clerk and Recorder; thence along the easterly and southeasterly boundary of said Church Ranch Amoco annexation the following 4 courses:

- 1) North 00°05'32" East 188.87 feet to the beginning of a non-tangent curve concave northwesterly having a radius of 133.50 feet, the radius point of said curve bears North 49°54'59" West;
- 2) Northeasterly along said curve through a central angle of 03°41'56" an arc length of 8.62 feet;
- 3) Tangent to said curve, North 36°23'05" East 144.20 feet to the beginning of a tangent curve concave southeasterly having a radius of 86.50 feet;
- 4) Northeasterly along said curve through a central angle of 23°24'06" an arc length of 35.33 feet to said southerly right-of-way of Reed Street and said southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster;

Thence along the southerly and southeasterly right-of-way of said Reed Street and along the southerly and southeasterly right-of-way of said U.S. Highway 36/Church Ranch Boulevard annexation the following 3 courses:

- 1) North 89°48'37" East 251.02 feet to the beginning of a tangent curve concave southwesterly having a radius of 33.00 feet;
- 2) Southeasterly along said curve through a central angle of 52°48'12" an arc length of 30.41 feet to the beginning of a reverse curve concave northeasterly having a radius of 80.00 feet;
- 3) Southeasterly along said curve through a central angle of 43°08'25" an arc length of 60.24 feet to the point of beginning.

Containing 3.147 acres (137,067 sq. ft.), more or less.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2004.

ATTEST:

Mayor

City Clerk

Chamberlain East Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **50**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the City maintains a Comprehensive Land Use Plan which regulates land uses within the City; and

WHEREAS, the City Council has annexed new properties to the City specifically described below; and

WHEREAS, an amendment of the Plan is necessary to provide a land use designation for the annexed property and to keep the Plan up to date; and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the required procedures for amending the Comprehensive Land Use Plan as delineated in the Westminster Municipal Code have been satisfied.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are necessary to alter the designation of the Chamberlain East annexation property, legally described as follows:

A parcel of land being a portion of Tract 55, Mandalay Gardens, in the County of Jefferson, State of Colorado, per plat recorded in the office of the Clerk and Recorder of said County, lying within the county and state, more particularly described as follows:

Commencing at the northeast corner of said Section 14, whence the north quarter corner of said Section 14 bears 88°52'45" West, and all bearings are made as a reference hereon, said northeast corner being a point on the westerly boundary of the former Hawn Property annexation to the City of Westminster per annexation map recorded at Reception No. F1444643 in said office of the Clerk and Recorder; thence along the easterly line of said northeast quarter and the westerly line of said former Hawn Property annexation, South 00°42'14" West 78.99 feet to the southerly right-of-way of Reed Street, as described in the warranty deed to the City of Westminster recorded October 25, 1996 at Reception No. F0321025 in the office of the Clerk and Recorder of said county, also being the southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster per annexation map recorded at Reception No. F1027164 in said office of the Clerk and Recorder and the point of beginning; thence departing said southerly right-of-way and continuing along said easterly line and said westerly boundary, South 00°42'14" West 284.01 feet to the southerly boundary of said Tract 55 and the northerly boundary of the Church Ranch Homeplace annexation to the City of Westminster per annexation map recorded at Reception no. 88080480 in said office of the Clerk and Recorder; thence along said southerly boundary and said northerly boundary, South 88°52'14" West 441.63 feet to the easterly boundary of the Church Ranch Amoco annexation to the City of Westminster per annexation map recorded at Reception No. F2020175 in said office of the Clerk and Recorder; thence along the easterly and southeasterly boundary of said Church Ranch Amoco annexation the following 4 courses:

- 1) North 00°05'32" East 188.87 feet to the beginning of a non-tangent curve concave northwesterly having a radius of 133.50 feet, the radius point of said curve bears North 49°54'59" West;

- 2) Northeasterly along said curve through a central angle of 03°41'56" an arc length of 8.62 feet;
- 3) Tangent to said curve, North 36°23'05" East 144.20 feet to the beginning of a tangent curve concave southeasterly having a radius of 86.50 feet;
- 4) Northeasterly along said curve through a central angle of 23°24'06" an arc length of 35.33 feet to said southerly right-of-way of Reed Street and said southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster;

Thence along the southerly and southeasterly right-of-way of said Reed Street and along the southerly and southeasterly right-of-way of said U.S. Highway 36/Church Ranch Boulevard annexation the following 3 courses:

- 1) North 89°48'37" East 251.02 feet to the beginning of a tangent curve concave southwesterly having a radius of 33.00 feet;
- 2) Southeasterly along said curve through a central angle of 52°48'12" an arc length of 30.41 feet to the beginning of a reverse curve concave northeasterly having a radius of 80.00 feet;
- 3) Southeasterly along said curve through a central angle of 43°08'25" an arc length of 60.24 feet to the point of beginning.

Containing 3.147 acres (137,067 sq. ft.), more or less.

The properties described above shall be changed from Northeast Comprehensive Development Plan, to Retail Commercial, as shown on the attached "Exhibit A".

Section 2. 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 3. This ordinance shall take effect upon its passage after second reading.

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 26th of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2004.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **51**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from Jefferson County A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Jefferson County A-2 to City of Westminster PUD. A parcel of land located in Section 14, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land being a portion of Tract 55, Mandalay Gardens, in the County of Jefferson, State of Colorado, per plat recorded in the office of the Clerk and Recorder of said County, lying within the county and state, more particularly described as follows:

Commencing at the northeast corner of said Section 14, whence the north quarter corner of said Section 14 bears 88°52'45" West, and all bearings are made as a reference hereon, said northeast corner being a point on the westerly boundary of the former Hawn Property annexation to the City of Westminster per annexation map recorded at Reception No. F1444643 in said office of the Clerk and Recorder; thence along the easterly line of said northeast quarter and the westerly line of said former Hawn Property annexation, South 00°42'14" West 78.99 feet to the southerly right-of-way of Reed Street, as described in the warranty deed to the City of Westminster recorded October 25, 1996 at Reception No. F0321025 in the office of the Clerk and Recorder of said county, also being the southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster per annexation map recorded at Reception No. F1027164 in said office of the Clerk and Recorder and the point of beginning; thence departing said southerly right-of-way and continuing along said easterly line and said westerly boundary, South 00°42'14" West 284.01 feet to the southerly boundary of said Tract 55 and the northerly

boundary of the Church Ranch Homeplace annexation to the City of Westminster per annexation map recorded at Reception no. 88080480 in said office of the Clerk and Recorder; thence along said southerly boundary and said northerly boundary, South 88°52'14" West 441.63 feet to the easterly boundary of the Church Ranch Amoco annexation to the City of Westminster per annexation map recorded at Reception No. F2020175 in said office of the Clerk and Recorder; thence along the easterly and southeasterly boundary of said Church Ranch Amoco annexation the following 4 courses:

- 1) North 00°05'32" East 188.87 feet to the beginning of a non-tangent curve concave northwesterly having a radius of 133.50 feet, the radius point of said curve bears North 49°54'59" West;
- 2) Northeasterly along said curve through a central angle of 03°41'56" an arc length of 8.62 feet;
- 3) Tangent to said curve, North 36°23'05" East 144.20 feet to the beginning of a tangent curve concave southeasterly having a radius of 86.50 feet;
- 4) Northeasterly along said curve through a central angle of 23°24'06" an arc length of 35.33 feet to said southerly right-of-way of Reed Street and said southerly boundary of the U.S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster;

Thence along the southerly and southeasterly right-of-way of said Reed Street and along the southerly and southeasterly right-of-way of said U.S. Highway 36/Church Ranch Boulevard annexation the following 3 courses:

- 1) North 89°48'37" East 251.02 feet to the beginning of a tangent curve concave southwesterly having a radius of 33.00 feet;
- 2) Southeasterly along said curve through a central angle of 52°48'12" an arc length of 30.41 feet to the beginning of a reverse curve concave northeasterly having a radius of 80.00 feet;
- 3) Southeasterly along said curve through a central angle of 43°08'25" an arc length of 60.24 feet to the point of beginning.

Containing 3.147 acres (137,067 sq. ft.), more or less.

Section 3. This ordinance shall take effect upon its passage after second reading.

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 26th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2004.

ATTEST:

Mayor

City Clerk

Chamberlain East Zoning



WESTMINSTER
COLORADO

City Council Meeting
July 26, 2004



SUBJECT: Public Hearing and Action on the Zuni Street Right-of-Way Annexation

Prepared By: David Falconieri, Planner III

Recommended City Council Action:

1. Hold a public hearing.
2. Adopt Resolution No. 43 making certain findings of fact as required under Section 31-12-110 C.R.S. regarding the proposed Zuni Street annexation.
3. Pass Councilor's Bill No. 52 on first reading annexing the northbound lanes of Zuni Street between 136th Avenue and the south boundary line of the Amherst subdivision.

Summary Statement:

- The northbound lanes of Zuni Street between 136th Avenue and the southern boundary of the Amherst subdivision have never been annexed and are still under Adams County jurisdiction. The southbound lanes were annexed by Broomfield when the property to the west was developed. The landscaped area of the right-of-way adjacent to Amherst is in the City of Westminster.
- In order to avoid the confusion of three separate jurisdictions providing emergency services to this strip of road, the County has petitioned the City to annex the northbound lanes.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Recommendation

The Planning Commission reviewed this proposal on July 13, 2004, and voted unanimously (7-0) to recommend the City Council approve the annexation of the northbound lanes of the Zuni Street right-of-way from 136th Avenue to the south boundary line of the Amherst subdivision. This recommendation is based on the findings set forth in Section 11-5-1 of the Westminster Municipal Code.

No one spoke in favor or in opposition to this proposal.

Policy Issue

Should the City annex portions of rights-of-way in order to provide efficient provision of services where appropriate? The Council recently approved the annexation of a portion of I-25 to alleviate a similar situation.

Alternative

Make a finding that the annexation as proposed is not in the best interests of the City and take no further action. If this course is taken, that portion of Zuni Street will remain governed by three separate jurisdictions.

Background Information

There have been several instances where the City Council has agreed to annex portions of right-of-way in order to clarify jurisdictional boundaries. The City has had a general policy that wherever two or more jurisdictions may be required to respond to emergency calls, simplification of the boundaries is desirable. In this case, the Adams County Commissioners have petitioned the City to request that this situation be addressed, and the City Police Department has concurred that the proposed annexation would be beneficial.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO **43**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 28, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk a petition (the "Petition") for the annexation of the property described in said Petition; and

WHEREAS, City Council has previously adopted Resolution No. 39 finding the Petition to be in substantial compliance with the provisions of section 31-12-107(1), C.R.S., and;

WHEREAS, City Council has held a hearing concerning the proposed annexation as required by sections 31-12-108 and -109, C.R.S.; and

WHEREAS, having completed the required hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

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

1. The City Council finds:
 - a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
 - b. A community of interest exists between the area proposed to be annexed and the City;
 - c. The area is urban or will be urbanized in the near future; and
 - d. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
 - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
 - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

- a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;
- b. That the annexation will not result in the attachment of area from a school district;
- c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;
- d. That the City of Westminster has in place a plan for the area proposed to be annexed; and
- e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-111, C.R.S.

PASSED AND ADOPTED this 26th day of July, 2004.

ATTEST:

Mayor

City Clerk

Zuni ROW Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **52**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 28, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Adams, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the petition and accompanying maps are in substantial compliance with Section 31-12-101, et.seq., Colorado Revised Statutes, as amended; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Adams, State of Colorado, to wit:

A parcel of land in the northwest quarter of Section 28, Township 1 South, Range 68 West of the Sixth Principal Meridian, County of Adams, State of Colorado more particularly described as follows:

Commencing at the west quarter corner of said section from whence the northwest corner of said section bears N01°06'51"W, 2667.87 the bearing of which all bearing hereon are based, the true point of beginning;

Thence along the west line of said quarter, said line being the east line of the corporate limits of the City of Broomfield, Colorado N06°06'51"W, 2637.87 feet to a point on the south line of that parcel annexed to the City of Westminster as recorded at Reception Number B621803 of the records of the Adams County Clerk and Recorder; thence along said line N89°41'15"E, 30.00 feet to the northwest corner of that parcel annexed to the City of Westminster as recorded at Reception Number 964080 of said records. Thence along the east line of said annexation S01°06'51"E, 2637.69 feet to a point on the south line of said

quarter on the north line of that parcel annexed to the City of Westminster as recorded at Reception Number B621803 of said records; thence along said north line S89°21'21"W, 30.00 feet to the true point of beginning.

Said parcel contains 79133 square feet or 1.8167 acres more or less.

Total perimeter = 5335.56 feet

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2004.

ATTEST:

Mayor

City Clerk

Zuni ROW Annexation



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Public Hearing and Action on the Bradburn/LaPlace Street Right-of-Way Annexation

Prepared By: David Falconieri, Planner III

Recommended City Council Action:

1. Hold a public hearing.
2. Adopt Resolution No. 44 making certain findings of fact as required under Section 31-12-110 C.R.S. regarding the proposed Bradburn/LaPlace annexation.
3. Pass Councillor's Bill No. 53 on first reading annexing portions of the Bradburn Boulevard and LaPlace Court rights-of-way.

Summary Statement:

- At the point where LaPlace Court intersects with Bradburn Boulevard, there is a portion of both streets that were never annexed to the City (please refer to the attached vicinity map). City staff from the Police Department have asked that the streets be annexed in order to avoid jurisdictional confusion since at this point in time, the City services cannot be legally provided to those areas.
- The unannexed area has been completely surrounded by the City for more than three years and may therefore be unilaterally annexed by ordinance without a petition.

Expenditure Required: \$ 0

Source of Funds: N/A

SUBJECT: Public Hearing/Action on the Bradburn/LaPlace Street Right-of-Way Annexation Page 2

Planning Commission Recommendation

The Planning Commission reviewed this proposal on July 13, 2004, and voted unanimously (7-0) to recommend the City Council approve the annexation of the Bradburn/LaPlace right-of-way. This recommendation is based on the findings set forth in Section 11-5-1 of the Westminster Municipal Code.

No one spoke in favor or in opposition to this proposal.

Policy Issue

Should the City annex portions of rights-of-way in order to provide efficient provision of services where appropriate? The Council recently approved the annexation of a portion of I-25 to alleviate a similar situation.

Alternative

Make a finding that the annexation as proposed is not in the best interests of the City and take no further action. If this course is taken, that portion of the two streets will remain within the jurisdiction of Adams County.

Background Information

There have been several instances where the City Council has agreed to annex portions of right-of-way in order to clarify jurisdictional boundaries. The City has had a general policy that wherever two or more jurisdictions may be required to respond to emergency calls, simplification of the boundaries is desirable. In this case, Adams County must still respond to emergencies that occur in this location within the City. The City Police Department has requested consideration of this annexation in order to alleviate that situation.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **44**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 30, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.

WHEREAS, pursuant to Section 31-12-106(1) C.R.S. certain unincorporated land has been entirely contained within the corporate limits of the City of Westminster for not less than three years; and

WHEREAS, City Council has held a hearing concerning the proposed annexation as described in sections 31-12-108 and -109, C.R.S.; and

WHEREAS, having completed the hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

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

1. The City Council finds:
 - a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
 - b. A community of interest exists between the area proposed to be annexed and the City;
 - c. The area is urban or will be urbanized in the near future; and
 - d. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
 - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
 - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.
3. The City Council further finds:

- a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;
- b. That the annexation will not result in the attachment of area from a school district;
- c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;
- d. That the City of Westminster has in place a plan for the area proposed to be annexed; and
- e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-111, C.R.S.

PASSED AND ADOPTED this 26th day of July, 2004.

Mayor

ATTEST:

City Clerk

Bradburn/LaPlace Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **53**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 30, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there exists an unincorporated parcel of land which is entirely contained within the boundaries of the City of Westminster, and said parcel has been entirely surrounded for a period of time not less than three years; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Adams, State of Colorado, to wit:

A parcel of land in the southeast quarter of Section 30, 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 southeast corner of said section from whence the south quarter corner of said section bears S89°39'40"W, 2650.19 feet on which all lines hereon are based; thence along said line S89°39'40"W, 1295.40 feet; thence N00°03'40"E, 989.99 feet to the true point of beginning on the east line of LaPlace Court at the northeast corner of that parcel annexed into the City of Westminster and recorded at Reception Number 456402 of the records of the Adams County Clerk and Recorder; thence along the north line of said annexation N89°28'53"W, 66.00 feet to a point on the west line of said court at the southeast corner of that parcel of land annexed to the City of Westminster and recorded at Reception Number 619706 of said records; thence along the lines of said annexation and the following three courses;

- 1) N00°03'40"E, 300.83 feet to a point on the south line of West 82nd Avenue;
- 2) Along said south line N89°28'53"W, 21.33 feet to a point on the southeasterly line of Bradburn Boulevard;
- 3) Along said southeasterly line S41°58'20"W, 401.37 feet to a point on the north line of said annexation recorded at Reception Number 456402;

thence along said line N89°28'53"W, 53.37 feet to a point on the centerline of said Boulevard a point on the southeasterly line of that parcel annexed into the City of Westminster and recorded at Reception Number 474881; thence along said line N41°58'20"E, 562.60 feet to a point on the west line of that parcel annexed to

the City of Westminster and recorded at Reception Number 788048 of said records; thence along said line S00°03'40"W, 120.58 feet to a point on the southline of 82nd Avenue; thence along said line and the lines of said annexation S89°28'53"E, 33.00 feet to the east line of LaPlace Court on the west line of the original City of Westminster boundary; thence along said line S00°03'40"W, 301.09 feet to the true point of beginning.

Said parcel contains 42426 square feet or 0.97396 acres more or less.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2004.

ATTEST:

Mayor

City Clerk

Bradburn/LaPlace Annexation



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Councillor’s Bill No. 54 and Resolution No. 45 re Transfer of Assets to the FPPA Defined Benefit System and the termination of the City of Westminster Fire Pension Plan

Prepared By: Matt Lutkus, Deputy City Manager for Administration
Jim Cloud, Fire Chief
Leslie Annand, Assistant City Attorney

Recommended City Council Action

1. Pass Councillor’s Bill No. 54 as an emergency ordinance adding a section to the Code related to the transfer of Fire Pension Plan Trust Fund assets and repealing of Chapter 3 of Title 14 concerning the Fire Pension Plan.
2. Adopt Resolution No. 45 transferring the Fire Pension Plan 401(h) balances to the City’s General Pension Plan 401(h) account, authorizing irrevocable coverage under the Fire and Police Pension Association Defined Benefit System and terminating the City’s Fire Pension Plan.

Summary Statement

- In April 2004, City Council approved a nonbinding resolution requesting coverage under the Fire and Police Pension Association (FPPA) for Fire Department employees currently covered under the City of Westminster Fire Pension Plan. This action by Council provided formal notification to the FPPA Board of Directors of the City’s interest in transferring the assets of the City’s Fire Pension Plan to the FPPA Defined Benefit System. Conversion to the FPPA Plan was contingent on the affirmative vote of at least 65% of the active members of the Fire Pension Plan and final approvals by City Council and the FPPA Board of Directors.
- The employee election on affiliation with FPPA took place on July 7, 8 and 9, 2004. A total of 108 or 95.6% of the 113 eligible plan participants voted in favor of FPPA affiliation. There were three votes against FPPA affiliation and two participants did not vote.
- The proposed ordinance provides for the transfer of Fire Pension Plan assets and the termination of the plan. The resolution authorizes a transfer of the Fire Pension Plan Retirement Medical Savings Account (RMSA) balances to a separate fund and authorizes the irrevocable affiliation with the FPPA Defined Benefit System. The actions repeal the section of the City Code devoted to the City of Westminster Fire Pension Plan and accomplish the formal actions required by State statute and FPPA for affiliation with the FPPA Defined Benefit System.
- Council is requested to approve the Councillor’s Bill on first reading as an emergency ordinance in order to meet the deadline required for the September 1 plan affiliation.

Expenditure Required: \$77,000 - 2004

Source of Funds: General Fund Central Charges Pension Account

SUBJECT: Councillor’s Bill and Resolution re Transfer of Assets to the FPPA Defined Benefit System and the termination of the City of Westminster Fire Pension Plan

Policy Issues

Should the City Council approve the participation in a defined contribution pension plan for Fire employees that is separate from the City's defined contribution plan for all employees?

Should the City take an irrevocable action to participate in the State FPPA Plan, thus relinquishing policy and budgetary control for future plan benefits and costs?

Alternatives

City Council could deny the entry of Public Safety employees into the State operated FPPA Plan. This alternative is not recommended based on City Staff's determination that this is a viable plan and Fire Department affiliation will not adversely impact City finances or the General and Police Pension Plans. The City will recover the upfront supplemental payments required for the FPPA Plan over the next several years based on an analysis of the cost-neutral approach that the City will be using.

Background Information

Currently, the City has separate pension plans for Police, Fire and general employees with nearly identical plan provisions and benefits. All are defined contribution plans whereby employees contribute 10% of their salary at the beginning of their employment and the City contributes 10.25% of the employee's salary starting after the 22nd month of continuous employment. Employees are 100% vested in the plan from the date when their contributions begin. Plan participants choose how their pension funds are invested from among a number of mutual funds and fixed income funds selected by the three pension boards.

In early 2003, the Colorado General Assembly passed legislation, subsequently signed by the Governor, that allows fire and police departments that had previously opted out of the Fire and Police Pension Association (FPPA) Retirement Plan to join the plan. Legislation also approved a hybrid pension plan option to supplement the defined benefit and money purchase plan options already available to its current participants. In order to participate in the defined benefit option, existing participants and jurisdictions in newly affiliated departments are required to contribute 20% of salary in total with employers contributing no less than 8%. For Westminster, the 20% contribution will be shared equally with a 10%-10% employee-employer split. This compares to the contribution rates for current FPPA participants who contribute 8% of their salary with their employers contributing a like amount. Employees hired by the newly affiliated departments after the plan affiliation date would be limited to the one plan option selected by the employer and have the lower contribution rates of 8% employee and 8% employer.

In response to requests from several Fire Department employees, the City Manager created a task force charged with the responsibility of assessing the feasibility as well as the advantages and disadvantages of the City affiliating with the FPPA Defined Benefit Systems. The task force was initially comprised of the Deputy City Manager for Administration, the Finance Director, Fire Chief and the Human Resources Manager. It was later expanded to include other representatives from the Fire Department.

Initially, a condition of FPPA plan affiliation was that the plan would need to be cost neutral to the City. This condition was later reviewed with the City Manager and changed to allow for the initial supplemental outlay for City contributions as long as the plan could be cost neutral in the long term. The FPPA Plan requires that both employee and employer contributions start immediately versus having the delayed start of the employer contribution that is in the City's current plan. An actuary hired by the City determined that given the lower contribution rate for new hires and slightly lower employer contribution rate for existing employees (10% vs. 10.25%), the City would reach a breakeven point and cover its initial employer contributions in seven to nine years. Thus, the City will experience a \$74,000 additional expenditure for participation in the FPPA Plan during 2004. The City's total upfront additional contribution will be approximately \$150,000 in the first several years of the plan. This cost will be offset by savings later in the first decade of plan affiliation.

SUBJECT: Councillor's Bill and Resolution re Transfer of Assets to the FPPA Defined Benefit System and the termination of the City of Westminster Fire Pension Plan

The 2003 FPPA State Legislation included a 1% employee-paid contribution to a 401(h) medical savings account subject to approval by 65% of the FPPA members statewide. If approved, this benefit would have provided for a monthly subsidy to FPPA retiree medical insurance for a period of up to ten years. However, the medical benefit did not receive the requisite 65% participant approval and, thus, the medical amongst all FPPA members plan will not be incorporated into the FPPA retirement system at this time. Alternative plans will be developed in the future by the FPPA Board of Directors for consideration by participants.

In April 2004, City Council approved a nonbinding resolution requesting coverage for eligible Fire Department employees under FPPA. This step formally began the conversion planning process. Subsequent steps included the distribution of the appropriate disclosure statements approved by FPPA staff, general education sessions, one-on-one meetings with individual FPPA counselors and the actual vote itself. The final steps to complete the plan affiliation process are the formal approvals by City Council and the FPPA Board of Directors and the considerable administrative tasks required to transfer the fund assets and enroll employees in their choice of plans. Ongoing payroll contributions to the new plan will begin on September 6, 2004, the first pay date after the plan implementation date.

As previously authorized by City Council, up to 19 recently hired Fire employees will resign prior to the plan affiliation date and be rehired on September 2. This will allow these recently hired employees and the City to benefit by the lower employer/employee contribution rate. These and all other employees hired after the affiliation date will not have a choice of the three plan options, but rather will be in the defined benefit plan.

As stated above, over the long term the City could, depending on a number of factors, realize a savings from the lower cost employer contribution rate for new hires. The major downside of FPPA affiliation will be the loss of City and Pension Board control over the Fire employee plan costs, benefits and long-term viability. However, given the likely prospect for the plan's long-term viability, the negligible impact that Fire withdrawal from the City Plan will have on the other City retirement plans and the very strong Fire employee interest in the FPPA retirement plans, City Staff believes that the FPPA affiliation is a positive move for the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **54**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN EMERGENCY ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING TRANSFER OF THE FIRE PENSION PLAN TRUST FUND AND REPEALING CHAPTER 3 OF TITLE 14 CONCERNING THE FIRE PENSION PLAN

WHEREAS, the City of Westminster City Council, pursuant to Resolution No. 27, requested coverage under the FPPA Defined Benefit System administered by the Fire and Police Pension Association in lieu of maintaining coverage under the City's Fire Pension Plan; and

WHEREAS, at an election for all members of the City's Fire Department pursuant to the Statewide Hybrid Plan Rules and Regulations 2.02, conducted on July 7-9, 2004, the requisite 65 percent of said members elected the irrevocable coverage under the FPPA Defined Benefit System; and

WHEREAS, the Fire Pension Plan, as currently codified, does not provide for transfer of fund balances and requires distribution of the fund balances upon termination.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 14-3-11, W.M.C., is hereby AMENDED to read as follows:

14-3-11: CONTINUANCE, TRANSFER, TERMINATION AND AMENDMENT OF PLAN:

(A) Continuanace of the Plan not a Contractual Obligation of the City: It is the expectation of the City that it will continue this Plan indefinitely, but the continuance of the Plan is not assumed as a contractual obligation by the City, and the right is reserved to the City by action of its City Council to discontinue this Plan at any time. The discontinuance of this Plan by the City shall, in no event, have the effect of revesting any part of the Trust Fund in the City.

(B) TRANSFER OF TRUST FUND: THE RIGHT IS RESERVED TO THE CITY BY ACTION OF ITS CITY COUNCIL TO TRANSFER THE ASSETS OF THE TRUST FUND TO BE ADMINISTERED ON BEHALF OF THE PARTICIPANTS BY A SUCCESSOR PENSION PLAN.

(C) Termination of Plan: This Plan shall continue in full force and effect until terminated or discontinued by the City by action of its City Council. Notice of such termination shall be given to the Trustee by an instrument in writing executed by the City Manager pursuant to the action of its City Council.

(D) Distribution of Trust Fund on Termination of Plan: If the Plan shall, at any time, be terminated by the terms of this Section, the Trustee shall immediately convert the entire Trust Fund BALANCE, IF ANY, other than insurance and annuity contracts, to cash. The value of the interest of each respective Participant or Beneficiary in the Trust Fund shall be vested in its entirety as of the date of the termination of the Plan. The Trustee shall, as soon as possible, distribute to each Participant or Beneficiary outright his entire interest in the Trust Fund.

(E) Amendments to Plan:

1. The City, by action of its City Council, may at any time amend this Chapter; provided, however, that no such amendment shall:

- (a) Divert the Trust Fund to purposes other than for the exclusive benefit of the Participants and their Beneficiaries;
- (b) Decrease any Participant's share of this plan;
- (c) Discriminate in favor of employees who are officers, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees; or
- (d) Fail to comply with state statutes for voting for Fire Pension Plans.

2. Notwithstanding anything herein to the contrary, however, this Chapter may be amended, if necessary, without requiring the approval of the plan participants to conform to the provisions and requirements of the Federal Internal Revenue Code or any amendments thereto, and no such amendment shall be considered prejudicial to the interest of any Participant or Beneficiary hereunder.

Section 2. Chapter 3 of Title 14, Westminster Municipal Code, is hereby REPEALED IN ITS ENTIRETY effective September 2, 2004.

Section 3. Because 30 days prior to the effective date of September 1, 2004, the City must file with FPPA a certification stating that all requirements for conversion have been followed, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 26, 2004, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

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

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 26th day of July, 2004.

Mayor

ATTEST:

City Clerk

RESOLUTION

RESOLUTION NO. **45**

INTRODUCED BY COUNCIL MEMBERS

SERIES OF 2004

A RESOLUTION TRANSFERRING THE FIRE PENSION PLAN 401(H) BALANCES TO THE CITY'S GENERAL PENSION PLAN FOR ADMINISTRATION, AUTHORIZING IRREVOCABLE COVERAGE UNDER THE FPPA DEFINED BENEFIT SYSTEM ADMINISTERED BY THE FIRE AND POLICE PENSION ASSOCIATION, AND TERMINATING THE FIRE PENSION PLAN

WHEREAS, the City of Westminster City Council, pursuant to Resolution No. 27, requested coverage under the FPPA Defined Benefit System administered by the Fire and Police Pension Association in lieu of maintaining coverage under the City's Fire Pension Plan; and

WHEREAS, at an election for all members of the City's Fire Department pursuant to the Statewide Hybrid Plan Rules and Regulations 2.02, conducted on July 7-9, 2004, the requisite 65% of said members elected the irrevocable coverage under the FPPA Defined Benefit System; and

WHEREAS, the contributions made by Fire Department members to the 401(h) medical savings portion of the Fire Pension Plan will not be transferred to FPPA, but shall be transferred to the City's General Employee Pension Plan 401(h) Account on September 1, 2004 for administration on behalf of the Fire Department members; and

WHEREAS, the effective date for coverage under the FPPA Defined Benefit System will be September 1, 2004; and

WHEREAS, in accordance with Resolution No. 27 adopted by City Council on April 12, 2004, the City's Fire Pension Plan shall be terminated as of August 31, 2004.

NOW, THEREFORE, the City Council of the City of Westminster resolves that:

1. The 401(h) medical savings account balances of Fire Department Members shall be transferred to the City of Westminster General Employee Pension Plan 401(h) Account on September 1, 2004 for the purpose of administration on behalf of the Fire Department members.

2. Irrevocable coverage under the FPPA Defined Benefit System for the City of Westminster Fire Department members is effective September 1, 2004.

3. The City of Westminster Fire Pension Plan is completely terminated effective August 31, 2004 and all assets of the Plan as of that date that are attributable to the accrued benefits of the transferred Members will be transferred to the FPPA Defined Benefit System effective September 1, 2004.

4. The City Clerk shall file with FPPA the Certification Requirements necessary to comply with Colorado Revised Statutes section 31-31-1101 immediately after adoption of this Resolution, with a certified copy of this Resolution.

PASSED AND ADOPTED this 26th day of July, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Councillor's Bill No. 55 re Use of Private Agencies for Collection of Delinquent Payments Due to Municipal Court

Prepared By: Carol J. Barnhardt, Municipal Court Administrator
Sharon Widener, Assistant City Attorney

Recommended City Council Action:

Pass Councillor's Bill No. 55 on first reading amending the Municipal Code to allow the Westminster Municipal Court to utilize a private collection agency for the collection of delinquent fines and other payments due to the Court and to assess the costs of collection to defendants.

Summary Statement:

- Outstanding revenues from delinquent fines, Court costs and other payments due to the Court from January 1996 through April 30, 2004 are currently \$327,194. Due to the age of many of the receivables, the Court can anticipate about a 25% collection rate on the aged accounts.
- The Court took a more aggressive approach to payment of fines, costs, etc. with its 2003-7 Order that directs that payment of fines, costs, fees, restitution, etc. is due and payable in full immediately upon plea of guilty or finding of guilty. A payment schedule was developed if payment in full cannot be made.
- The Court is in the process of enhancing its collections process even further with the purchase and installation of a collection module in its Records Management System. This module automates the process of notifying defendants that their Court payments are delinquent through a letter informing the defendants that failure to pay will result in the matter being referred to a private collection agency.
- The final step in this more proactive approach to addressing delinquent payments is to refer the delinquent defendants to a private collection agency for collection. When the matter is referred to a private collection agency, the program will calculate and add up to a 25% collection fee to the amount owed and pass on the costs to the defendant.
- Currently, the City Code does not provide for the use of a private collection agency for the collection of unpaid Court fines when the collection agency fees are passed on to the defendant. The proposed Councillor's Bill will allow the Court to use this approach as an additional means of collecting overdue fines.
- Staff has conducted research and has found that other cities are experiencing similar problems with collections. The recommendation set forth in this memo would allow Staff to take proactive steps to address this situation.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Should the City use a private collection agency to pursue collection of past due orders of fines, penalties, costs, fees or restitution and charge these costs to defendants?

Alternatives

Do not pursue the use of a private collection agency, but continue with attempts to collect fines and fees in-house. Staff believes that the enhanced in-house steps described in this memo will reduce the amount of outstanding fines and fees. The use of private collection agencies and charging the additional costs of collection to defendants is recommended to further reduce outstanding fines and fees.

Background Information

In 2003, the Municipal Court purchased and installed a new Records Management System. One of the modules available for purchase through the vendor is a collection module. The collection module is designed to assist Courts with fines, fees, etc. through an interface to private collection agencies. Both the export of this data to, and the receipt of up-to-date payment history from, third party vendors are automated and reduce Court staff workload. The Court can readily maintain important case payment information with a minimal expenditure of resources and at the same time, increase the effectiveness of collection efforts and reduction of accounts receivable. The Court is currently in the process of purchasing the module. Costs of the module are included in the original capital project account for the Court Records Management System.

The Municipal Court is seeking to improve collections for several reasons: (1) as an aspect of good case processing and case management; (2) as a means of ensuring compliance with a Court judgment--the enforcement of a sentence of a fine being as important to the integrity of the Court as the enforcement of any other sentence or judgment; (3) in terms of criminal sanctions, viewing a fine as a mechanism for rehabilitating offenders, teaching responsibility, or preventing further illegal activity, and (4) as a means to offset costs of Court operations.

The effectiveness with which judicial responsibilities for collecting fines and fees is carried out has important implications for the fine as a sanction and for the Court as an institution. A fine is a Court order. If it is not paid, the integrity and credibility of the judiciary is called into question. An uncollected fine has an impact on the offender, the criminal justice system, and the community. When payment is not enforced, the offender may believe that he or she has successfully "beaten the system." Because certainty of punishment is thought to be a major deterrent to criminality, some individuals may commit crimes if they believe that nothing will happen to them if they fail to pay a fine.

Lack of compliance in paying fines and fees denies the City revenue needed to offset Court costs and, more important, calls into question the authority and efficacy of the Court and the justice system. "Word on the street" in every Court jurisdiction affects the local level of fine enforcement. The Court has decided to change or influence the "word on the street" through enforcement of payment at the time of sentencing and now, through use of a collection agency.

For several years, Court has had a Collections Supervisor who meets with individuals requesting time to pay. The defendant is required to file with the Court a Motion for Stay of Execution of Fines, Costs and/or Restitution, and to provide a statement of financial status along with supporting documentation such as W2 forms, tax returns, unemployment benefits, monthly bills, etc. After all information is provided and reviewed, the Court reviews the Motion for Stay and grants or denies the request. If granted, the defendant is set up on a payment plan and informed by the Collection Supervisor that if any payments are missed and/or late, additional fees will be applied and/or a Writ of Commitment, Outstanding Judgment Warrant will be issued by the Court and/or the Department of Motor Vehicles will be notified and their license will be suspended.

The Court took a more aggressive approach to payment of fines, costs, etc. with its 2003-7 Order that directs that fines, costs, fees, restitution, etc. are due and payable in full immediately upon plea of guilty or finding of guilty. A schedule was developed if payment in full cannot be made. That schedule is as follows:

- \$125 or less: Due at the time of plea or sentencing and within 24 hours (\$10 Stay of Execution fee if not paid at time of Court).
- \$126 - \$250: \$125 minimum amount due day of plea or sentencing and the balance will be due in 2 weeks (\$10 Stay of Execution fee applies).
- \$251 or more: \$125 minimum amount due day of plea or sentencing. Defendant may make application for a Stay of Execution with the Collection Supervisor and the balance of payments may be scheduled after review of all pertinent paperwork is filed, reviewed and a Court Order granting payments is authorized.

The Court is in the process of enhancing its collections process even further with the purchase and installation of a collection module. This module automates the process of notifying defendants that their Court payments are delinquent through a letter informing the defendants that failure to pay will result in the matter being referred to a collection agency.

The third component of this more proactive approach to fine collections is the referral of delinquent defendants to a private collection agency for collection when all other efforts have failed. When the matter is referred to the collection agency, the collections program will calculate and add up to a 25% collection fee to the amount owed and pass on the costs to the defendant. The Court and the private collection agency will share information by uploading and downloading information electronically from the collection module.

Collection agencies have the resources to locate and contact defendants. C.R.S. section 16-11-101.6, sets forth the method utilized by the State of Colorado to collect fines and fees. If Council approves the proposed ordinance, the Court will consider the point in the collection process at which there is little or no hope of collecting the fine on its own, and the expense of using a collection agency is justified. The fees assessed by the private collection agency will be added to the amount owed by the defendant. All payments will be made at the Court so that any outstanding warrants may be recalled immediately upon full payment.

The Court has been using a private collection agency since May 2002 to collect on overdue parking citations. However, since the Court does not have the authority to assess collection fees, the payments to the collection agency are deducted from the amounts collected. If the proposed ordinance is approved, collection costs for parking citations will now be paid by the violators.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **55**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE ESTABLISHING A FEE FOR USE OF COLLECTION AGENCIES TO COLLECT FINES, PENALTIES, COSTS, FEES, OR RESTITUTION IN MUNICIPAL COURT

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title 1, Chapter 22, Section 14, W.M.C., is hereby amended BY THE ADDITION OF A NEW SUBSECTION (D) to read as follows:

1-22-14: ~~COMMITMENT FOR FAILURE TO PAY FINES:~~

(D) TO COLLECT PAST DUE ORDERS OF FINES, PENALTIES, COSTS, FEES, OR RESTITUTION, THE COURT MAY ASSIGN SUCH ACCOUNTS TO A PRIVATE COLLECTION AGENCY. ANY FINES, PENALTIES, COSTS, FEES OR RESTITUTION OF THE COLLECTION AGENCY SHALL BE ADDED TO THE AMOUNT DUE, BUT NOT TO EXCEED TWENTY-FIVE PERCENT (25%) OF THE AMOUNT COLLECTED.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of August, 2004.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Resolution No. 46 re Sponsoring Hyland Hills for an Adams County Open Space Grant Application

Prepared By: Becky Eades, Landscape Architect II

Recommended City Council Action

Adopt Resolution No.46 sponsoring Hyland Hills Park and Recreation District for an Adams County Open Space grant application.

Summary Statement

- Adams County Open Space provides grant money in Adams County to assist municipalities, recreation districts and private non-profit entities with recreational capital improvements and open space purchases.
- In order for recreation districts to qualify, they must seek sponsorship of their application from the entity in which the project is located.
- A resolution from City Council indicating sponsorship for the Hyland Hills is requested by Hyland Hills to complete renovations to Carroll Butts Park and fulfill the master plan for the park.
- The City already has budgeted an additional \$150,000 for further renovations at the park, which Hyland Hills can use toward their grant match.
- Hyland Hills plans to contribute \$50,000 toward the final improvements for a total grant match of 50 percent, or \$200,000, toward a project budget of \$400,000.
- Sponsoring a grant does not affect the ability of the sponsoring entities to submit their own grants.

Expenditure Required: \$150,000

Source of Funds: General Fund, Park Capital Improvement Program

Policy Issue

Does City Council support the Hyland Hills project to complete renovations at Carroll Butts Park?

Alternative

Council could choose not to sponsor the grant application for Hyland Hills. However, these funds are necessary to complete renovations at Carroll Butts Park.

Background Information

The City of Westminster and Hyland Hills have been collaborating on the renovations at Carroll Butts Park for several years. The City has spent approximately \$850,000 on the renovation of the southern portion of the park, including playground, lake improvements, three picnic shelters, concrete walks and significant irrigation and landscape improvements. This \$850,000 includes a 2003 Adams County Open Space Grant for \$250,000. Hyland Hills has spent approximately \$1.6 million on the northern portion of the park including construction of two parking lots and the complete renovation of the ball field complex. Additionally, Hyland Hills has spent approximately \$900,000 on the renovation of the swimming pool.

Hyland Hills will add an additional \$50,000 to the City's \$150,000 and request a 50% match from Adams County Open Space in the amount of \$200,000. The \$400,000 will complete renovations at Carroll Butts Park and will include the construction of a tennis court, basketball court, playground and picnic shelter in the northern portion of the park, near the ballfields.

Staff feels that this project is worthy of City support.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **46**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

SPONSORSHIP OF HYLAND HILLS PARK AND RECREATION DISTRICT FOR APPLICATION TO ADAMS COUNTY OPEN SPACE PROGRAM

WHEREAS, Adams County has established an Open Space grant application process to assist with development of passive and active use projects for eligible jurisdictions within Adams County, Colorado; and

WHEREAS, the County will accept applications from park and recreation districts and private non-profit groups located within the county provided that the entity in which the project is located will sponsor the application; and

WHEREAS, the City of Westminster is the sponsoring entity for the application by Hyland Hills Park and Recreation District to complete renovations at Carroll Butts Park; and

WHEREAS, matching grant funding from the Adams County Open Space Program would assist in the renovation of the above project, for the benefit and enjoyment of those residences of Hyland Hills Park and Recreation District, Adams County, and the City of Westminster.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster sponsor the grant application to the Adams County Open Space Program, from Hyland Hills Park and Recreation District, requesting funds for the completion of renovations at Carroll Butts Park, located at 94th and Perry Streets in Westminster, Adams County.

Passed and adopted this 26th day of July 2004.

Attest:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Resolution No. 47 re Supporting Project Y-Vote

Prepared By: Christy Owen, Management Intern II

Recommended City Council Action

Adopt Resolution No. 47 in support of Y-Vote's mission to enhance voter participation among young people in Jefferson County.

Summary Statement

- The non-partisan voter education group, Y-Vote, has asked for Council support and a resolution to support the organization's mission to register young voters in Jefferson County. City Staff has prepared a resolution in support of Y-Vote's mission to register voters and is seeking Council's review and approval.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City of Westminster support Y-Vote's mission to support voter registration of 18-25 year-olds in Jefferson County?

Alternative

To not adopt a resolution in support of Y-Vote at this time.

Background Information

On July 12, 2004, two members from Y-Vote addressed the City Council. They spoke about the Y-Vote organization's objectives and goals. Y-Vote members Nathan Havey of Lakewood and Westminster resident Kaitlyn Pulhamus presented voter registration information about registered voters in Jefferson County ages 18-25. While there are 35,000 registered voters in this age group, only 1,200 voted in the 2002 election, amounting to roughly 3.4% of registered voters.

Y-Vote seeks to increase the voter turnout in Jefferson County, specifically in the age bracket of 18-25 year-olds in upcoming elections. Its goal is to get over 500 new voters to the polls from Jefferson County in November of 2004. Prior to school being let out for the summer, Y-Vote representatives spoke with Pomona and Standley Lake High School students in efforts to civically engage the young demographic.

The organization is a 501(3)(c) non-partisan organization established in November of 2002. Y-Vote is dedicated to the 18-25 year-old demographic and in addition to voter participation, Y-Vote also seeks to involve youth in all areas of civic engagement. Statistically, the 18-25 year-old age bracket has a low voter turnout and organizations such as Y-Vote exist to address this issue.

Mr. Havey and Ms. Palhamus requested that Council adopt a resolution in support Y-Vote's objective to register voters in the City of Westminster and Jefferson County for the upcoming election. The following resolution is proposed for City Council's consideration.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 47

INTRODUCED BY COUNCILORS

SERIES OF 2004

WESTMINSTER'S FORMAL POSITION SUPPORTING THE Y-VOTE
ORGANIZATION'S MISSION AND ORGANIZATIONAL VALUES

WHEREAS, a low proportion of registered voters ages 18-25 years old in Jefferson County participated in the 2002 general election; and

WHEREAS, the City Council of Westminster recognizes the importance of voter turnout and civic engagement amongst the age group of 18-25 year-olds in Jefferson County; and

WHEREAS, the organization Y-Vote is a 501(3)(c) non-partisan organization dedicated to registering young voters and encouraging voter participation in Jefferson County.

NOW, THEREFORE, be it resolved that the Mayor and City Council of Westminster supports the mission of Y-Vote in their efforts to inform, educate, and register young voters in Jefferson County, Colorado, for upcoming elections and encourages all residents of Westminster to register and vote.

Passed and adopted this 26th day of July, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
July 26, 2004



SUBJECT: Resolution No 48 re: Joint Resolution on FasTracks

Prepared By: Steve Smithers, Assistant City Manager

Recommended City Council Action:

Adopt Resolution No. 48 supporting the joint resolution by Adams County cities in support of the Regional Transportation District's FasTracks Transit Plan.

Summary Statement

- The City has been requested to pass a resolution as part of a joint effort by Adams County cities to show support for the FasTracks Transit Plan.
- The City previously passed Resolution No. 22 on March 29, 2004 in support of FasTracks (attached).
- The FasTracks proposal has been approved by the Secretary of State for consideration by the region's 1.5 million voters this fall.
- The proposal includes comprehensive upgrades to the region's bus routes and light rail lines, the addition of three commuter rail lines, 18 miles of Bus Rapid Transit (BRT) along US 36, and the construction of numerous new transit stations and new park-n-rides.
- The Ballot proposal will request that the voters approve an increase in the current RTD sales tax rate of six tenths of one percent to one percent, or a sales tax increase of four cents on each \$10 purchase. These funds would be used to pay the debt service on the bonds needed to finance the construction of the FasTracks rapid transit improvements and ongoing maintenance of the new improvements.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City support this joint effort to show support for FasTracks?

Alternative

City Council could choose to not support this resolution.

Background Information

Adams County has held a series of meeting with cities in the county to discuss the FasTracks Transit proposal. The outcome of these meetings was an agreement for each City to consider adopting a joint resolution in support of FasTracks. The attached resolution is consistent with the previous resolution adopted by the Westminster City Council.

One of the significant benefits to Westminster from FasTracks, if passed by the voters, is that this project will put into place commuter rail and BRT stations in strategic locations in Westminster. These stations and the density of vehicular traffic that comes with them create opportunities for quality Transit Oriented Development (TOD) that will benefit the City considerably. This is in addition to the direct benefit to Westminster citizens and businesses from the ready access to vastly improved rapid transit.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **48**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

JOINT RESOLUTION BY ADAMS COUNTY AND THE CITIES OF ARVADA, AURORA, BRIGHTON, COMMERCE CITY, FEDERAL HEIGHTS, NORTHGLENN, THORNTON AND WESTMINSTER IN SUPPORT OF THE REGIONAL TRANSPORTATION DISTRICT'S FASTRACKS TRANSIT PLAN

WHEREAS, "FasTracks" is the Colorado Regional Transportation District's (RTD) twelve-year plan for establishing high quality transit service and facilities in the Denver metropolitan area; and

WHEREAS, the Board of Directors of the RTD (Board) is submitting a ballot issue as set forth in C.R.S. §32-9-199.4 to district voters, and thereby obtain authorization to fund construction of fixed guideway corridors within the RTD; and

WHEREAS, pursuant to C.R.S. §32-9-119.4 the Board must adopt a plan and determine tax and debt requirements for such a plan before voters can petition for a ballot question that will provide for the construction of such plan; and

WHEREAS, RTD conducted extensive studies for all six new and three enhanced corridors that are included in the Fastracks rapid transit component that incorporated the needs and desires of the local governments and communities (locally preferred alternatives); and

WHEREAS, in its 2003 Annual Urban Mobility Report, the Texas Transportation Institute rated Denver as the third most traffic-congested city in the United States; and

WHEREAS, the Denver Regional Council of Governments estimates that by the year 2025 the metropolitan area will increase in population by 900,000, and will add 600,000 additional jobs. Weekday vehicle miles traveled will increase from 58 million in 2001 to 87 million by the year 2025. This combination of growth and vehicle miles traveled will increase congestion by 89 percent even with the transportation improvements currently scheduled; and

WHEREAS, the governing bodies to this resolution acknowledge that the imposition of a .4 percent sales tax to fund the estimated \$4.7 billion cost of the project represents a significant investment in public infrastructure. The ultimate benefit to the region for improved transit services, economic development and improved air quality justifies the investment.

NOW THEREFORE BE IT RESOLVED, that the governing bodies of Adams County and the Cities support the FasTracks transit plan and consider it a program that can responsibly address the transportation needs of the area while also providing for the improvement of air quality and economic benefits to the region.

NOW BE IT FURTHER RESOLVED, that the governing bodies to this Resolution encourage the voters of the district to review, consider, and support the FasTracks ballot issue.

Passed and adopted this 26th day of July, 2004

ATTEST:

Mayor

City Clerk

RESOLUTION

RESOLUTION NO. 22

INTRODUCED BY COUNCILLORS

SERIES OF 2004

CITY'S FORMAL POSITION TO SUPPORT THE RTD FASTRACKS PROPOSAL

WHEREAS: This region has repeatedly identified that funding and implementing a multi-modal transportation system that includes a comprehensive rail and bus transit element as well as a highway element, are critical to the future economic health and quality of life of the Denver metro area; and

WHEREAS: transportation planning processes have recommended rail and bus transit projects in key transportation corridors in the Denver metro region, including the West, East, Gold Line (I-70 West), I-225, North Metro, US36, SH 119, Southwest and Southeast corridors, and

WHEREAS: given current RTD revenue forecasts, which assume another federal transit grant, only one of these projects could be built before 2020, leaving the other projects unfunded, and

WHEREAS: build-out of a rail and bus transit network is a critical infrastructure component for the City of Westminster, and

WHEREAS: the City supports a FasTracks proposal containing three Commuter Rail and Two Bus Rapid Transit station locations within the City of Westminster that will promote high quality transit oriented development, and

WHEREAS: HB02-1310/SB02-179, which was passed in the 2002 legislative session and signed by Governor Owens, authorizes an RTD ballot measure to let metro area voters decide on increasing funding for expanded rail and bus transit, and

NOW, THEREFORE, be it resolved that the City Council of Westminster supports an RTD FasTracks measure on the November 2004 election ballot in substantially the same form and content as the current proposal, and is committed to public education and coalition building in support of that goal.

Passed and adopted this 29th day of March, 2004 as amended.

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, July 26, 2004. . Mayor McNally, Councillors Davia, Dittman, Dixon, Hicks, Kauffman, and Price were present at roll call. Absent none.

David Davis was sworn into office as Councillor.

The minutes of the July 12, 2004 meeting were approved.

Council approved the following: June 2004 Financial Report; Swim & Fitness Center Renovations for \$125,000; Westminster Grange Hall Exterior Restoration Project with Randcorp, Inc., for \$102,848; and Design of Reclaimed Waterline Extensions with Martin/Martin Consulting Engineers for \$89,900.

Council accepted the resignation of MaryAnn Maher and appointed Delbert Lennie to the Election Commission, with a term of office to expire December 31, 2005.

The following Public Hearings were held: At 7:33 p.m. the public hearing was opened on the Annexation, CLUP Amendment, and Zoning on the Chamberlain East property; At 7:40 p.m. the public hearing was opened on the Zuni Street Right-of-Way Annexation; At 7:43 p.m. the public hearing was opened on the Bradburn Boulevard/LaPlace Court Street Right-of-Way Annexation.

The following Councillor's Bills were passed on first reading:

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO purpose: annexing the Chamberlain East property

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN purpose: CLUP Amendment for the Chamberlain East property

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO purpose: Zoning the Chamberlain East property

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 28, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO purpose: Annexing the Zuni Street Right-of-Way

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 30, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO purpose: Annexing the Bradburn/LaPlace Right-of-Way

A BILL FOR AN ORDINANCE ESTABLISHING A FEE FOR USE OF COLLECTION AGENCIES TO COLLECT FINES, PENALTIES, COSTS, FEES, OR RESTITUTION IN MUNICIPAL COURT purpose: Use of Collection Agencies for Municipal Court payments

The following Councillor's Bill was passed as an emergency ordinance:

A BILL FOR AN EMERGENCY ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING TRANSFER OF THE FIRE PENSION PLAN TRUST FUND AND REPEALING CHAPTER 3 OF TITLE 14 CONCERNING THE FIRE PENSION PLAN purpose: amending City Code for Fire Pension Plan

The following Councillor's Bills were passed on second reading:

A BILL FOR AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES, TOWERS, AND ANTENNAS

A BILL FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND

The following Resolutions were adopted:

Resolution No. 41 re Resignation and Appointment to Election Commission
Resolution No. 42 re findings of fact on Chamberlain East property Annexation
Resolution No. 43 re findings of fact on Zuni Street Right-of-Way Annexation
Resolution No. 44 re Bradburn/LaPlace Right-of-Way Annexation
Resolution No. 45 re Fire Pension Plan
Resolution No. 46 re Sponsoring Hyland Hills for AdCo Open Space Grant Application
Resolution No. 47 re Support of Project Y-Vote
Resolution No. 48 re Joint Resolution Supporting FasTracks

At 7:56 p.m. the meeting was adjourned

By order of the Westminster City Council
Michele Kelley, CMC, City Clerk
Published in the Westminster Window on August 6, 2004

A BILL
FOR AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES, TOWERS,
AND ANTENNAS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-4-11, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

11-4-11: ANTENNAS AND TOWERS:

~~(A) Cellular telephone exchanges, communications poles, antennas and towers, windmills, wind generators and similar structures shall be permitted only as a special use in all districts, except Planned Unit Development (PUD) districts, unless otherwise prohibited by this Code or by contract. No such structure shall be permitted in a PUD district unless such use is specifically stated in the Official Development Plan (ODP) or unless an amendment to the ODP to allow such structure has been approved as specified in this section. All such structures shall be subject to the following conditions:~~

~~— 1. A building permit shall be required and shall not be issued until the applicant has obtained a special use permit or unless the structure is authorized in the applicable ODP. Any design that lacks manufacturer's specifications shall not be permitted unless an engineering study indicates that the design will meet or exceed all applicable building code standards.~~

~~— 2. All parts of the structure, including supports, fences and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment shall be obtained specifying the setbacks for the structure.~~

~~— 3. At the request of the applicant, an application for a special use permit or ODP amendment may be reviewed administratively and a decision thereon rendered by the City Manager pursuant to the criteria set forth below if the structure does not exceed the height limitations for a principal structure of the applicable district or ODP. If the applicable ODP does not include a height limitation for principal structures, an ODP amendment to specify the permitted height for the structure shall be required. Any decision by the City Manager, and any refusal by the City Manager to administratively approve a structure pursuant to this section, may be appealed to the Planning Commission who shall hear the case pursuant to the procedures set forth in section 11-5-13 of this Code. An appeal of any Planning Commission decision on a special use permit or ODP amendment to allow a structure pursuant to this section may be filed pursuant to section 3(B) of this Code.~~

~~— 4. In determining whether to grant or deny a special use permit or ODP amendment pursuant to this section, the decision maker shall consider, if applicable:~~

~~(a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors;~~

~~(b) Quality and effectiveness of any landscaping and screening of the base of the structure;~~

~~(c) Real estate value impacts;~~

~~(d) Whether co-use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures;~~

~~(e) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards; and~~

~~(f) Other specific public health and welfare concerns.~~

~~— 5. The applicant shall demonstrate that all guy wires, cables and other accessory structures or equipment are located on property owned or leased by the applicant or that the owner of the property otherwise consents to the location of such structures and equipment.~~

~~— 6. All structures and equipment shall be protected by a fence or wall not less than six feet in height from ground level, unless the decision maker waives this requirement as unnecessary to protect public safety~~

~~concerns. Such fence or wall shall be constructed of wood or masonry and shall obscure the base of the structure.~~

~~7. Ground mounted structures shall be screened by a landscaped planting strip of no less than 20 feet in width along all perimeter lines defining the boundaries of the proposed structure or, if landscaping is impractical, screening may be provided by a fence or wall which is architecturally compatible with the neighborhood, upon approval of the City Manager. Landscaping may include drought resistant vegetation, earth berms, planter boxes, and hedges and, for every twenty five linear feet of perimeter or part thereof, at least one shade, ornamental or canopy tree shall be planted. Existing trees directly adjacent to the perimeter may be counted. Additional landscaping may be required if deemed necessary by the decisionmaker to screen the base area of the structure. All vegetation shall be maintained in a healthy and growing condition. Automatic irrigation shall be provided, unless contractual arrangements are made with the City to ensure the proper maintenance of the landscaping.~~

~~8. A cellular telephone exchange may be co-located with other uses, subject to all requirements of this section.~~

~~(B) Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC licensed amateur radio operators shall be permitted in any district, subject to the requirements of this section, except subsections (A)(3) and (A)(7). The Board of Adjustment and Appeals shall establish permissible structure heights if an ODP fails to specify height limitations and shall hear applications for variances from height and setback requirements. The Board shall follow the same criteria as the decision maker considering a non-amateur radio structure and shall also balance amateur radio communications interests with other local interests.~~

~~(C) Television or radio antennas less than five feet above the highest point of the structure used for receiving regularly scheduled programming shall not be subject to subsection (A) above.~~

~~(D) The limitations of this section may be waived by the City Council in the case of a structure owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this section.~~

~~(E) **DEFINITIONS.**~~

~~1. "Cellular Telephone Exchange" shall mean an unmanned facility which consists of equipment for the reception, switching, and transmission of cellular telephone communications. Such facility may have elevated (either building mounted or ground mounted) transmitting and receiving antennas, cellular base station equipment, and interconnection equipment.~~

~~2. "Decision maker" shall mean the City Manager, the Planning Commission, the City Council, or the Board of Adjustment and Appeals as the context may require.~~

11-4-11: ANTENNAS AND TOWERS AND TELECOMMUNICATION FACILITIES:

(A) INTENT AND PURPOSE: IN ORDER TO ACCOMMODATE THE COMMUNICATION NEEDS OF RESIDENTS AND BUSINESSES WHILE PROTECTING THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY, THE CITY COUNCIL FINDS THAT THESE REGULATIONS ARE NECESSARY TO:

1. ESTABLISH A LOCAL POLICY CONCERNING TELECOMMUNICATIONS PROVIDERS AND SERVICES,

2. PROMOTE COMPETITION IN THE PROVISION OF TELECOMMUNICATIONS SERVICES;

3. FACILITATE THE PROVISION OF WIRELESS TELECOMMUNICATIONS SERVICES TO THE RESIDENTS AND BUSINESSES OF THE CITY;

4. MINIMIZE ADVERSE VISUAL EFFECTS OF TOWERS THROUGH CAREFUL DESIGN AND SITING STANDARDS;

5. ENCOURAGE AND MAXIMIZE THE USE OF EXISTING AND APPROVED TOWERS, BUILDINGS, AND OTHER STRUCTURES TO ACCOMMODATE NEW WIRELESS TELECOMMUNICATIONS ANTENNAS IN ORDER TO REDUCE THE NUMBER OF TOWERS NEEDED TO SERVE THE COMMUNITY; AND

6. SECURE FAIR AND REASONABLE COMPENSATION TO THE CITY AND ITS RESIDENTS FOR THE USE OF ANY APPROPRIATE PUBLIC PROPERTY FOR USE AS A SITE FOR WIRELESS TELECOMMUNICATIONS FACILITIES.

(B) APPLICABILITY:

1. THE PROVISIONS OF THIS CHAPTER SHALL APPLY THROUGHOUT THE CITY OF WESTMINSTER, AND IT SHALL BE UNLAWFUL FOR A TOWER, ANTENNA, OR TELECOMMUNICATIONS FACILITY TO BE PLACED EXCEPT IN COMPLIANCE WITH THESE PROVISIONS.

2. ANTENNAS OR TOWERS UP TO THE MAXIMUM HEIGHT SPECIFIED FOR PRINCIPAL STRUCTURES IN THE APPLICABLE ZONING DISTRICT OR ODP WHICH ARE USED BY FCC-LICENSED AMATEUR RADIO OPERATORS SHALL BE PERMITTED IN ANY DISTRICT, SUBJECT TO THE REQUIREMENTS OF THIS SECTION. THE APPLICANT MUST APPLY FOR AN OFFICIAL DEVELOPMENT PLAN (ODP), ODP AMENDMENT, OR ODP WAIVER TO ESTABLISH PERMISSIBLE STRUCTURE HEIGHTS IF AN ODP FAILS TO SPECIFY HEIGHT LIMITATIONS.

3. TELEVISION OR RADIO ANTENNAS LESS THAN FIVE FEET ABOVE THE HIGHEST POINT OF THE EXISTING PRINCIPAL STRUCTURE SHALL NOT BE SUBJECT TO SUBSECTIONS (D) THROUGH (H) BELOW.

4. THE LIMITATIONS OF THIS SECTION MAY BE WAIVED BY THE CITY MANAGER IN THE CASE OF A STRUCTURE OWNED OR OPERATED BY A GOVERNMENTAL ENTITY OR PUBLIC UTILITY IF IT IS DEMONSTRATED THAT THE PUBLIC GOOD CANNOT BE ADEQUATELY SERVED WITHIN THE LIMITATIONS OF THIS SECTION.

(C) DEFINITIONS:

1. **ALTERNATIVE TOWER STRUCTURE** MEANS MAN-MADE TREES, CLOCK TOWERS, BELL STEEPLES, LIGHT POLES, BUILDINGS, AND SIMILAR ALTERNATIVE DESIGN MOUNTING STRUCTURES THAT ARE COMPATIBLE WITH THE NATURAL SETTING AND SURROUNDING STRUCTURES, AND CAMOUFLAGES OR CONCEALS THE PRESENCE OF ANTENNAS OR TOWERS. THIS TERM ALSO INCLUDES ANY ANTENNA OR ANTENNA ARRAY ATTACHED TO THE ALTERNATIVE TOWER STRUCTURE.

2. **ANTENNA** MEANS ANY EXTERIOR TRANSMITTING OR RECEIVING DEVICE MOUNTED ON A TOWER, BUILDING, OR STRUCTURE AND USED IN COMMUNICATIONS THAT RADIATE OR CAPTURE ELECTROMAGNETIC WAVES, DIGITAL SIGNALS, ANALOG SIGNALS, RADIO FREQUENCIES (EXCLUDING RADAR SIGNALS), WIRELESS TELECOMMUNICATION SIGNALS OR OTHER COMMUNICATION SIGNALS.

3. **CO-LOCATION** MEANS THE PLACEMENT OF ANTENNAS OR OTHER TELECOMMUNICATIONS FACILITIES BY TWO OR MORE TELECOMMUNICATIONS PROVIDERS IN THE SAME LOCATION OR ON THE SAME TOWER OR ALTERNATIVE TOWER STRUCTURE.

4. **TELECOMMUNICATIONS FACILITIES** MEANS THE PLANT, EQUIPMENT, AND PROPERTY, INCLUDING BUT NOT LIMITED TO, CABLES, WIRES, CONDUITS, DUCTS, PEDESTALS, ANTENNA, TOWERS, ALTERNATIVE TOWER STRUCTURES, ELECTRONICS AND OTHER APPURTENANCES USED TO TRANSMIT, RECEIVE, DISTRIBUTE, PROVIDE, OR OFFER TELECOMMUNICATION SERVICES.

5. **TELECOMMUNICATIONS SUPPORT FACILITIES** MEANS SUPPORT BUILDING STRUCTURES, AND EQUIPMENT CABINETS CONTAINING ELECTRICAL AND MECHANICAL EQUIPMENT AND DEVICES USED FOR THE RECEPTION OF OR TRANSMISSION OF VOICE, DATA, IMAGE, GRAPHIC AND VIDEO PROGRAMMING INFORMATION BETWEEN OR AMONG POINTS BY WIRE, CABLE, FIBER OPTICS, LASER, MICROWAVE, RADIO, SATELLITE, OR SIMILAR FACILITIES.

6. **TOWER** SHALL MEAN ANY STRUCTURE DESIGNED AND CONSTRUCTED PRIMARILY FOR THE PURPOSE OF SUPPORTING ONE OR MORE ANTENNAS, INCLUDING SELF-SUPPORTING LATTICE TOWERS, GUY TOWERS, AND MONOPOLE TOWERS. THE TERM INCLUDES RADIO AND TELEVISION TRANSMISSION TOWERS, MICROWAVE

TOWERS, COMMON CARRIER TOWERS, CELLULAR TELEPHONE TOWERS, AND OTHER SIMILAR STRUCTURES. THIS TERM ALSO INCLUDES ANY ANTENNA OR ANTENNA ARRAY ATTACHED TO THE TOWER STRUCTURE.

(D) REVIEW AND APPROVAL PROCESS:

1. A USE OF LAND FOR A TELECOMMUNICATION FACILITY MUST BE APPROVED IN AN OFFICIAL DEVELOPMENT PLAN (ODP), AMENDED ODP, OR ODP WAIVER, INCLUDING FACILITIES LOCATED ON PUBLIC PROPERTY, OR RIGHTS OF WAY. IF THE APPLICABLE ODP DOES NOT INCLUDE A HEIGHT LIMITATION FOR THE PRINCIPAL STRUCTURE, AN ODP AMENDMENT OR WAIVER TO SPECIFY THE PERMITTED HEIGHT FOR THE FACILITY SHALL BE REQUIRED.

2. A TELECOMMUNICATION FACILITY MUST RECEIVE A BUILDING PERMIT, AND BE IN COMPLIANCE WITH THE BUILDING CODE ADOPTED BY THE CITY.

3. AN APPLICATION SHALL BE REVIEWED BY THE CITY MANAGER OR HIS DESIGNEE(S), WITH THE EXCEPTION OF TELECOMMUNICATION FACILITIES PROPOSED TO BE LOCATED ABOVE-GROUND ON PUBLIC RIGHTS-OF-WAY WHICH MUST BE APPROVED AT A PUBLIC HEARING BEFORE THE CITY PLANNING COMMISSION PURSUANT TO THE PROCEDURES SET FORTH IN TITLE 11, CHAPTER 5.

(E) PREREQUISITES FOR APPROVAL: NO ODP, ODP AMENDMENT, OR ODP WAIVER RELATING TO A TELECOMMUNICATIONS FACILITY SHALL BE APPROVED UNLESS THE FOLLOWING FINDINGS HAVE BEEN MET:

1. SUCH FACILITY IS NECESSARY TO PROVIDE ADEQUATE SERVICES TO LOCATIONS THAT THE APPLICANT IS NOT ABLE TO SERVE WITH EXISTING APPROVED FACILITIES;

2. THE APPLICANT CERTIFIES THAT THE FACILITY CONFORMS TO ALL APPLICABLE REGULATIONS PROMULGATED BY THE FEDERAL COMMUNICATIONS COMMISSION, THE FEDERAL AVIATION ADMINISTRATION, AND ANY OTHER FEDERAL AGENCY WITH JURISDICTION;

3. THE FACILITY WILL BE DESIGNED AND CONSTRUCTED IN A MANNER WHICH MINIMIZES VISUAL IMPACT AND PRESERVES VIEW CORRIDORS;

4. THE LOCATION OF THE FACILITY IS THE MOST APPROPRIATE SITE AMONG THOSE AVAILABLE WITHIN THE TECHNICALLY FEASIBLE AREA FOR THE LOCATION OF A TELECOMMUNICATION FACILITY;

5. THE APPLICANT HAS CONSIDERED WHETHER CO-USE IS POSSIBLE OR PERMISSIBLE, BASED ON LEGAL, FINANCIAL, AND TECHNICAL CONSIDERATION IN ORDER TO AVOID THE NEED FOR ADDITIONAL STRUCTURES; AND

6. THE APPLICANT HAS SATISFACTORILY ADDRESSED THE DESIGN STANDARDS HEREIN.

(F) APPLICATION: AN APPLICATION FOR A TELECOMMUNICATION FACILITY SHALL FOLLOW THE PROCEDURES AND REQUIREMENTS AS SET FORTH IN TITLE 11, CHAPTER 5 OF THE WESTMINSTER MUNICIPAL CODE. IN ADDITION, THE APPLICATION SHALL CONTAIN THE FOLLOWING:

1. (A) CERTIFICATION THAT THE TELECOMMUNICATION FACILITY IS OR WILL BE IN COMPLIANCE WITH THE CURRENT STANDARDS AND REGULATIONS OF THE FAA, THE FCC, AND ANY OTHER AGENCY OF THE FEDERAL GOVERNMENT WITH AUTHORITY TO REGULATE TELECOMMUNICATIONS FACILITIES; AND

(B) A WRITTEN AGREEMENT FROM THE OWNER THAT, IF SUCH STANDARDS AND REGULATIONS ARE CHANGED, THE OWNERS OF THE TELECOMMUNICATION FACILITIES SHALL BRING SUCH FACILITIES INTO COMPLIANCE AND THAT THE FACILITIES WILL BE BROUGHT INTO COMPLIANCE WITHIN THE TIME FRAME MANDATED BY THE CONTROLLING FEDERAL AGENCY. THE OWNER ALSO WILL AGREE IN WRITING, THAT IF THE FACILITY CAUSES INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS, THE OWNER WILL CORRECT THIS INTERFERENCE AT THE OWNER'S

EXPENSE. THE OWNER WILL FURTHER AGREE IN WRITING THAT FAILURE TO DO SO SHALL AUTHORIZE THE CITY TO SHUT DOWN THE FACILITY UNTIL COMPLIANCE IS DEMONSTRATED.

2. A WRITTEN AGREEMENT BY THE OWNER THAT THE OWNER OF A TOWER SHALL ENSURE THAT IT IS MAINTAINED IN COMPLIANCE WITH STANDARDS CONTAINED IN APPLICABLE LOCAL BUILDING CODES, AS AMENDED FROM TIME TO TIME. EVIDENCE MAY CONSIST OF A STRUCTURAL REPORT BY A COLORADO LICENSED PROFESSIONAL ENGINEER DEMONSTRATING THAT THE FACILITY WILL COMPLY WITH APPLICABLE STRUCTURAL STANDARDS.

3. AN ACKNOWLEDGMENT BINDING THE APPLICANT, THE PROPERTY OWNER (IF OTHER THAN THE APPLICANT) AND THE APPLICANT'S AND OWNER'S SUCCESSORS IN INTEREST TO PROPERLY MAINTAIN THE EXTERIOR APPEARANCE OF AND TO ULTIMATELY REMOVE THE TOWER, ANTENNA AND OTHER TELECOMMUNICATIONS FACILITIES IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND THE APPLICABLE ODP.

4. AN ACKNOWLEDGMENT BY THE OWNER OF THE PROPERTY THAT THE CITY MAY ENTER ON THE PROPERTY AND UNDERTAKE ANY MAINTENANCE OR REMOVAL ACTIVITIES IF:

(A) THE CITY HAS PROVIDED THE APPLICANT WRITTEN NOTICE REQUESTING THE WORK NEEDED TO COMPLY WITH THIS CHAPTER AND PROVIDING THE APPLICANT AT LEAST FORTY-FIVE DAYS TO COMPLETE IT. SUCH NOTICE SHALL BE SENT TO THE ADDRESS ON THE ODP; AND

(B) THE CITY SHALL NOT BE REQUIRED TO PROVIDE ADVANCE NOTICE IF THERE IS A SIGNIFICANT RISK TO THE PUBLIC HEALTH AND SAFETY REQUIRING IMMEDIATE REMEDIAL MEASURES.

5. AN AGREEMENT TO POST A PERFORMANCE BOND, LETTER OF CREDIT OR OTHER FINANCIAL GUARANTEE AS LISTED IN 11-6-4(A)(2), AT THE TIME A PERMIT IS ISSUED, IN AN AMOUNT TO BE SET BY THE CITY, REASONABLY RELATED TO THE COSTS THAT THE CITY MAY INCUR SHOULD THE APPLICANT FAIL TO COMPLY WITH ANY OF ITS OBLIGATIONS PURSUANT TO SUBSECTION (H) (CONCERNING REMOVAL OF ABANDONED FACILITIES). THE BOND, LETTER OF CREDIT, OR OTHER FINANCIAL GUARANTEE SHALL REMAIN IN EFFECT FOR A PERIOD OF TEN YEARS FROM THE DATE OF PERMIT ISSUANCE. OR IN THE CASE OF FACILITIES LOCATED IN A PUBLIC RIGHT OF WAY, UNTIL SUCH FACILITIES ARE REMOVED.

6. IF THE APPLICANT SEEKS A PERMIT TO LOCATE ON LEASED PROPERTY, APPLICANT SHALL OBTAIN AND SUBMIT A WRITTEN STATEMENT OF THE LANDLORD INDICATING THAT THE LANDLORD IS PERMITTED TO ENTER INTO LEASES OF THE SAME PROPERTY WITH OTHER TELECOMMUNICATIONS PROVIDERS.

7. THE IDENTITY AND LEGAL STATUS OF THE APPLICANT WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PROPERTY OWNER AND OFFICER, AGENT, OR EMPLOYEE RESPONSIBLE FOR THE APPLICATION AND WITH WHOM COMMUNICATIONS MAY BE EXCHANGED.

8. INFORMATION SUFFICIENT TO DETERMINE THAT THE APPLICANT HAS RECEIVED OR HAS APPLIED FOR ANY OPERATING LICENSE OR OTHER APPROVALS REQUIRED BY THE FCC TO PROVIDE TELECOMMUNICATIONS SERVICES OR FACILITIES WITHIN THE CITY.

9. A SITE PLAN, TO SCALE, THAT SHOWS THE RELATIVE SHAPE, SIZE, AND LOCATION OF THE PROPOSED TELECOMMUNICATIONS FACILITIES, WHICH SHALL INCLUDE:

(A) A DESIGN DESCRIPTION, INCLUDING HEIGHT ABOVE GRADE, MATERIALS, AND COLOR FOR THE PROPOSED ANTENNA ON A TOWER OR ALTERNATIVE TOWER STRUCTURE;

(B) A LANDSCAPING AND VISUAL MITIGATION PLAN, DETAILING HOW SCREENING FROM THE PUBLIC VIEW WILL BE ACCOMPLISHED, AND HOW DESIGN CHARACTERISTICS WILL HAVE THE EFFECT OF REDUCING OR ELIMINATING VISUAL

OBTRUSIVENESS, HOW THE LANDSCAPING WILL BE MAINTAINED, AND WHO IS RESPONSIBLE FOR THE MAINTENANCE;

(C) PROPOSED INGRESS AND EGRESS;

(D) PROXIMITY OF THE TOWER OR OTHER TELECOMMUNICATIONS FACILITY TO RESIDENTIAL STRUCTURES AND RESIDENTIAL DISTRICT BOUNDARIES;

(E) NATURE OF USES ON ADJACENT AND NEARBY PROPERTIES WITHIN TWO HUNDRED (200) FEET OF CELLULAR FACILITY;

(F) SURROUNDING TOPOGRAPHY; AND

(g) TREE COVERAGE WITHIN TWO HUNDRED (200) FEET OF CELLULAR FACILITY.

(G) DESIGN STANDARDS: AN APPLICATION SHALL BE REVIEWED TO DETERMINE THAT ALL REQUIRED INFORMATION HAS BEEN SUBMITTED AND THAT THE FOLLOWING STANDARDS HAVE BEEN MET. THE APPLICANT HAS THE BURDEN OF PERSUASION ON EACH ISSUE.

1. AT LEAST TEN FEET OF HORIZONTAL CLEARANCE MUST EXIST BETWEEN ANY ANTENNA AND ANY POWER LINES; MORE CLEARANCE MAY BE REQUIRED TO MEET COLORADO PUBLIC UTILITIES COMMISSION STANDARDS.

2. NO GUY WIRES EMPLOYED MAY BE ANCHORED WITHIN THE AREA IN FRONT OF ANY PRIMARY STRUCTURE ON A PARCEL.

3. ALL TELECOMMUNICATION FACILITIES AND TELECOMMUNICATIONS SUPPORT FACILITIES MUST BE DESIGNED OR SITED SO THAT THEY ARE SET BACK A MINIMUM OF TWO HUNDRED (200) FEET FROM THE NEAREST RESIDENTIAL PROPERTY LINE AND DO NOT POSE A POTENTIAL HAZARD TO NEARBY RESIDENCES OR SURROUNDING PROPERTIES OR IMPROVEMENTS. TELECOMMUNICATION FACILITIES ADJACENT TO NON-RESIDENTIAL USES SHALL BE SET BACK A DISTANCE EQUAL TO AT LEAST THE HEIGHT OF THE TOWER FROM ANY ADJOINING LOT LINE.

IF THE APPLICABLE ZONING DISTRICT SETBACK REQUIREMENTS ARE GREATER THAN THE HEIGHT OF THE TOWER, THE MORE RESTRICTIVE SETBACK MUST BE MET. GUYS AND ACCESSORY BUILDINGS MUST SATISFY THE MINIMUM ZONING SETBACK REQUIREMENTS.

4. TOWERS, TELECOMMUNICATIONS FACILITIES, TELECOMMUNICATIONS SUPPORT FACILITIES, ALTERNATIVE TOWER STRUCTURES, LANDSCAPING, FENCING, ETC. SHALL BE MAINTAINED IN ACCORD WITH THE ODP.

5. ALL STRUCTURES AND EQUIPMENT SHALL BE SCREENED AND PROTECTED BY A FENCE OR WALL NOT LESS THAN SIX (6) FEET IN HEIGHT FROM GROUND LEVEL, UNLESS OTHER SCREENING METHODS ARE APPROVED OR WAIVED THROUGH THE ODP PROCESS. SUCH FENCE OR WALL SHALL BE CONSTRUCTED FROM MASONRY OR VINYL FENCING MAY BE USED WITH BRICK, STONE, STUCCO, OR MASONRY COLUMNS. THE FENCE OR WALL MUST EFFECTIVELY SCREEN THE TELECOMMUNICATION STRUCTURE AND EQUIPMENT.

6. AT A TOWER SITE, THE DESIGN OF THE BUILDINGS AND RELATED TELECOMMUNICATIONS FACILITIES SHALL USE MATERIALS, COLORS, TEXTURES, SCREENING, AND LANDSCAPING THAT WILL BLEND THE FACILITIES TO THE NATURAL SETTING AND TO THE BUILT ENVIRONMENT.

7. IF AN ANTENNA IS INSTALLED ON A STRUCTURE OTHER THAN A TOWER, THE ANTENNA AND SUPPORTING TELECOMMUNICATIONS FACILITIES MUST BE OF A NEUTRAL COLOR THAT IS IDENTICAL TO OR CLOSELY COMPATIBLE WITH THE COLOR OF THE SUPPORTING STRUCTURE SO AS TO MAKE THE ANTENNA AND RELATED FACILITIES AS VISUALLY UNOBTRUSIVE AS POSSIBLE.

8. TELECOMMUNICATION FACILITIES, INCLUDING ALTERNATIVE TOWER STRUCTURES, TO BE LOCATED ABOVE-GROUND AND LOCATED ADJACENT TO THE TRAVELED PORTIONS OF STREETS OR SIDEWALKS: THE SETBACK MUST BE A MINIMUM EQUAL TO THE HEIGHT OF THE PROPOSED FACILITY, AND SHALL NOT EXCEED THE HEIGHT STANDARD UTILITY POLES IN THE VICINITY.

9. ALL PARTS OF THE STRUCTURE, INCLUDING SUPPORTS, FENCES, AND GUY WIRES, SHALL BE SET BACK FROM THE PROPERTY LINE THE SAME DISTANCE AS IS REQUIRED FOR A PRINCIPAL STRUCTURE UNDER THIS CODE OR THE APPLICABLE ODP AND SHALL NOT BE CLOSER TO THE FRONT PROPERTY LINE THAN THE FRONT OF THE EXISTING PRINCIPAL STRUCTURE ON THE PROPERTY, IF ANY. IF THE APPLICABLE ODP DOES NOT SPECIFY SETBACKS, AN ODP AMENDMENT OR WAIVER SHALL BE OBTAINED SPECIFYING THE SETBACKS FOR THE STRUCTURE.

10. ADDITIONAL SETBACK MAY BE REQUIRED TO CONTAIN ON-SITE ALL ICE FALL OR DEBRIS FROM TOWER FAILURE AND/OR TO PRESERVE PRIVACY OF ADJOINING RESIDENTIAL AND PUBLIC PROPERTY. ADDITIONALLY, TELECOMMUNICATION FACILITIES SHALL BE CONSTRUCTED SO AS TO MINIMIZE THE POTENTIAL SAFETY HAZARDS AND LOCATED IN SUCH A MANNER THAT IF THE FACILITY SHOULD FALL, IT WILL REMAIN WITHIN THE PROPERTY BOUNDARIES AND AVOID HABITABLE STRUCTURE, PUBLIC RIGHTS-OF-WAY, UTILITY LINES AND OTHER TELECOMMUNICATION FACILITIES.

11. LANDSCAPING SHALL BE ACCOMPLISHED WITH A BUFFER OF PLANT MATERIALS THAT EFFECTIVELY SCREENS THE VIEW OF THE TELECOMMUNICATIONS SUPPORT FACILITY FROM ADJACENT PROPERTY AND IN ACCORDANCE WITH CITY LANDSCAPING STANDARDS. ALL VEGETATION SHALL BE MAINTAINED IN A LIVING CONDITION. AUTOMATIC IRRIGATION SHALL BE PROVIDED TO ENSURE THE ON-GOING MAINTENANCE OF THE LANDSCAPING.

12. THE USE OF ANY PORTION OF A TELECOMMUNICATIONS FACILITY FOR SIGNS FOR PROMOTIONAL OR ADVERTISING PURPOSES, INCLUDING BUT NOT LIMITED TO COMPANY NAME, PHONE NUMBERS, BANNERS, STREAMERS, AND BALLOONS IS PROHIBITED. THE CITY MAY REQUIRE THE INSTALLATION OF SIGNAGE WITH SAFETY AND CONTACT INFORMATION.

13. TOWERS SHALL NOT BE ARTIFICIALLY LIGHTED, UNLESS REQUIRED BY THE FAA OR OTHER APPLICABLE AUTHORITY.

14. NO PORTION OF ANY ANTENNA ARRAY MAY EXTEND BEYOND THE PROPERTY LINE.

15. SUFFICIENT ANTI-CLIMBING MEASURES MUST BE INCORPORATED INTO EACH FACILITY TO REDUCE POTENTIAL FOR TRESPASS AND INJURY. BY WAY OF EXAMPLE, AND NOT OF LIMITATION, SECURITY FENCING TOGETHER WITH A LACK OF PEGS OF THE BOTTOM PORTION OF THE TOWER, SHALL BE CONSIDERED SUFFICIENT ANTI-CLIMBING MEASURES. THERE SHALL BE NO PERMANENT CLIMBING PEGS WITHIN FIFTEEN FEET OF THE GROUND. MOTION-ACTIVATED OR STAFF-ACTIVATED SECURITY LIGHTING AROUND THE BASE OF A TOWER OR ACCESSORY STRUCTURE ENTRANCE MAY BE PROVIDED IF SUCH LIGHTING DOES NOT PROJECT OFF-SITE.

16. THE DECISION MAKER SHALL CONSIDER, IF APPLICABLE, THE FOLLOWING CRITERIA IN DETERMINING WHETHER TO APPROVE AN ODP OR ODP AMENDMENT PURSUANT TO THIS SECTION:

(a) AESTHETIC IMPACTS, INCLUDING DESIGN AND APPEARANCE OF THE STRUCTURE AND OBSTRUCTION OF VIEW CORRIDORS;

(b) QUALITY AND EFFECTIVENESS OF ANY LANDSCAPING AND SCREENING OF THE BASE OF THE STRUCTURE;

(c) WHETHER CO-USE OF THE STRUCTURE BY GOVERNMENTAL AGENCIES AND OTHER PERSONS IS POSSIBLE OR PERMISSIBLE, BASED ON LEGAL, FINANCIAL AND TECHNICAL CONSIDERATIONS, IN ORDER TO AVOID THE NEED FOR ADDITIONAL STRUCTURES; AND

(d) WHETHER ALTERNATIVE SITES ARE REASONABLY AVAILABLE, TAKING INTO CONSIDERATION LEASE TERMS AND CONDITIONS BASED UPON INDUSTRY AND MARKET STANDARDS.

(H) CO-LOCATION: THE SHARED USE OF EXISTING TOWERS OR OTHER ALTERNATIVE TOWER STRUCTURES SHALL BE PREFERRED TO THE CONSTRUCTION OF NEW FACILITIES. THE APPLICATION FOR ANY ODP OR ODP AMENDMENT SHALL INCLUDE EVIDENCE THAT REASONABLE EFFORTS HAVE BEEN MADE TO CO-LOCATE WITHIN AN EXISTING TELECOMMUNICATION FACILITY OR UPON AN EXISTING ALTERNATIVE TOWER STRUCTURE WITHIN A REASONABLE DISTANCE, REGARDLESS OF MUNICIPAL BOUNDARIES, OF THE SITE. THE APPLICANT MUST DEMONSTRATE THAT THE PROPOSED TELECOMMUNICATION FACILITY CANNOT BE ACCOMMODATED ON EXISTING TELECOMMUNICATIONS FACILITIES DUE TO ONE OR MORE OF THE FOLLOWING REASONS:

1. THE PLANNED EQUIPMENT WOULD EXCEED THE STRUCTURAL CAPACITY OF EXISTING AND APPROVED TELECOMMUNICATIONS FACILITIES OR OTHER ALTERNATIVE TOWER STRUCTURES, CONSIDERING EXISTING AND PLANNED USE FOR THOSE FACILITIES;

2. THE PLANNED EQUIPMENT, IF CO-LOCATED, WOULD CAUSE RADIO FREQUENCY INTERFERENCE WITH OTHER EXISTING OR PLANNED EQUIPMENT, OR EXCEED RADIO FREQUENCY EMISSION STANDARDS WHICH CANNOT BE REASONABLY PREVENTED;

3. EXISTING OR APPROVED TELECOMMUNICATIONS FACILITIES OR OTHER ALTERNATIVE TOWER STRUCTURES DO NOT HAVE SPACE ON WHICH PROPOSED EQUIPMENT CAN BE PLACED SO IT CAN FUNCTION EFFECTIVELY AND REASONABLY;

4. OTHER TECHNICAL REASONS MAKE IT IMPRACTICABLE TO PLACE THE EQUIPMENT PROPOSED BY THE APPLICANT ON EXISTING FACILITIES OR STRUCTURES;

5. THE LAND OWNER OR OWNER OF THE EXISTING TELECOMMUNICATION FACILITY OR OTHER ALTERNATIVE TOWER STRUCTURE REFUSES TO ALLOW SUCH CO-LOCATION OR REQUESTS AN UNREASONABLY HIGH FEE FOR SUCH CO-LOCATION COMPARED TO CURRENT INDUSTRY RATES;

6. NO EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES ARE LOCATED WITHIN THE GEOGRAPHIC AREA REQUIRED TO MEET THE APPLICANT'S ENGINEERING REQUIREMENTS;

7. EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES ARE NOT OF SUFFICIENT HEIGHT TO MEET THE APPLICANT'S ENGINEERING REQUIREMENTS;

8. EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES DO NOT HAVE SUFFICIENT STRUCTURAL STRENGTH TO SUPPORT APPLICANT'S PROPOSED ANTENNAS AND RELATED EQUIPMENT; AND

9. ANY OTHER REASON, IN THE REASONABLE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE.

(I) ABANDONMENT; REPAIR; REMOVAL:

1. AT THE TIME OF SUBMISSION OF THE APPLICATION FOR A TELECOMMUNICATION FACILITY, THE APPLICANT SHALL EXECUTE AN AGREEMENT IN A FORM ACCEPTABLE TO THE CITY, TO REMOVE ALL ANTENNAS, DRIVEWAYS, STRUCTURES, BUILDINGS, EQUIPMENT SHEDS, LIGHTING, UTILITIES, FENCING, GATES, ACCESSORY EQUIPMENT OR STRUCTURES, AS WELL AS ANY TOWER OR STRUCTURE USED AS A TELECOMMUNICATIONS FACILITY IF SUCH FACILITY BECOMES TECHNOLOGICALLY OBSOLETE OR CEASES TO PERFORM ITS ORIGINALLY INTENDED FUNCTION FOR MORE THAN ONE HUNDRED AND EIGHTY (180) DAYS. UPON REMOVAL, THE LAND SHALL BE RESTORED AND RE-LANDSCAPED, AT THE OPERATOR'S EXPENSE, TO THE LEVEL OF FINISH OF THE ADJACENT LANDSCAPED AREA.

2. IF UPON INSPECTION, THE CITY CONCLUDES THAT A TELECOMMUNICATIONS FACILITY FAILS TO COMPLY WITH THE APPROVED ODP OR CONSTITUTES A DANGER TO PERSONS OR PROPERTY, THEN UPON NOTICE BEING PROVIDED TO THE REPRESENTATIVE AS LISTED ON THE ODP OF A TELECOMMUNICATIONS FACILITY, THE OWNER, SHALL HAVE THIRTY DAYS TO BRING SUCH TELECOMMUNICATIONS FACILITY INTO COMPLIANCE WITH THE ODP. IF THE OWNER FAILS TO BRING SUCH FACILITY INTO COMPLIANCE WITHIN SAID THIRTY (30) DAYS, THE CITY MAY REMOVE THE FACILITY AT THE OWNER'S EXPENSE.

3. ANY TELECOMMUNICATION FACILITY THAT IS NOT OPERATED FOR A CONTINUOUS PERIOD OF 180 DAYS SHALL BE CONSIDERED ABANDONED. THE CITY, IN ITS SOLE DISCRETION, MAY REQUIRE AN ABANDONED TOWER, ANTENNA, OR ANY OTHER ANCILLARY TELECOMMUNICATIONS EQUIPMENT TO BE REMOVED WITHIN NINETY DAYS OF RECEIPT OF NOTICE FROM THE CITY NOTIFYING THE OWNER OF SUCH ABANDONMENT. UPON REMOVAL, THE SITE SHALL BE RESTORED OR RE-VEGETATED TO BLEND WITH THE SURROUNDING ENVIRONMENT. IF SUCH REMOVAL IS NOT COMPLETED WITHIN SAID NINETY DAYS, THE CITY MAY REMOVE AND DISPOSE OF THE SAME AT THE OWNER'S EXPENSE. IF THERE ARE TWO OR MORE USERS OF A SINGLE TOWER OR ALTERNATIVE TOWER STRUCTURE, THEN THIS PROVISION SHALL NOT BECOME EFFECTIVE UNTIL ALL USERS CEASE USING THE TOWER.

4. ANY TELECOMMUNICATION FACILITY PLACED IN A PUBLIC RIGHT OF WAY SHALL BE REMOVED WITHIN 120 DAYS AFTER NOTIFICATION BY THE CITY THAT THE RIGHT OF WAY IS NEEDED BY THE CITY FOR THE EXPANSION, CONSTRUCTION, OR RECONSTRUCTION OF A STREET OR HIGHWAY OR OTHER USE BY THE CITY FOR ANY CITY PROJECT. SUCH REMOVAL SHALL BE AT THE SOLE EXPENSE OF THE OWNER AND IF OWNER FAILS TO REMOVE THE FACILITY WITHIN THE SAID 120 DAYS, THE CITY MAY REMOVE AND DESTROY THE FACILITY AND CHARGE THE COSTS TO THE OWNER.

(J) LOCATIONS ON CITY PROPERTY: WHEN IT IS IN THE INTEREST OF THE CITY, THE CITY MANAGER OR HIS DESIGNEE MAY, BUT IS NOT REQUIRED TO, NEGOTIATE AND ENTER INTO AN AGREEMENT WITH A TELECOMMUNICATIONS SERVICES PROVIDER FOR THE USE OF CITY-OWNED PROPERTY (EXCEPT PUBLIC RIGHTS-OF-WAY) FOR THE LOCATION OF TOWERS, ALTERNATIVE TOWER STRUCTURES, ANTENNAS, AND TELECOMMUNICATIONS FACILITIES. WHEN SO LOCATED, THE AGREEMENT MAY BE REVIEWED ADMINISTRATIVELY.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 12th day of July, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of July, 2004.

A BILL

FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the Open Space Fund initially appropriated by Ordinance No. 2977 in the amount of \$4,663,797 is hereby increased by \$2,852,453 which, when added to the fund balance as of the City Council action on July 12, 2004 will equal \$7,530,281. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation proceeds from the sale of open space land to Academy of Charter Schools.

Section 2. The \$2,852,453 increase in the Open Space Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Sale of Assets 5400.43040.0000	\$0	<u>\$2,852,453</u>	\$2,852,453
Total Change to Revenues		<u>\$2,852,453</u>	
EXPENSES			
Land Purchases 54010900.76600.0000	\$998,484	<u>\$2,852,453</u>	\$3,850,937
Total Change to Expenditures		<u>\$2,852,453</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 AND PUBLISHED this 12th day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of July, 2004.

A BILL

FOR AN EMERGENCY ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING TRANSFER OF THE FIRE PENSION PLAN TRUST FUND AND REPEALING CHAPTER 3 OF TITLE 14 CONCERNING THE FIRE PENSION PLAN

WHEREAS, the City of Westminster City Council, pursuant to Resolution No. 27, requested coverage under the FPPA Defined Benefit System administered by the Fire and Police Pension Association in lieu of maintaining coverage under the City's Fire Pension Plan; and

WHEREAS, at an election for all members of the City's Fire Department pursuant to the Statewide Hybrid Plan Rules and Regulations 2.02, conducted on July 7-9, 2004, the requisite 65 percent of said members elected the irrevocable coverage under the FPPA Defined Benefit System; and

WHEREAS, the Fire Pension Plan, as currently codified, does not provide for transfer of fund balances and requires distribution of the fund balances upon termination.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 14-3-11, W.M.C., is hereby AMENDED to read as follows:

14-3-11: CONTINUANCE, TRANSFER, TERMINATION AND AMENDMENT OF PLAN:

(A) Continuation of the Plan not a Contractual Obligation of the City: It is the expectation of the City that it will continue this Plan indefinitely, but the continuance of the Plan is not assumed as a contractual obligation by the City, and the right is reserved to the City by action of its City Council to discontinue this Plan at any time. The discontinuance of this Plan by the City shall, in no event, have the effect of reverting any part of the Trust Fund in the City.

(B) TRANSFER OF TRUST FUND: THE RIGHT IS RESERVED TO THE CITY BY ACTION OF ITS CITY COUNCIL TO TRANSFER THE ASSETS OF THE TRUST FUND TO BE ADMINISTERED ON BEHALF OF THE PARTICIPANTS BY A SUCCESSOR PENSION PLAN.

(C) Termination of Plan: This Plan shall continue in full force and effect until terminated or discontinued by the City by action of its City Council. Notice of such termination shall be given to the Trustee by an instrument in writing executed by the City Manager pursuant to the action of its City Council.

(D) Distribution of Trust Fund on Termination of Plan: If the Plan shall, at any time, be terminated by the terms of this Section, the Trustee shall immediately convert the entire Trust Fund BALANCE, IF ANY, other than insurance and annuity contracts, to cash. The value of the interest of each respective Participant or Beneficiary in the Trust Fund shall be vested in its entirety as of the date of the termination of the Plan. The Trustee shall, as soon as possible, distribute to each Participant or Beneficiary outright his entire interest in the Trust Fund.

(E) Amendments to Plan:

1. The City, by action of its City Council, may at any time amend this Chapter; provided, however, that no such amendment shall:

- (a) Divert the Trust Fund to purposes other than for the exclusive benefit of the Participants and their Beneficiaries;
- (b) Decrease any Participant's share of this plan;
- (c) Discriminate in favor of employees who are officers, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees; or
- (d) Fail to comply with state statutes for voting for Fire Pension Plans.

2. Notwithstanding anything herein to the contrary, however, this Chapter may be amended, if necessary, without requiring the approval of the plan participants to conform to the provisions and requirements of the Federal Internal Revenue Code or any amendments thereto, and no such amendment shall be considered prejudicial to the interest of any Participant or Beneficiary hereunder.

Section 2. Chapter 3 of Title 14, Westminster Municipal Code, is hereby REPEALED IN ITS ENTIRETY effective September 2, 2004.

Section 3. Because 30 days prior to the effective date of September 1, 2004, the City must file with FPPA a certification stating that all requirements for conversion have been followed, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 26, 2004, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

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

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 26th day of July, 2004.